

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 715 Seating Requirements for Special Food Service Establishment Licenses

SPONSOR(S): Regulatory Reform Subcommittee, Tomkow and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 924

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee	16 Y, 0 N, As CS	Wright	Anstead
2) Commerce Committee			

SUMMARY ANALYSIS

In Florida, alcoholic beverages are regulated by the Beverage Law, which regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors. The Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law.

Florida law limits, by county, the number of alcoholic beverage licenses that may be issued for the sale of distilled spirits, to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as “quota” licenses.

A “special license” is an exception to the quota licensing scheme, which allows certain entities to serve liquor without a quota license. One such special license is a “special food service license” (SFS license), which applies to a food service establishment that has 2,500 square feet, is equipped to serve **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.

The bill reduces the minimum service capacity to qualify for an SFS license to **100 persons**, from 150 persons.

The bill will have no fiscal impact on local governments and an indeterminate fiscal impact on state government.

The bill is provides an effective date of May 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Regulation of Alcoholic Beverages

In Florida, alcoholic beverages are regulated by the Beverage Law,¹ which regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.² The Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law.³

Special Food Service License

Florida law limits, by county, the number of alcoholic beverage licenses that may be issued for the sale of distilled spirits, to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as “quota” licenses. The quota license is the only alcoholic beverage license that is limited in number; all other types of alcoholic beverage licenses are available without limitation, if certain conditions are met.⁴

A “special license” is an exception to the quota licensing scheme, which allows certain entities to serve liquor without a quota license. One such special license is a “special food service license” (SFS license), which applies to a food service establishment that has 2,500 square feet, is equipped to serve **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.⁵

SFS licensees must be audited by the division for compliance with the food and nonalcoholic beverage sales percentage requirements during the first 120-day operating period, and every one to four years thereafter, depending on beverage revenue. Failure by an SFS licensee to satisfy the requirements as to the percentages of food and nonalcoholic beverage sales results in revocation of the SFS license. An SFS licensee whose license is revoked is ineligible to have an interest in a subsequent application for a license for 120 days after the revocation.⁶

SFS licensees may sell or deliver alcoholic beverages in a sealed container for off-premises consumption, including liquor-based beverages prepared by the licensee and packaged in a container sealed by the licensee. Such licensees may not sell a bottle of distilled spirits sealed by a manufacturer. The sale or delivery of such beverages must be accompanied by the sale of food.⁷

Effect of the Bill

The bill reduces the minimum service capacity to qualify for an SFS license to **100 persons**, from 150 persons.

The bill is provides an effective date of May 1, 2022.

B. SECTION DIRECTORY:

Section 1: Amends s. 561.20, F.S., revising requirements for a special restaurant license.

Section 2: Provides an effective date.

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

² See s. 561.14, F.S.

³ S. 561.02, F.S.

⁴ S. 561.20(1), F.S.

⁵ S. 561.20(2)(a)4., F.S.

⁶ *Id.*

⁷ *Id.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may allow more restaurants to obtain an SFS license, which would increase fees to the state.

2. Expenditures:

The bill may allow more restaurants to obtain an SFS license, which would require more regulatory actions, such as inspections and audits, by DBPR.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may allow more restaurants to obtain an SFS license, which may make it less expensive to own and operate a restaurant that sells alcoholic beverages and could lead to more restaurants opening. It could also increase beverage service options for consumers.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 3, 2022, the Regulatory Reform Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment moved the effective date of the bill to May 1, 2022.

This analysis is drafted to the committee substitute as passed by the Regulatory Reform Subcommittee.

