

1 A bill to be entitled
2 An act relating to malt beverages; amending s. 561.01,
3 F.S.; defining the term "barrel"; amending s. 561.221,
4 F.S.; revising the unit of measurement used for
5 certain licensing purposes; authorizing certain
6 vendors to sell specified malt beverages on any
7 licensed premises; amending s. 561.37, F.S.; removing
8 the requirement that certain manufacturers pay a
9 surety bond for taxes; creating s. 563.042, F.S.;
10 providing definitions; authorizing certain
11 manufacturers to enter into contract brewing and
12 alternating proprietorship brewing agreements;
13 providing responsibilities and requirements of parties
14 under such agreements; prohibiting specified parties
15 from participating in such agreements; authorizing the
16 Division of Alcoholic Beverages and Tobacco to adopt
17 rules; amending s. 563.045, F.S.; providing that the
18 annual registration fee is required only if labels or
19 brands are sold to a distributor; specifying that no
20 other registration fee is authorized; amending s.
21 563.05, F.S.; revising the unit of measurement used
22 for calculating excise taxes; amending s. 563.02,
23 F.S.; revising the unit of measurement used for
24 certain fee purposes; expanding the types of
25 manufacturers that qualify to pay a lower license tax;

26 providing an effective date.

27

28 Be It Enacted by the Legislature of the State of Florida:

29

30 Section 1. Subsection (22) is added to section 561.01,
31 Florida Statutes, to read:

32 561.01 Definitions.—As used in the Beverage Law:

33 (22) "Barrel" means a quantity of 31 gallons.

34 Section 2. Paragraph (a) of subsection (3) of section
35 561.221, Florida Statutes, is amended to read:

36 561.221 Licensing of manufacturers and distributors as
37 vendors and of vendors as manufacturers; conditions and
38 limitations.—

39 (3) (a) Notwithstanding other provisions of the Beverage
40 Law, any vendor licensed in this state may be licensed as a
41 manufacturer of malt beverages upon a finding by the division
42 that:

43 1. The vendor will be engaged in brewing malt beverages at
44 a single location and in an amount which will not exceed 5,000
45 barrels of beer ~~10,000 kegs~~ per year. ~~For purposes of this~~
46 ~~subsection, the term "keg" means 15.5 gallons.~~

47 2. The malt beverages so brewed will be sold to consumers
48 for consumption on ~~the any vendor's~~ any vendor's licensed premises ~~or on~~
49 ~~contiguous licensed premises~~ owned by the vendor.

50 Section 3. Section 561.37, Florida Statutes, is amended to

51 read:

52 561.37 Bond for payment of taxes.—Each ~~manufacturer and~~
 53 ~~each~~ distributor shall file with the division a surety bond
 54 acceptable to the division in the sum of \$25,000 as surety for
 55 the payment of all taxes, provided, however, that when in the
 56 discretion of the division the amount of business done by the
 57 ~~manufacturer or~~ distributor is of such volume that a bond of
 58 less than \$25,000 will be adequate to secure the payment of all
 59 taxes assessed or authorized by the Beverage Law, the division
 60 may accept a bond in a lesser sum than \$25,000, but in no event
 61 shall it accept a bond of less than \$10,000, and it may at any
 62 time in its discretion require any bond in an amount less than
 63 \$25,000 to be increased so as not to exceed \$25,000; ~~provided,~~
 64 ~~however, that the amount of bond required for a brewer shall be~~
 65 ~~\$20,000, except that where, in the discretion of the division,~~
 66 ~~the amount of business done by the brewer is of such volume that~~
 67 ~~a bond of less than \$20,000 will be adequate to secure the~~
 68 ~~payment of all taxes assessed or authorized by the Beverage Law,~~
 69 ~~the division may accept a bond in a lesser sum than \$20,000, but~~
 70 ~~in no event shall it accept a bond of less than \$10,000, and it~~
 71 ~~may at any time in its discretion require any bond in an amount~~
 72 ~~less than \$20,000 to be increased so as not to exceed \$20,000;~~
 73 ~~provided further that the amount of the bond required for a wine~~
 74 ~~or wine and cordial manufacturer shall be \$5,000, except that,~~
 75 ~~in the case of a manufacturer engaged solely in the experimental~~

