

By Senator Bradley

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1 A bill to be entitled
2 An act relating to seating requirements for special
3 food service establishment licenses; amending s.
4 561.20, F.S.; revising the requirements for receiving
5 a special food service establishment license;
6 providing an effective date.

7

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

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10 Section 1. Paragraph (a) of subsection (2) of section
11 561.20, Florida Statutes, is amended to read:

12 561.20 Limitation upon number of licenses issued.—

13 (2)(a) The limitation of the number of licenses as provided
14 in this section does not prohibit the issuance of a special
15 license to:

16 1. Any bona fide hotel, motel, or motor court of not fewer
17 than 80 guest rooms in any county having a population of less
18 than 50,000 residents, and of not fewer than 100 guest rooms in
19 any county having a population of 50,000 residents or greater;
20 or any bona fide hotel or motel located in a historic structure~~7~~
21 as defined in s. 561.01(20)~~7~~ with fewer than 100 guest rooms
22 which derives at least 51 percent of its gross revenue from the
23 rental of hotel or motel rooms, which is licensed as a public
24 lodging establishment by the Division of Hotels and Restaurants;
25 provided, however, that a bona fide hotel or motel with no fewer
26 than 10 and no more than 25 guest rooms which is a historic
27 structure~~7~~ as defined in s. 561.01(20)~~7~~ in a municipality that
28 on the effective date of this act has a population, according to
29 the University of Florida's Bureau of Economic and Business

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30 Research Estimates of Population for 1998, of no fewer than
31 25,000 and no more than 35,000 residents and that is within a
32 constitutionally chartered county may be issued a special
33 license. This special license shall allow the sale and
34 consumption of alcoholic beverages only on the licensed premises
35 of the hotel or motel. In addition, the hotel or motel must
36 derive at least 60 percent of its gross revenue from the rental
37 of hotel or motel rooms and the sale of food and nonalcoholic
38 beverages; provided that this subparagraph shall supersede local
39 laws requiring a greater number of hotel rooms;

40 2. Any condominium accommodation of which no fewer than 100
41 condominium units are wholly rentable to transients and which is
42 licensed under chapter 509, except that the license shall be
43 issued only to the person or corporation that operates the hotel
44 or motel operation and not to the association of condominium
45 owners;

46 3. Any condominium accommodation of which no fewer than 50
47 condominium units are wholly rentable to transients, which is
48 licensed under chapter 509, and which is located in any county
49 having home rule under s. 10 or s. 11, Art. VIII of the State
50 Constitution of 1885, as amended, and incorporated by reference
51 in s. 6(e), Art. VIII of the State Constitution, except that the
52 license shall be issued only to the person or corporation that
53 operates the hotel or motel operation and not to the association
54 of condominium owners;

55 4. A food service establishment that has 2,500 square feet
56 of service area, is equipped to serve meals to 100 ~~150~~ persons
57 at one time, and derives at least 51 percent of its gross food
58 and beverage revenue from the sale of food and nonalcoholic

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59 beverages during the first 120-day operating period and the
60 first 12-month operating period thereafter. Subsequent audit
61 timeframes must be based upon the audit percentage established
62 by the most recent audit and conducted on a staggered scale as
63 follows: level 1, 51 percent to 60 percent, every year; level 2,
64 61 percent to 75 percent, every 2 years; level 3, 76 percent to
65 90 percent, every 3 years; and level 4, 91 percent to 100
66 percent, every 4 years. A licensee under this subparagraph may
67 sell or deliver alcoholic beverages in a sealed container for
68 off-premises consumption if the sale or delivery is accompanied
69 by the sale of food within the same order. Such authorized sale
70 or delivery includes wine-based and liquor-based beverages
71 prepared by the licensee or its employee and packaged in a
72 container sealed by the licensee or its employee. This
73 subparagraph may not be construed to authorize public food
74 service establishments licensed under this subparagraph to sell
75 a bottle of distilled spirits sealed by a manufacturer. Any sale
76 or delivery of malt beverages must comply with the container
77 size, labeling, and filling requirements imposed under s.
78 563.06. Any delivery of an alcoholic beverage under this
79 subparagraph must comply with s. 561.57. An alcoholic beverage
80 drink prepared by the vendor and sold or delivered for
81 consumption off the premises must be placed in a container
82 securely sealed by the licensee or its employees with an
83 unbroken seal that prevents the beverage from being immediately
84 consumed before removal from the premises. Such alcoholic
85 beverage also must be placed in a bag or other container that is
86 secured in such a manner that it is visibly apparent if the
87 container has been subsequently opened or tampered with, and a

