

1 A bill to be entitled
 2 An act relating to alcoholic beverage licenses;
 3 amending s. 561.20, F.S.; authorizing certain food
 4 service establishments to sell or deliver alcoholic
 5 beverages for off-premises consumption if specified
 6 requirements are met; deleting a provision prohibiting
 7 certain food service establishments from operating as
 8 a package store; amending s. 564.09, F.S.; revising
 9 provisions that authorize a restaurant to allow
 10 patrons to remove partially consumed bottles of wine
 11 from a restaurant for off-premises consumption;
 12 authorizing certain restaurants to sell or deliver
 13 wine in specified packages under certain
 14 circumstances; amending s. 565.045, F.S.; revising
 15 requirements for the sale of alcoholic beverages by
 16 certain vendors; authorizing certain vendors to
 17 deliver specified alcoholic beverages and liquor under
 18 certain circumstances; reenacting ss. 316.1936(9) and
 19 564.05, F.S., relating to the possession of open
 20 containers of alcoholic beverages in vehicles and the
 21 limitation of size of individual wine containers,
 22 respectively, to incorporate the amendments made to s.
 23 564.09, F.S., in references thereto; providing an
 24 effective date.
 25

26 | Be It Enacted by the Legislature of the State of Florida:

27 |

28 | Section 1. Paragraph (a) of subsection (2) of section
29 | 561.20, Florida Statutes, is amended to read:

30 | 561.20 Limitation upon number of licenses issued.—

31 | (2) (a) The limitation of the number of licenses as
32 | provided in this section does not prohibit the issuance of a
33 | special license to:

34 | 1. Any bona fide hotel, motel, or motor court of not fewer
35 | than 80 guest rooms in any county having a population of less
36 | than 50,000 residents, and of not fewer than 100 guest rooms in
37 | any county having a population of 50,000 residents or greater;
38 | or any bona fide hotel or motel located in a historic structure,
39 | as defined in s. 561.01(21), with fewer than 100 guest rooms
40 | which derives at least 51 percent of its gross revenue from the
41 | rental of hotel or motel rooms, which is licensed as a public
42 | lodging establishment by the Division of Hotels and Restaurants;
43 | provided, however, that a bona fide hotel or motel with no fewer
44 | than 10 and no more than 25 guest rooms which is a historic
45 | structure, as defined in s. 561.01(21), in a municipality that
46 | on the effective date of this act has a population, according to
47 | the University of Florida's Bureau of Economic and Business
48 | Research Estimates of Population for 1998, of no fewer than
49 | 25,000 and no more than 35,000 residents and that is within a
50 | constitutionally chartered county may be issued a special

51 license. This special license shall allow the sale and
52 consumption of alcoholic beverages only on the licensed premises
53 of the hotel or motel. In addition, the hotel or motel must
54 derive at least 60 percent of its gross revenue from the rental
55 of hotel or motel rooms and the sale of food and nonalcoholic
56 beverages; provided that this subparagraph shall supersede local
57 laws requiring a greater number of hotel rooms;

58 2. Any condominium accommodation of which no fewer than
59 100 condominium units are wholly rentable to transients and
60 which is licensed under chapter 509, except that the license
61 shall be issued only to the person or corporation that operates
62 the hotel or motel operation and not to the association of
63 condominium owners;

64 3. Any condominium accommodation of which no fewer than 50
65 condominium units are wholly rentable to transients, which is
66 licensed under chapter 509, and which is located in any county
67 having home rule under s. 10 or s. 11, Art. VIII of the State
68 Constitution of 1885, as amended, and incorporated by reference
69 in s. 6(e), Art. VIII of the State Constitution, except that the
70 license shall be issued only to the person or corporation that
71 operates the hotel or motel operation and not to the association
72 of condominium owners;

73 4. A food service establishment that has 2,500 square feet
74 of service area, is equipped to serve meals to 150 persons at
75 one time, and derives at least 51 percent of its gross food and

