HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 1431 City of Apopka, Orange County
SPONSOR(S): Plasencia, Truenow and others
TIED BILLS: **IDEN./SIM. BILLS:**

FINAL HOUSE FLOOR ACTION: 106 **Y's** 1 **N's** **GOVERNOR'S ACTION:** Approved

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SUMMARY ANALYSIS

HB 1431 passed the House on February 25, 2022, and subsequently passed the Senate on March 10, 2022.

Florida's Beverage Law limits the number of "quota licenses" that the Department of Business and Professional Regulation (DBPR) may issue per county. A quota license allows a business to serve any alcoholic beverage regardless of alcoholic content, including liquor. DBPR is not limited by the Beverage Law on the number of licenses it may issue for businesses that serve only malt beverages and wine.

Within the existing City of Apopka – Community Redevelopment Agency, the bill designates the City of Apopka – Community Redevelopment Agency District (CRA District). The bill creates an exception to the quota limitation and requires DBPR to issue a special food service license to a bona fide restaurant in the CRA District that meets the following requirements: occupies at least 1,800 square feet of contiguous space, is equipped to serve meals to at least 80 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 60-day operating period and each 12-month operating period thereafter.

The bill provides that failure of a licensee to meet the 51 percentage of food and nonalcoholic beverage gross revenue during the covered operating period will result in the revocation of the license or denial of the pending application for a permanent license of a licensee operating with a temporary license. A licensee whose license is revoked, an applicant whose pending application for a permanent license is denied, or any person required to qualify for the license application is ineligible to have any interest in a subsequent license application for a period of 120 days after the date of the final denial of revocation.

According to the Economic Impact Statement, the bill is anticipated to increase annual sales tax and licensing revenues if such special licenses are granted under the exception.

The bill was approved by the Governor on June 20, 2022, ch. 2022-254, L.O.F., and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

The Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation (DBPR) is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of alcoholic beverages within the state.[1] Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law.

Under the Beverage Law, DBPR is not limited on the number of licenses it issues to businesses selling malt beverages or wine. However, statute limits the number of licenses that may be issued under s. 565.02(1)(a)-(f), F.S., to one license per 7,500 residents per county with a minimum of three licenses per county that has approved the sale of intoxicating liquors.[2] This license, often referred to as a "quota license," allows a business to sell any alcoholic beverage regardless of alcoholic content, including liquor or distilled spirits.[3]

There are several exceptions to the quota license limitation,[4] and businesses that meet the requirements set out in one of the exceptions may be issued a special license by DBPR allowing the business to serve any alcoholic beverages regardless of alcohol content. A food service establishment may qualify for an exemption if the building has at least 2,500 square feet of service area, is equipped to serve meals to 150 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 120-day operating period and the first 12-month operating period thereafter.[5]

Alcoholic beverages sold for consumption on premises must be consumed inside the licensed premises.[6] DBPR may approve a temporary expansion of the licensed premises to include a sidewalk or other outdoor area for special events.[7] The business must pay an application fee of $100, stipulate the timeframe for the special event, submit a sketch outlining the expanded premises, and submit written approval from the county or municipality.

Effect of the Bill

Within the existing City of Apopka – Community Redevelopment Agency, the bill designates the City of Apopka – Community Redevelopment Agency District (CRA District).

The bill requires DBPR to issue a special food service license to a bona fide restaurant in the CRA District that occupies at least 1,800 square feet of contiguous space, is equipped to serve meals to at least 80 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 60-day operating period and each 12-month operating period thereafter. The bill includes a complete legal description of the area in which the exemption to the quota license will apply.

The bill provides that failure of a licensee who is issued a special license to meet the 51 percentage of food and nonalcoholic beverage gross revenue requirement during the covered operating period will result in the revocation of the license or denial of the pending application for a permanent license of a

[1] S. 561.02, F.S.
[2] S. 561.20(1), F.S.
[3] S. 565.02, F.S.
[4] S. 561.20(2), F.S.
[5] S. 561.20(2)(a)4., F.S. *See* Rule 61A-3.0141, F.A.C.
[6] *See* s. 561.01(11), F.S. (defining "licensed premises" and requiring written approval from the county or municipality to include a sidewalk or any other outside area as part of the licensed premise).
[7] S. 561.01(11), F.S.

licensee operating with a temporary license. A licensee whose license is revoked, an applicant whose pending application for a permanent license is denied, or any person required to qualify for the special license application is ineligible to have any interest in a subsequent license application for a period of 120 days after the date of the final denial or revocation.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The Economic Impact Statement (EIS) projects increased sales tax and licensing revenues if such special licenses are granted under the exception.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The EIS projected increased sales tax revenues if such special licenses are granted under the exception.

2. Expenditures:

   None.

C. ECONOMIC IMPACT STATEMENT FILED? Yes [X] No []

D. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? December 3, 2021.

WHERE? The *Apopka Chief*, a newspaper published at Apopka, Orange County, Florida.

E. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?