

By Senator Martin

33-00532-23

20231262__

1 A bill to be entitled

2 An act relating to requirements for special food
3 service licenses; amending s. 561.20, F.S.; revising
4 requirements relating to the issuance of special food
5 service licenses; reenacting s. 565.045(1)(c), F.S.,
6 relating to regulations for consumption on premises,
7 to incorporate the amendment made to s. 561.20, F.S.,
8 in a reference thereto; providing an effective date.
9

10 Be It Enacted by the Legislature of the State of Florida:
11

12 Section 1. Paragraph (a) of subsection (2) of section
13 561.20, Florida Statutes, is amended to read:

14 561.20 Limitation upon number of licenses issued.—

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

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

33-00532-23

20231262__

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

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

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

57 4. A food service establishment that has 1,800 ~~2,500~~ square
58 feet of service area, is equipped to serve meals to 100 ~~150~~

33-00532-23

20231262__

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

33-00532-23

20231262__

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

116 5. Any caterer, deriving at least 51 percent of its gross

33-00532-23

20231262__

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

33-00532-23

20231262__

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

174 6. A culinary education program as defined in s.

33-00532-23

20231262__

175 381.0072(2) which is licensed as a public food service
176 establishment by the Division of Hotels and Restaurants.

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

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

33-00532-23

20231262__

204 subparagraph.

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

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

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

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

33-00532-23

20231262__

233 limitation contained in subsection (1). Any license issued for
234 any hotel, motel, or motor court under this law shall be issued
235 only to the owner of the hotel, motel, or motor court or, in the
236 event the hotel, motel, or motor court is leased, to the lessee
237 of the hotel, motel, or motor court; and the license shall
238 remain in the name of the owner or lessee so long as the license
239 is in existence. Any special license now in existence heretofore
240 issued under this law cannot be renewed except in the name of
241 the owner of the hotel, motel, motor court, or restaurant or, in
242 the event the hotel, motel, motor court, or restaurant is
243 leased, in the name of the lessee of the hotel, motel, motor
244 court, or restaurant in which the license is located and must
245 remain in the name of the owner or lessee so long as the license
246 is in existence. Any license issued under this section shall be
247 marked "Special," and nothing herein provided shall limit,
248 restrict, or prevent the issuance of a special license for any
249 restaurant or motel which shall hereafter meet the requirements
250 of the law existing immediately before the effective date of
251 this act, if construction of such restaurant has commenced
252 before the effective date of this act and is completed within 30
253 days thereafter, or if an application is on file for such
254 special license at the time this act takes effect; and any such
255 licenses issued under this proviso may be annually renewed as
256 now provided by law. Nothing herein prevents an application for
257 transfer of a license to a bona fide purchaser of any hotel,
258 motel, motor court, or restaurant by the purchaser of such
259 facility or the transfer of such license pursuant to law.

260 Section 2. For the purpose of incorporating the amendment
261 made by this act to section 561.20, Florida Statutes, in a

33-00532-23

20231262__

262 reference thereto, paragraph (c) of subsection (1) of section
263 565.045, Florida Statutes, is reenacted to read:

264 565.045 Regulations for consumption on premises; penalty;
265 exemptions.—

266 (1) Vendors licensed under s. 565.02(1)(b)-(f):

267 (c) May sell or deliver alcoholic beverages prepared by the
268 licensee for off-premises consumption if the alcoholic beverage
269 is in a container sealed by the licensee. All sales or
270 deliveries of alcoholic beverages made pursuant to this
271 paragraph must satisfy the following requirements:

272 1. The vendor must be licensed as a public food service
273 establishment under chapter 509;

274 2. The sale or delivery must be accompanied by the sale of
275 food within the same order;

276 3. The charge for the sale of food and nonalcoholic
277 beverages must be at least 40 percent of the total charge for
278 the order, excluding the charge for any manufacturer-sealed
279 containers of alcoholic beverages included in the order; and

280 4. Sales and deliveries of the alcoholic beverages may not
281 occur after the vendor ceases preparing food on the licensed
282 premises for the day or after midnight, whichever is earlier.

283

284 The requirement in subparagraph 3. does not apply to vendors
285 licensed under s. 561.20(2)(a)4.

286 Section 3. This act shall take effect July 1, 2023.