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88 dated receipt for the alcoholic beverage and food must be
89 provided by the licensee and attached to the bag or container.
90 If transported in a motor vehicle, an alcoholic beverage that is
91 not in a container sealed by the manufacturer must be placed in
92 a locked compartment, a locked trunk, or the area behind the
93 last upright seat of a motor vehicle. It is a violation of the
94 prohibition in s. 562.11 to allow any person under the age of 21
95 to deliver alcoholic beverages on behalf of a vendor. The vendor
96 or the agent or employee of the vendor must verify the age of
97 the person making the delivery of the alcoholic beverage before
98 allowing any person to take possession of an alcoholic beverage
99 for the purpose of making a delivery on behalf of a vendor under
100 this section. A food service establishment granted a special
101 license on or after January 1, 1958, pursuant to general or
102 special law may not operate as a package store and may not sell
103 intoxicating beverages under such license after the hours of
104 serving or consumption of food have elapsed. Failure by a
105 licensee to meet the required percentage of food and
106 nonalcoholic beverage gross revenues during the covered
107 operating period shall result in revocation of the license or
108 denial of the pending license application. A licensee whose
109 license is revoked or an applicant whose pending application is
110 denied, or any person required to qualify on the special license
111 application, is ineligible to have any interest in a subsequent
112 application for such a license for a period of 120 days after
113 the date of the final denial or revocation;

114 5. Any caterer, deriving at least 51 percent of its gross
115 food and beverage revenue from the sale of food and nonalcoholic
116 beverages at each catered event, licensed by the Division of

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117 Hotels and Restaurants under chapter 509. This subparagraph does
118 not apply to a culinary education program, as defined in s.
119 381.0072(2), which is licensed as a public food service
120 establishment by the Division of Hotels and Restaurants and
121 provides catering services. Notwithstanding any law to the
122 contrary, a licensee under this subparagraph shall sell or serve
123 alcoholic beverages only for consumption on the premises of a
124 catered event at which the licensee is also providing prepared
125 food, and shall prominently display its license at any catered
126 event at which the caterer is selling or serving alcoholic
127 beverages. A licensee under this subparagraph shall purchase all
128 alcoholic beverages it sells or serves at a catered event from a
129 vendor licensed under s. 563.02(1), s. 564.02(1), or licensed
130 under s. 565.02(1) subject to the limitation imposed in
131 subsection (1), as appropriate. A licensee under this
132 subparagraph may not store any alcoholic beverages to be sold or
133 served at a catered event. Any alcoholic beverages purchased by
134 a licensee under this subparagraph for a catered event that are
135 not used at that event must remain with the customer; provided
136 that if the vendor accepts unopened alcoholic beverages, the
137 licensee may return such alcoholic beverages to the vendor for a
138 credit or reimbursement. Regardless of the county or counties in
139 which the licensee operates, a licensee under this subparagraph
140 shall pay the annual state license tax set forth in s.
141 565.02(1)(b). A licensee under this subparagraph must maintain
142 for a period of 3 years all records and receipts for each
143 catered event, including all contracts, customers' names, event
144 locations, event dates, food purchases and sales, alcoholic
145 beverage purchases and sales, nonalcoholic beverage purchases