76 | beverage revenue from the sale of food and nonalcoholic
77 | beverages during the first 60-day operating period and each 12-
78 | month operating period thereafter. A licensee under this
79 | subparagraph may sell or deliver alcoholic beverages by the
80 | package in a sealed container for off-premises consumption if
81 | the sale or delivery is accompanied by the sale of food within
82 | the same order. Such authorized sale or delivery includes wine-
83 | based and liquor-based beverages prepared by the licensee and
84 | packaged in a container sealed by the licensee. Any sale or
85 | delivery of malt beverages must comply with the container size,
86 | labeling, and filling requirements imposed under s. 563.06. Any
87 | delivery of an alcoholic beverage under this subparagraph must
88 | comply with s. 561.57. A food service establishment granted a
89 | special license on or after January 1, 1958, pursuant to general
90 | or special law may not ~~operate as a package store and may not~~
91 | sell intoxicating beverages under such license after the hours
92 | of serving or consumption of food have elapsed. Failure by a
93 | licensee to meet the required percentage of food and
94 | nonalcoholic beverage gross revenues during the covered
95 | operating period shall result in revocation of the license or
96 | denial of the pending license application. A licensee whose
97 | license is revoked or an applicant whose pending application is
98 | denied, or any person required to qualify on the special license
99 | application, is ineligible to have any interest in a subsequent
100 | application for such a license for a period of 120 days after

101 the date of the final denial or revocation;

102 5. Any caterer, deriving at least 51 percent of its gross
103 food and beverage revenue from the sale of food and nonalcoholic
104 beverages at each catered event, licensed by the Division of
105 Hotels and Restaurants under chapter 509. This subparagraph does
106 not apply to a culinary education program, as defined in s.
107 381.0072(2), which is licensed as a public food service
108 establishment by the Division of Hotels and Restaurants and
109 provides catering services. Notwithstanding any law to the
110 contrary, a licensee under this subparagraph shall sell or serve
111 alcoholic beverages only for consumption on the premises of a
112 catered event at which the licensee is also providing prepared
113 food, and shall prominently display its license at any catered
114 event at which the caterer is selling or serving alcoholic
115 beverages. A licensee under this subparagraph shall purchase all
116 alcoholic beverages it sells or serves at a catered event from a
117 vendor licensed under s. 563.02(1), s. 564.02(1), or licensed
118 under s. 565.02(1) subject to the limitation imposed in
119 subsection (1), as appropriate. A licensee under this
120 subparagraph may not store any alcoholic beverages to be sold or
121 served at a catered event. Any alcoholic beverages purchased by
122 a licensee under this subparagraph for a catered event that are
123 not used at that event must remain with the customer; provided
124 that if the vendor accepts unopened alcoholic beverages, the
125 licensee may return such alcoholic beverages to the vendor for a

126 credit or reimbursement. Regardless of the county or counties in
127 which the licensee operates, a licensee under this subparagraph
128 shall pay the annual state license tax set forth in s.
129 565.02(1)(b). A licensee under this subparagraph must maintain
130 for a period of 3 years all records and receipts for each
131 catered event, including all contracts, customers' names, event
132 locations, event dates, food purchases and sales, alcoholic
133 beverage purchases and sales, nonalcoholic beverage purchases
134 and sales, and any other records required by the department by
135 rule to demonstrate compliance with the requirements of this
136 subparagraph. Notwithstanding any law to the contrary, any
137 vendor licensed under s. 565.02(1) subject to the limitation
138 imposed in subsection (1), may, without any additional licensure
139 under this subparagraph, serve or sell alcoholic beverages for
140 consumption on the premises of a catered event at which prepared
141 food is provided by a caterer licensed under chapter 509. If a
142 licensee under this subparagraph also possesses any other
143 license under the Beverage Law, the license issued under this
144 subparagraph may ~~shall~~ not authorize the holder to conduct
145 activities on the premises to which the other license or
146 licenses apply that would otherwise be prohibited by the terms
147 of that license or the Beverage Law. ~~Nothing in~~ This section
148 does not ~~shall~~ permit the licensee to conduct activities that
149 are otherwise prohibited by the Beverage Law or local law. The
150 Division of Alcoholic Beverages and Tobacco is hereby authorized

151 to adopt rules to administer the license created in this
152 subparagraph, to include rules governing licensure,
153 recordkeeping, and enforcement. The first \$300,000 in fees
154 collected by the division each fiscal year pursuant to this
155 subparagraph shall be deposited in the Department of Children
156 and Families' Operations and Maintenance Trust Fund to be used
157 only for alcohol and drug abuse education, treatment, and
158 prevention programs. The remainder of the fees collected shall
159 be deposited into the Hotel and Restaurant Trust Fund created
160 pursuant to s. 509.072; or

161 6. A culinary education program as defined in s.
162 381.0072(2) which is licensed as a public food service
163 establishment by the Division of Hotels and Restaurants.

