

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/CS/SB 1262

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government;
Regulated Industries Committee; and Senator Martin

SUBJECT: Issuance of Special Beverage Licenses

DATE: April 24, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2. <u>Davis</u>	<u>Betta</u>	<u>AEG</u>	<u>Fav/CS</u>
3. <u>Oxamendi</u>	<u>Yeatman</u>	<u>FP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1262 reduces the number of persons a bona fide special food service establishment licensee must be equipped to serve meals at one time from 150 persons to 120 persons and decreases the minimum square feet of service area required for a special food service establishment license from 2,500 square feet of service area to 2,000 square feet of service area. The bill also requires that the establishments hold themselves out as restaurants and have at least 120 physical seats that are available for patrons to use during operating hours.

A special food service establishment license, known as an SFS license, is an exception to the limit on the number of alcoholic beverage licenses for the sale of distilled spirits permitted per county (quota licenses). Under current law, a special food service establishment must have at least 2,500 square feet of service area, be equipped to serve 150 persons at one time, and derive 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 also revises the alcoholic beverage license requirements for a bona fide beach or cabana club to include bathroom facilities among the list of facilities that a beach or cabana club must have to qualify for a special club license. Current law requires such businesses to have beach facilities, and locker rooms for at least 100 persons. The bill repeals the requirements that a

beach or cabana club must have a restaurant with seats at tables for at least 100 persons. Instead it requires that the beach or cabana club include a public food service establishment as defined in s. 509.013(5), F.S. The bill maintains the requirement in current law that a beach or cabana club must have an area of at least 5,000 square feet located on a contiguous tract of land of in excess of one acre.

The bill may an indeterminate fiscal impact on state revenues and expenditures. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

Division of Alcoholic Beverages and Tobacco

The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law,¹ which regulates the manufacture, distribution, and sale of wine, beer, and liquor.² The division is also responsible for the administration and enforcement of tobacco products under ch. 569, F.S.

Quota Licenses

Section 561.20(1), F.S., 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. New quota licenses are created and issued when there is an increase in the population of a county. The licenses may also be issued when a county initially changes its status from a county that does not permit the sale of intoxicating liquor to one that permits such sale. 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. There are several exceptions for special licenses.³ There are several exceptions or exemptions to the limitation by local or special law.⁴

Special Beverage Licenses

Special Food Service Licenses

The limitation on the number of quota licenses per county does not apply to a food service establishment that has at least 2,500 square feet of service area, 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, during the first 60-day operating period and each 12-month

¹ Section 561.02, F.S.

² Section 561.01(6), F.S., provides that the “Beverage Law” means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

³ See s. 561.20(2), (7), (9), and (11), F.S., and s. 565.02(2) through (11), F.S.

⁴ See s. 561.561.20(4), F.S., and the Section VII, Related Issues, of this analysis.

operating period thereafter.⁵ This type of license is known as a “special food service establishment license” or an “SFS license.”⁶

Failure by a licensee to satisfy the requirements as to the percentages of food and nonalcoholic beverages results in revocation of the SFS license. A licensee whose license is revoked is ineligible to have an interest in a subsequent application for a license for 120 days after the revocation.⁷

The annual fee for an SFS license varies from \$624 to \$1,820, depending upon the population of the county in which the food service establishment is located.⁸

Beach and Cabana Club Special Licenses

The limitation on the number of quota licenses per county does not apply to any corporation, partnership, or individual operating a club which owns or leases and maintains any bona fide beach or cabana club consisting of beach facilities, swimming pool, locker rooms with facilities for at least 100 persons, and a restaurant with seats at tables for at least 100 persons. The beach or cabana club must have an area of at least 5,000 square feet located on a contiguous tract of land of in excess of 1 acre. A beach or cabana club that fails to maintain these facilities may have their alcoholic beverage license revoked.⁹

Off-Premises Sales by SFS Licensees

A food service establishment holding an SFS license issued after January 1, 1958, may not operate a package store under the license and may not sell intoxicating beverages after the hours of serving or consumption of food have elapsed.

However, an SFS licensee may sell manufacturer-sealed containers of beer and wine for off-premises consumption. An SFS licensee may sell and deliver alcoholic beverage drinks in containers sealed by the licensee, but is prohibited from selling bottles of distilled spirits for off-premises consumption.

Alcoholic beverage drinks prepared by the licensee must be sealed by the licensee with an unbroken seal that prevents the beverage from being consumed, and placed in a bag or other container secured in such a manner that it is visibly apparent if the container has been opened or tampered with. A dated receipt for the beverage and meal must be provided and attached to the container. Alcoholic beverages prepared and sealed by the licensee that are delivered or

⁵ Section 561.20(2)(a)4., F.S. The required square footage and number of persons the restaurant must be equipped to serve may be different for county or municipality jurisdictions due to special acts enacted by the Legislature that affect these requirements for the county or municipality. For a list of the special act requirements for counties and municipalities, including the applicable act in the Laws of Florida, see: Division of Alcoholic Beverages and Tobacco, *General Laws of Local Application and Special Acts*, available at www.myfloridalicense.com/dbpr/abt/documents/GENLAWS.pdf (last visited Mar. 31, 2023).

⁶ The SFS license was previously known as an “SRX” or “Special Restaurant License,” and these licenses are still commonly referred to as “SRX” licenses.

⁷ Section 561.20(2)(a)4., F.S.

⁸ Section 565.02(1)(b)-(f), F.S.

⁹ Section 561.20(7)(d), F.S.

transported by motor vehicle must be placed in a locked compartment, locked trunk, or other area behind the last upright seat of the motor vehicle.

