

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 6073 Individual Wine Containers

**SPONSOR(S):** LaMarca

**TIED BILLS:**                   **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee	16 Y, 1 N	Thompson	Anstead
2) Commerce Committee			

### SUMMARY ANALYSIS

In Florida, the Beverage Law regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors. The Division of Alcoholic Beverages and Tobacco in the Department of Business and Professional Regulation administers and enforces the Beverage Law.

Current law addressing limitations on the size of individual wine containers provides the following:

- The sale of wine in an individual container that holds more than one gallon of wine is prohibited.
- Wine may be sold in a reusable container of 5.16 gallons.
- Distributors and manufacturers are allowed to sell wine to other distributors and manufacturers in containers of any size.
- Except for restaurants in certain situations, wine sold or offered for sale by a licensed vendor to be consumed off the premises must be in the unopened original container.
- Violations are a second-degree misdemeanor.

The bill repeals the law relating to limitations on the size of individual wine containers.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2020.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### **Beverage Law**

In Florida, the Beverage Law<sup>1</sup> regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.<sup>2</sup> The Division of Alcoholic Beverages and Tobacco (Division) in the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law.<sup>3</sup>

“Alcoholic beverages” are defined as “distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume.” “Malt beverages” are brewed alcoholic beverages containing malt.<sup>4</sup>

The license and registration classifications used in the Beverage Law include the following:

- “Manufacturers” are those “licensed to manufacture alcoholic beverages and distribute the same at wholesale to licensed distributors and to no one else within the state, unless authorized by statute.”
- “Distributors” are those “licensed to sell and distribute alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages.”
- “Importers” are those licensed to sell, or to cause to be sold, shipped, and invoiced, alcoholic beverages to licensed manufacturers or licensed distributors, and to no one else in this state.<sup>5</sup>
- “Vendors” are those “licensed to sell alcoholic beverages at retail only” and may not “purchase or acquire in any manner for the purpose of resale any alcoholic beverages from any person not licensed as a vendor, manufacturer, bottler, or distributor under the Beverage Law.”<sup>6</sup>

##### **Wine Container Limitations**

“Wine” is defined as all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages, sake, vermouths, and like products. Sugar, flavors, and coloring materials may be added to wine to make it conform to the consumer’s taste, except that the ultimate flavor or the color of the product may not be altered to imitate a beverage other than wine or to change the character of the wine.<sup>7</sup>

Current law prohibits the sale of wine in an individual container that holds more than one gallon. However, wine may be sold in a reusable container of 5.16 gallons.<sup>8</sup>

Distributors and manufacturers are authorized to sell wine to other distributors and manufacturers in containers of any size.<sup>9</sup>

Except for restaurants in certain situations,<sup>10</sup> wine sold or offered for sale by a licensed vendor to be consumed off-premises must be in the unopened original container.<sup>11</sup>

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<sup>1</sup> Section 561.01(6), F.S., provides that the “The Beverage Law” means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

<sup>2</sup> See s. 561.14, F.S.

<sup>3</sup> S. 561.02, F.S.

<sup>4</sup> S. 563.01, F.S.

<sup>5</sup> S. 561.01(5), F.S.

<sup>6</sup> S. 561.14, F.S.

<sup>7</sup> S. 564.01(1), F.S.

<sup>8</sup> S. 564.05, F.S.

<sup>9</sup> *Id.*

Violations are a second-degree misdemeanor, punishable by a maximum \$500 fine<sup>12</sup> and 60 days in prison.<sup>13</sup>

### **Effect of the Bill**

The bill repeals s. 564.05, F.S., relating to limitations on the size of individual wine containers.

#### **B. SECTION DIRECTORY:**

Section 1 Repeals s. 564.05, F.S., relating to limitations on the size of individual wine containers.

Section 2 Provides for an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill will allow the sale of wine in an individual container of any size. This may have a positive fiscal impact on businesses that sell wine.

#### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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<sup>10</sup> S. 564.09, F.S. The exception allows restaurant patrons to leave the premises with “one unsealed bottle of wine for consumption off the premises,” provided certain conditions are met. The wine bottle must be partially consumed with a full course meal, securely resealed by the licensee or one of its employees, secured in a bag or container, wrapped in a way that shows it was previously opened, attached to a dated receipt indicating the full course meal, and transported in a locked vehicle glove compartment, locked trunk, or behind the last upright seat of a motor vehicle that is not equipped with a trunk.

<sup>11</sup> S. 564.05, F.S.

<sup>12</sup> S. 775.083(1)(e), F.S.

<sup>13</sup> Section 775.082(4)(b), F.S.

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

N/A