

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; amending s. 564.09, F.S.;
7 revising provisions that authorize a restaurant to
8 allow patrons to remove partially consumed bottles of
9 wine from a restaurant for off-premises consumption;
10 authorizing certain restaurants to sell or deliver
11 wine in specified packages under certain
12 circumstances; amending s. 565.045, F.S.; revising
13 requirements for the sale of alcoholic beverages by
14 certain vendors; authorizing certain vendors to
15 deliver specified alcoholic beverages and liquor under
16 certain circumstances; reenacting ss. 316.1936(9) and
17 564.05, F.S., relating to the possession of open
18 containers of alcoholic beverages in vehicles and the
19 limitation of size of individual wine containers,
20 respectively, to incorporate the amendments made to s.
21 564.09, F.S., in references thereto; providing an
22 effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

26 Section 1. Paragraph (a) of subsection (2) of section
27 561.20, Florida Statutes, is amended to read:

28 561.20 Limitation upon number of licenses issued.—

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

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

51 of the hotel or motel. In addition, the hotel or motel must
52 derive at least 60 percent of its gross revenue from the rental
53 of hotel or motel rooms and the sale of food and nonalcoholic
54 beverages; provided that this subparagraph shall supersede local
55 laws requiring a greater number of hotel rooms;

56 2. Any condominium accommodation of which no fewer than
57 100 condominium units are wholly rentable to transients and
58 which is licensed under chapter 509, except that the license
59 shall be issued only to the person or corporation that operates
60 the hotel or motel operation and not to the association of
61 condominium owners;

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

71 4. A food service establishment that has 2,500 square feet
72 of service area, is equipped to serve meals to 150 persons at
73 one time, and derives at least 51 percent of its gross food and
74 beverage revenue from the sale of food and nonalcoholic
75 beverages during the first 60-day operating period and each 12-

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

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

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

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

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

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

173 b. If the culinary education program provides catering
174 services, this special license shall also allow the sale and
175 consumption of alcoholic beverages on the premises of a catered

176 event at which the licensee is also providing prepared food. A
177 culinary education program that provides catering services is
178 not required to derive at least 51 percent of its gross revenue
179 from the sale of food and nonalcoholic beverages.
180 Notwithstanding any law to the contrary, a licensee that
181 provides catering services under this sub-subparagraph shall
182 prominently display its beverage license at any catered event at
183 which the caterer is selling or serving alcoholic beverages.
184 Regardless of the county or counties in which the licensee
185 operates, a licensee under this sub-subparagraph shall pay the
186 annual state license tax set forth in s. 565.02(1)(b). A
187 licensee under this sub-subparagraph must maintain for a period
188 of 3 years all records required by the department by rule to
189 demonstrate compliance with the requirements of this sub-
190 subparagraph.

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

201 requirements set forth in ss. 562.11(4), 562.111(2), and 562.13.

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

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

209
 210 However, any license heretofore issued to any such hotel, motel,
 211 motor court, or restaurant or hereafter issued to any such
 212 hotel, motel, or motor court, including a condominium
 213 accommodation, under the general law may ~~shall~~ not be moved to a
 214 new location, such license being valid only on the premises of
 215 such hotel, motel, motor court, or restaurant. Licenses issued
 216 to hotels, motels, motor courts, or restaurants under the
 217 general law and held by such hotels, motels, motor courts, or
 218 restaurants on May 24, 1947, shall be counted in the quota
 219 limitation contained in subsection (1). Any license issued for
 220 any hotel, motel, or motor court under this law shall be issued
 221 only to the owner of the hotel, motel, or motor court or, in the
 222 event the hotel, motel, or motor court is leased, to the lessee
 223 of the hotel, motel, or motor court; and the license shall
 224 remain in the name of the owner or lessee so long as the license
 225 is in existence. Any special license now in existence heretofore

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

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

249 564.09 Restaurants; off-premises consumption of wine.—

250 (1) Notwithstanding any other provision of law, a

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

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

276 same order. Any delivery made under this subsection must comply
 277 with s. 561.57.

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

280 565.045 Regulations for consumption on premises; penalty;
 281 exemptions.—

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

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

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

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

291
 292 All sales or deliveries of alcoholic beverages made under
 293 paragraph (c) for off-premises consumption must be accompanied
 294 by the sale of food within the same order.

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

299 316.1936 Possession of open containers of alcoholic
 300 beverages in vehicles prohibited; penalties.—

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

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

308 564.05 Limitation of size of individual wine containers;
309 penalty.—It is unlawful for a person to sell within this state
310 wine in an individual container holding more than 1 gallon of
311 such wine, unless such wine is in a reusable container holding
312 5.16 gallons. However, qualified distributors and manufacturers
313 may sell wine to other qualified distributors or manufacturers
314 in any size container. Except as provided in s. 564.09, wine
315 sold or offered for sale by a licensed vendor to be consumed off
316 the premises shall be in the unopened original container. A
317 person convicted of a violation of this section commits a
318 misdemeanor of the second degree, punishable as provided in s.
319 775.082 or s. 775.083.

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