Additionally, an SFS licensee who allows a person under 21 years of age to deliver an alcoholic beverage on its behalf violates the prohibition against selling, giving, or serving alcoholic beverages to a person under 21 years of age. An alcoholic beverage vendor or an agent or employee of a vendor must verify that the person making a delivery of an alcoholic beverage is at least 21 years of age.

III. Effect of Proposed Changes:

The bill amends s. 561.20(2)(a)4., F.S., to reduce the number of persons to which an SFS licensee must be equipped to serve meals at one time from 150 persons to 120 persons, and decreases the minimum square feet of service area required for a special food service establishment license from 2,500 square feet of service area to 2,000 square feet of service area. The bill also requires that the establishments hold themselves out as restaurants and have at least 120 physical seats that are available for patrons to use during operating hours.

The bill amends s. 561.20(7)(d), F.S., to revise the alcoholic beverage license requirements for a bona fide beach or cabana club to include bathroom facilities among the list of facilities that a beach or cabana club must have to qualify for a special club license. Current law requires such businesses to have beach facilities, and locker rooms for at least 100 persons. The bill repeals the requirements that a beach or cabana club must have a restaurant with seats at tables for at least 100 persons. Instead it requires that the beach or cabana club include a public food service establishment as defined in s. 509.013(5), F.S. The bill maintains the requirement in current law that a beach or cabana club must have an area of at least 5,000 square feet located on a contiguous tract of land of in excess of one acre.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate fiscal impact on the division's revenues and expenditures. The bill may allow more restaurants to obtain an SFS license, which would increase license fee revenues; however, the increase of licensees may require more regulatory actions, such as inspections and audits, by the division. To date, an analysis from the DBPR regarding the fiscal impact of CS/SB 1262 on the division's revenues, expenditures, or operations has not been provided.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Special food service licensees in several counties, cities, or districts are subject to special acts that require a food service establishment to be equipped to serve meals at one time to more than the 150 persons required under general law as a condition for the sale of alcoholic beverages.¹⁰ For example, a licensee must be equipped to serve at one time 200 persons in Hendry County¹¹ and 250 persons in Lake County.¹² Other counties, cities, or districts permit the sale of alcoholic beverages under an SFS license if fewer than 150 persons may be served at one time by the establishment. Examples include service for 100 persons in Alachua and Hillsborough counties,¹³ and 80 persons in the City of Orlando's "downtown restaurant area" and "main street small restaurant incentive area."¹⁴

¹⁰ DBPR, *General Laws of Local Application and Special Acts Relating to Food Service Establishments*, at: http://www.myfloridalicense.com/dbpr/abt/documents/General_Laws_and_Special_Acts_for_Food_Service_Establishments.pdf (last visited Mar. 22, 2023).

¹¹ Chapter 71-660, Laws of Fla.

¹² Chapter 2021-244, Laws of Fla., relating to Lake County.

¹³ Chapter 70-574, Laws of Fla., relating to Alachua County; and ch. 2016-264, Laws of Fla., relating to Hillsborough County.

¹⁴ Chapter 65-1873, Laws of Fla., for the City of Orlando's "downtown restaurant area," and ch. 2021-265, Laws of Fla., for the City of Orlando's "main street small restaurant incentive area."

Several counties or cities are also subject to special acts that provide for fewer square feet of service area than required under current law. For example, 1,800 square feet of service area in Alachua County¹⁵ and in the cities of Jacksonville and Kissimmee;¹⁶ 2,000 square feet of service area in Highlands County;¹⁷ and 1,500 square feet of service area in the City of St. Cloud.¹⁸ Some jurisdictions are subject to a minimum square feet of service area that is greater than required under general law, e.g., 4,000 square feet of service area in Hendry, Osceola, Sumter, Walton counties and the City of Maitland.¹⁹

The bill does not affect counties, cities, or districts that are subject to special acts that provide seating and square footage restrictions other than those provided under the bill.²⁰

VIII. Statutes Affected:

This bill substantially amends section 561.20 of the Florida Statutes.

This bill reenacts section 565.045 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Appropriations Committee on Agriculture, Environment, and General Government on April 18, 2023:

The committee substitute requires that a special food service establishment licensee to have at least 120 “physical seats” available for patrons to use during operating hours instead of requiring that the seats be “exclusively dedicated” for patron use during operating hours.

CS by Regulated Industries on April 4, 2023:

The CS changes the bill's title from "an act relating to requirements for special food service licenses" to "an act relating to the issuance of special beverage licenses."

The CS increases the reduces the number of persons a special food service establishment licensee must be equipped to serve meals at one time from 150 persons to 120 persons, decreases the minimum square feet of service area required for a special food service establishment license from 2,500 square feet of service area to 2,000 square feet of service area, and requires that the establishments hold themselves out as restaurants and have at least 120 exclusively dedicated seats that are available for patrons to use during operating hours.

¹⁵ Chapter 70-574, Laws of Fla., relating to Alachua County.

¹⁶ Chapter 2016-248, Laws of Fla., relating to the City of Jacksonville; and 2019-178, Laws of Fla., relating to the City of Kissimmee.

¹⁷ Chapter 69-782, Laws of Fla.

¹⁸ Chapter 2019-182, Laws of Fla.

¹⁹ Chapter 71-660, Laws of Fla., relating to Hendry County; ch. 69-793, Laws of Fla., relating to Osceola County; ch. 2021-44, relating to Sumter County; and ch. 67-2164, Laws of Fla., relating to Walton County.

²⁰ See s. 561.20(4), F.S.

The CS also amends s. 561.20(7)(d), F.S., to revise the alcoholic beverages license requirements for bona fide beach or cabana clubs.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