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146 and sales, and any other records required by the department by
147 rule to demonstrate compliance with the requirements of this
148 subparagraph. Notwithstanding any law to the contrary, any
149 vendor licensed under s. 565.02(1) subject to the limitation
150 imposed in subsection (1), may, without any additional licensure
151 under this subparagraph, serve or sell alcoholic beverages for
152 consumption on the premises of a catered event at which prepared
153 food is provided by a caterer licensed under chapter 509. If a
154 licensee under this subparagraph also possesses any other
155 license under the Beverage Law, the license issued under this
156 subparagraph may not authorize the holder to conduct activities
157 on the premises to which the other license or licenses apply
158 that would otherwise be prohibited by the terms of that license
159 or the Beverage Law. This section does not permit the licensee
160 to conduct activities that are otherwise prohibited by the
161 Beverage Law or local law. The Division of Alcoholic Beverages
162 and Tobacco is hereby authorized to adopt rules to administer
163 the license created in this subparagraph, to include rules
164 governing licensure, recordkeeping, and enforcement. The first
165 \$300,000 in fees collected by the division each fiscal year
166 pursuant to this subparagraph shall be deposited in the
167 Department of Children and Families' Operations and Maintenance
168 Trust Fund to be used only for alcohol and drug abuse education,
169 treatment, and prevention programs. The remainder of the fees
170 collected shall be deposited into the Hotel and Restaurant Trust
171 Fund created pursuant to s. 509.072; or

172 6. A culinary education program as defined in s.
173 381.0072(2) which is licensed as a public food service
174 establishment by the Division of Hotels and Restaurants.

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175 a. This special license shall allow the sale and
176 consumption of alcoholic beverages on the licensed premises of
177 the culinary education program. The culinary education program
178 shall specify designated areas in the facility where the
179 alcoholic beverages may be consumed at the time of application.
180 Alcoholic beverages sold for consumption on the premises may be
181 consumed only in areas designated under s. 561.01(11) and may
182 not be removed from the designated area. Such license shall be
183 applicable only in and for designated areas used by the culinary
184 education program.

185 b. If the culinary education program provides catering
186 services, this special license shall also allow the sale and
187 consumption of alcoholic beverages on the premises of a catered
188 event at which the licensee is also providing prepared food. A
189 culinary education program that provides catering services is
190 not required to derive at least 51 percent of its gross revenue
191 from the sale of food and nonalcoholic beverages.
192 Notwithstanding any law to the contrary, a licensee that
193 provides catering services under this sub-subparagraph shall
194 prominently display its beverage license at any catered event at
195 which the caterer is selling or serving alcoholic beverages.
196 Regardless of the county or counties in which the licensee
197 operates, a licensee under this sub-subparagraph shall pay the
198 annual state license tax set forth in s. 565.02(1)(b). A
199 licensee under this sub-subparagraph must maintain for a period
200 of 3 years all records required by the department by rule to
201 demonstrate compliance with the requirements of this sub-
202 subparagraph.

203 c. If a licensee under this subparagraph also possesses any

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204 other license under the Beverage Law, the license issued under
205 this subparagraph does not authorize the holder to conduct
206 activities on the premises to which the other license or
207 licenses apply that would otherwise be prohibited by the terms
208 of that license or the Beverage Law. This subparagraph does not
209 permit the licensee to conduct activities that are otherwise
210 prohibited by the Beverage Law or local law. Any culinary
211 education program that holds a license to sell alcoholic
212 beverages shall comply with the age requirements set forth in
213 ss. 562.11(4), 562.111(2), and 562.13.

214 d. The Division of Alcoholic Beverages and Tobacco may
215 adopt rules to administer the license created in this
216 subparagraph, to include rules governing licensure,
217 recordkeeping, and enforcement.

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

221
222 However, any license heretofore issued to any such hotel, motel,
223 motor court, or restaurant or hereafter issued to any such
224 hotel, motel, or motor court, including a condominium
225 accommodation, under the general law may not be moved to a new
226 location, such license being valid only on the premises of such
227 hotel, motel, motor court, or restaurant. Licenses issued to
228 hotels, motels, motor courts, or restaurants under the general
229 law and held by such hotels, motels, motor courts, or
230 restaurants on May 24, 1947, shall be counted in the quota
231 limitation contained in subsection (1). Any license issued for
232 any hotel, motel, or motor court under this law shall be issued

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

258 Section 2. This act shall take effect upon becoming a law.