76 ~~manufacture of wines and cordials from Florida products, where~~
 77 ~~in the discretion of the division the amount of business done by~~
 78 ~~such manufacturer is of such volume that a bond of less than~~
 79 ~~\$5,000 will be adequate to secure the payment of all taxes~~
 80 ~~assessed or authorized by the Beverage Law, the division may~~
 81 ~~accept a bond in a lesser sum than \$5,000, but in no event shall~~
 82 ~~it accept a bond of less than \$1,000 and it may at any time in~~
 83 ~~its discretion require a bond in an amount less than \$5,000 to~~
 84 ~~be increased so as not to exceed \$5,000; provided, further, that~~
 85 the amount of bond required for a distributor who sells only
 86 beverages containing not more than 4.007 percent of alcohol by
 87 volume, in counties where the sale of intoxicating liquors,
 88 wines, and beers is prohibited, and to distributors who sell
 89 only beverages containing not more than 17.259 percent of
 90 alcohol by volume and wines regardless of alcoholic content, in
 91 counties where the sale of intoxicating liquors, wines, and
 92 beers is permitted, shall file with the division a surety bond
 93 acceptable to the division in the sum of \$25,000, as surety for
 94 the payment of all taxes; provided, however, that where in the
 95 discretion of the division the amount of business done by such
 96 distributor is of such volume that a bond of less than \$25,000
 97 will be adequate to secure the payment of all taxes assessed or
 98 authorized by the Beverage Law the division may accept a bond in
 99 a less sum than \$25,000 but in no event shall it accept a bond
 100 less than \$1,000 and it may at any time in its discretion

101 require any bond in an amount less than \$25,000 to be increased
102 so as not to exceed \$25,000; provided, further, that the amount
103 of bond required for a distributor in a county having a
104 population of 15,000 or less who procures a license by which his
105 or her sales are restricted to distributors and vendors who have
106 obtained licenses in the same county, shall be \$5,000.

107 Section 4. Section 563.042, Florida Statutes, is created
108 to read:

109 563.042 Contract and Alternating Proprietorship Brewing.-

110 (1) As used in this section the term:

111 (a) "Alternating proprietorship brewing" means an
112 agreement between a guest brewer and host brewer wherein the
113 guest brewer manufactures malt beverages on the host brewer's
114 licensed premises.

115 (b) "Contract brewer" means a licensed manufacturer of
116 malt beverages who brews malt beverages on its licensed premises
117 for a contracting brewer.

118 (c) "Contract brewing" means an agreement wherein a
119 contracting brewer pays a contract brewer to produce malt
120 beverages.

121 (d) "Contracting brewer" means a licensed manufacturer of
122 malt beverages who contracts for the services of a contract
123 brewer.

124 (e) "Guest brewer" means a licensed manufacturer of malt
125 beverages who brews malt beverages at a host brewer's licensed

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126 premises.

127 (f) "Host brewer" means a licensed manufacturer of malt
128 beverages who allows a guest brewer to brew malt beverages on
129 the manufacturer's licensed premises.

130 (2) The contract brewer:

131 (a) May enter into multiple contract brewing agreements
132 for the purpose of manufacturing malt beverages.

133 (b) Shall comply with all applicable federal and state
134 laws, including labeling laws.

135 (c) Shall pay all federal and state taxes on malt
136 beverages manufactured pursuant to this section upon removal of
137 the malt beverages from its licensed premises.

138 (d) Retains title to malt beverages produced under a
139 contract brewing agreement until such beverages are removed from
140 its licensed premises.

141 (e) Shall ensure that the contracting brewer's malt
142 beverages remain separate and identifiable from all other malt
143 beverages at all times.

144 (f) Notwithstanding any other provision of the Beverage
145 Law, may transfer malt beverages to the contracting brewer in an
146 amount up to the yearly production amount of the contracting
147 brewer's facility.

148 (g) Shall report to the division by the 10th day of each
149 month the volume of each label of malt beverages manufactured on
150 its licensed premises under the contract brewing agreement.

- 151 (3) The contracting brewer:
- 152 (a) May only engage in the manufacture of malt beverages
153 on its duly licensed premises and on the licensed premises of a
154 contract brewer disclosed under paragraph (4) (a) .
- 155 (b) Shall report to the division by the 10th day of each
156 month the volume of each label of malt beverages manufactured on
157 the licensed premises of the contract brewer under the contract
158 brewing agreement.
- 159 (4) The contract brewer and contracting brewer:
- 160 (a) Must, before engaging in contract brewing, notify the
161 division, on forms provided by the division, of their intent to
162 operate as a contract brewer or contracting brewer and disclose
163 the location of the licensed premises where brewing will occur.
- 164 (b) Shall maintain all records required to be kept by
165 manufacturers of malt beverages under the Beverage Law.
- 166 (c) Notwithstanding any other provision of the Beverage
167 Law, shall comply with s. 561.221(2)(c) .
- 168 (5) The host brewer shall report to the division by the
169 10th day of each month the volume of each label of malt
170 beverages manufactured on its licensed premises under the
171 alternating proprietorship brewing agreement.
- 172 (6) The guest brewer:
- 173 (a) Shall comply with all applicable federal and state
174 laws, including labeling laws.
- 175 (b) Shall pay all federal and state taxes on malt

176 beverages manufactured pursuant to this section upon removal of
177 the malt beverages from the host brewer's licensed premises.