164 a. This special license shall allow the sale and
165 consumption of alcoholic beverages on the licensed premises of
166 the culinary education program. The culinary education program
167 shall specify designated areas in the facility where the
168 alcoholic beverages may be consumed at the time of application.
169 Alcoholic beverages sold for consumption on the premises may be
170 consumed only in areas designated under ~~pursuant to~~ s.
171 561.01(11) and may not be removed from the designated area. Such
172 license shall be applicable only in and for designated areas
173 used by the culinary education program.

174 b. If the culinary education program provides catering
175 services, this special license shall also allow the sale and

176 consumption of alcoholic beverages on the premises of a catered
177 event at which the licensee is also providing prepared food. A
178 culinary education program that provides catering services is
179 not required to derive at least 51 percent of its gross revenue
180 from the sale of food and nonalcoholic beverages.

181 Notwithstanding any law to the contrary, a licensee that
182 provides catering services under this sub-subparagraph shall
183 prominently display its beverage license at any catered event at
184 which the caterer is selling or serving alcoholic beverages.
185 Regardless of the county or counties in which the licensee
186 operates, a licensee under this sub-subparagraph shall pay the
187 annual state license tax set forth in s. 565.02(1)(b). A
188 licensee under this sub-subparagraph must maintain for a period
189 of 3 years all records required by the department by rule to
190 demonstrate compliance with the requirements of this sub-
191 subparagraph.

192 c. If a licensee under this subparagraph also possesses
193 any other license under the Beverage Law, the license issued
194 under this subparagraph does not authorize the holder to conduct
195 activities on the premises to which the other license or
196 licenses apply that would otherwise be prohibited by the terms
197 of that license or the Beverage Law. ~~Nothing in This~~
198 subparagraph does not ~~shall~~ permit the licensee to conduct
199 activities that are otherwise prohibited by the Beverage Law or
200 local law. Any culinary education program that holds a license

201 to sell alcoholic beverages shall comply with the age
202 requirements set forth in ss. 562.11(4), 562.111(2), and 562.13.

203 d. The Division of Alcoholic Beverages and Tobacco may
204 adopt rules to administer the license created in this
205 subparagraph, to include rules governing licensure,
206 recordkeeping, and enforcement.

207 e. A license issued pursuant to this subparagraph does not
208 permit the licensee to sell alcoholic beverages by the package
209 for off-premises consumption.

210

211 However, any license heretofore issued to any such hotel, motel,
212 motor court, or restaurant or hereafter issued to any such
213 hotel, motel, or motor court, including a condominium
214 accommodation, under the general law may ~~shall~~ not be moved to a
215 new location, such license being valid only on the premises of
216 such hotel, motel, motor court, or restaurant. Licenses issued
217 to hotels, motels, motor courts, or restaurants under the
218 general law and held by such hotels, motels, motor courts, or
219 restaurants on May 24, 1947, shall be counted in the quota
220 limitation contained in subsection (1). Any license issued for
221 any hotel, motel, or motor court under this law shall be issued
222 only to the owner of the hotel, motel, or motor court or, in the
223 event the hotel, motel, or motor court is leased, to the lessee
224 of the hotel, motel, or motor court; and the license shall
225 remain in the name of the owner or lessee so long as the license

226 is in existence. Any special license now in existence heretofore
227 issued under this law cannot be renewed except in the name of
228 the owner of the hotel, motel, motor court, or restaurant or, in
229 the event the hotel, motel, motor court, or restaurant is
230 leased, in the name of the lessee of the hotel, motel, motor
231 court, or restaurant in which the license is located and must
232 remain in the name of the owner or lessee so long as the license
233 is in existence. Any license issued under this section shall be
234 marked "Special," and nothing herein provided shall limit,
235 restrict, or prevent the issuance of a special license for any
236 restaurant or motel which shall hereafter meet the requirements
237 of the law existing immediately before ~~prior to~~ the effective
238 date of this act, if construction of such restaurant has
239 commenced before ~~prior to~~ the effective date of this act and is
240 completed within 30 days thereafter, or if an application is on
241 file for such special license at the time this act takes effect;
242 and any such licenses issued under this proviso may be annually
243 renewed as now provided by law. Nothing herein prevents an
244 application for transfer of a license to a bona fide purchaser
245 of any hotel, motel, motor court, or restaurant by the purchaser
246 of such facility or the transfer of such license pursuant to
247 law.