178 (c) Retains title to malt beverages manufactured under an
179 alternating proprietorship brewing agreement.

180 (d) Shall report to the division by the 10th day of each
181 month the volume of each label of malt beverages manufactured at
182 each licensed premises under each alternating proprietorship
183 brewing agreement.

184 (7) Before engaging in alternating proprietorship brewing,
185 the host brewer and guest brewer:

186 (a) Must each qualify as a brewer with the Alcohol and
187 Tobacco Tax and Trade Bureau under the U.S. Department of the
188 Treasury.

189 (b) Shall submit to the division, on forms provided by the
190 division, information identifying:

191 1. The host brewer.

192 2. The guest brewer.

193 3. The location where the alternating proprietorship
194 brewing will take place.

195 4. The location where any product brewed pursuant to the
196 alternating proprietorship brewing agreement will be stored.

197 5. The amount of malt beverages to be produced under the
198 alternating proprietorship brewing agreement.

199 6. The timeframe in which the guest brewer will be
200 manufacturing malt beverages on the host brewer's licensed

201 premises.

202 7. Proof of occupancy rights to the host brewer's licensed
 203 premises for the duration of the alternating proprietorship
 204 brewing agreement.

205 8. Any other information reasonably deemed necessary by
 206 the division to ensure the health, safety, and welfare of the
 207 public or to ensure that all applicable taxes on the malt
 208 beverages produced pursuant to an alternating proprietorship
 209 brewing agreement are remitted to the state.

210 (8) Each entity engaged in the activities described in
 211 this section shall maintain records including:

212 (a) Any agreement authorizing the manufacturing and
 213 transfer of malt beverages.

214 (b) Records of the total volume, in gallons, manufactured
 215 as part of the agreement.

216 (c) Any other records required by the Division to ensure
 217 compliance with the provisions of the Beverage Law.

218 (9) Manufacturers or vendors licensed pursuant to the s.
 219 561.221(3)(a) may not engage in contract brewing or alternating
 220 proprietorship brewing.

221 Section 5. Subsection (2) of section 563.045, Florida
 222 Statutes, is amended to read:

223 563.045 Brands or labels to be registered; qualification
 224 to do business; fee; revocation.—

225 (2) ~~The each registrant shall pay an~~ annual registration

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226 fee for a brand or label sold to a distributor is of \$30 for a
 227 brand or label. No other annual registration fee for a brand or
 228 label is authorized under this section. Any registration may be
 229 suspended or revoked in the same manner as a beverage license
 230 for any violation of the Beverage Law.

231 Section 6. Section 563.05, Florida Statutes, is amended to
 232 read:

233 563.05 Excise taxes on malt beverages.—As to malt
 234 beverages containing 0.5 percent or more of alcohol by volume,
 235 there shall be paid by all manufacturers, distributors, and
 236 vendors, as herein defined, a tax of 48 cents per gallon upon
 237 all such beverages in bulk or in kegs or barrels; and, when such
 238 beverages are sold in containers of less than 1 gallon, the tax
 239 will be 0.375 cents per ounce ~~6 cents on each pint or fraction~~
 240 ~~thereof~~ in the container. However, the excise taxes required to
 241 be paid by this section upon malt beverages are not required to
 242 be paid upon such beverages when they are sold to post
 243 exchanges, ship service stores, and base exchanges located in
 244 military, naval, or air force reservations within this state.

245 (10) The division may adopt rules to implement this
 246 section.

247 Section 7. Subsection (2) of section 563.02, Florida
 248 Statutes, is amended to read:

249 563.02 License fees; vendors; manufacturers and
 250 distributors.—

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251 (2) Each manufacturer engaged in the business of brewing
252 only malt beverages shall pay an annual state license tax of
253 \$3,000 for each plant or branch he or she may operate. However,
254 each manufacturer engaged in the business of brewing less than
255 5,000 barrels ~~10,000 kegs~~ of malt beverages annually for sale
256 pursuant to s. 561.221(2) or consumption on the premises
257 pursuant to s. 561.221(3) shall pay an annual state license tax
258 of \$500 for each plant or branch.

259 Section 8. This act shall take effect July 1, 2022.