248 Section 2. Section 564.09, Florida Statutes, is amended to
249 read:

250 564.09 Restaurants; off-premises consumption of wine.—

251 (1) Notwithstanding any other provision of law, a
252 restaurant licensed to sell wine on the premises may permit a
253 patron to remove one unsealed bottle of wine for consumption off
254 the premises if the patron has purchased a ~~full-course~~ meal
255 ~~consisting of a salad or vegetable, entree, a beverage, and~~
256 ~~bread~~ and consumed a portion of the bottle of wine ~~with such~~
257 ~~meal~~ on the restaurant premises. A partially consumed bottle of
258 wine that is to be removed from the premises must be securely
259 resealed by the licensee or its employees before removal from
260 the premises. The partially consumed bottle of wine shall be
261 placed in a bag or other container that is secured in such a
262 manner that it is visibly apparent if the container has been
263 subsequently opened or tampered with, and a dated receipt for
264 the bottle of wine and ~~full-course~~ meal shall be provided by the
265 licensee and attached to the container. If transported in a
266 motor vehicle, the container with the resealed bottle of wine
267 must be placed in a locked glove compartment, a locked trunk, or
268 the area behind the last upright seat of a motor vehicle that is
269 not equipped with a trunk.

270 (2) Notwithstanding any other provision of law, a
271 restaurant licensed to sell wine for consumption on the premises
272 may sell or deliver a manufacturer-sealed bottle of wine, or an
273 individual serving of wine or wine-based beverage prepared by
274 the licensee, for off-premises consumption if the wine is
275 delivered in a container sealed by the licensee and the sale or

276 delivery is accompanied by the purchase of a meal within the
 277 same order. Any delivery made under this subsection must comply
 278 with s. 561.57.

279 Section 3. Subsection (1) of section 565.045, Florida
 280 Statutes, is amended to read:

281 565.045 Regulations for consumption on premises; penalty;
 282 exemptions.—

283 (1) Vendors licensed under s. 565.02(1)(b)-(f):

284 (a) Shall provide seats for the use of their customers;

285 (b) ~~Such vendors~~ May sell or deliver alcoholic beverages
 286 by the drink or in manufacturer-sealed ~~sealed~~ containers for
 287 consumption on or off the premises where sold; and

288 (c) May sell or deliver an individual serving of liquor or
 289 a liquor-based beverage prepared by the licensee for off-
 290 premises consumption if the liquor or liquor-based beverage is
 291 in a container sealed by the licensee.

293 All sales or deliveries of alcoholic beverages made under
 294 paragraph (c) for off-premises consumption must be accompanied
 295 by the sale of food within the same order.

296 Section 4. For the purpose of incorporating the amendment
 297 made by this act to section 564.09, Florida Statutes, in a
 298 reference thereto, subsection (9) of section 316.1936, Florida
 299 Statutes, is reenacted and amended to read:

300 316.1936 Possession of open containers of alcoholic

301 beverages in vehicles prohibited; penalties.—

302 (9) A bottle of wine that has been resealed and is
303 transported pursuant to s. 564.09 is not an open container under
304 ~~the provisions of~~ this section.

305 Section 5. For the purpose of incorporating the amendment
306 made by this act to section 564.09, Florida Statutes, in a
307 reference thereto, section 564.05, Florida Statutes, is
308 reenacted to read:

309 564.05 Limitation of size of individual wine containers;
310 penalty.—It is unlawful for a person to sell within this state
311 wine in an individual container holding more than 1 gallon of
312 such wine, unless such wine is in a reusable container holding
313 5.16 gallons. However, qualified distributors and manufacturers
314 may sell wine to other qualified distributors or manufacturers
315 in any size container. Except as provided in s. 564.09, wine
316 sold or offered for sale by a licensed vendor to be consumed off
317 the premises shall be in the unopened original container. A
318 person convicted of a violation of this section commits a
319 misdemeanor of the second degree, punishable as provided in s.
320 775.082 or s. 775.083.

321 Section 6. This act shall take effect July 1, 2021.