

By the Committee on Regulated Industries; and Senator Martin

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1 A bill to be entitled
2 An act relating to the issuance of special beverage
3 licenses; amending s. 561.20, F.S.; revising
4 requirements relating to the issuance of special food
5 service licenses and certain club licenses; reenacting
6 s. 565.045(1)(c), F.S., in a reference thereto;
7 providing an effective date.

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

10
11 Section 1. Paragraph (a) of subsection (2) and paragraph
12 (d) of subsection (7) of section 561.20, Florida Statutes, are
13 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

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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 bona fide food service establishment that has a
58 minimum of 2,000 ~~2,500~~ square feet of service area, is equipped

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59 to serve meals to 120 ~~150~~ persons at one time, has at least 120
60 exclusively dedicated seats that are available for patrons to
61 use during operating hours, holds itself out as a restaurant,
62 and derives at least 51 percent of its gross food and beverage
63 revenue from the sale of food and nonalcoholic beverages during
64 the first 120-day operating period and the first 12-month
65 operating period thereafter. Subsequent audit timeframes must be
66 based upon the audit percentage established by the most recent
67 audit and conducted on a staggered scale as follows: level 1, 51
68 percent to 60 percent, every year; level 2, 61 percent to 75
69 percent, every 2 years; level 3, 76 percent to 90 percent, every
70 3 years; and level 4, 91 percent to 100 percent, every 4 years.
71 A licensee under this subparagraph may sell or deliver alcoholic
72 beverages in a sealed container for off-premises consumption if
73 the sale or delivery is accompanied by the sale of food within
74 the same order. Such authorized sale or delivery includes wine-
75 based and liquor-based beverages prepared by the licensee or its
76 employee and packaged in a container sealed by the licensee or
77 its employee. This subparagraph may not be construed to
78 authorize public food service establishments licensed under this
79 subparagraph to sell a bottle of distilled spirits sealed by a
80 manufacturer. Any sale or delivery of malt beverages must comply
81 with the container size, labeling, and filling requirements
82 imposed under s. 563.06. Any delivery of an alcoholic beverage
83 under this subparagraph must comply with s. 561.57. An alcoholic
84 beverage drink prepared by the vendor and sold or delivered for
85 consumption off the premises must be placed in a container
86 securely sealed by the licensee or its employees with an
87 unbroken seal that prevents the beverage from being immediately

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

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117 the date of the final denial or revocation;

118 5. Any caterer, deriving at least 51 percent of its gross
119 food and beverage revenue from the sale of food and nonalcoholic
120 beverages at each catered event, licensed by the Division of
121 Hotels and Restaurants under chapter 509. This subparagraph does
122 not apply to a culinary education program, as defined in s.
123 381.0072(2), which is licensed as a public food service
124 establishment by the Division of Hotels and Restaurants and
125 provides catering services. Notwithstanding any law to the
126 contrary, a licensee under this subparagraph shall sell or serve
127 alcoholic beverages only for consumption on the premises of a
128 catered event at which the licensee is also providing prepared
129 food, and shall prominently display its license at any catered
130 event at which the caterer is selling or serving alcoholic
131 beverages. A licensee under this subparagraph shall purchase all
132 alcoholic beverages it sells or serves at a catered event from a
133 vendor licensed under s. 563.02(1), s. 564.02(1), or licensed
134 under s. 565.02(1) subject to the limitation imposed in
135 subsection (1), as appropriate. A licensee under this
136 subparagraph may not store any alcoholic beverages to be sold or
137 served at a catered event. Any alcoholic beverages purchased by
138 a licensee under this subparagraph for a catered event that are
139 not used at that event must remain with the customer; provided
140 that if the vendor accepts unopened alcoholic beverages, the
141 licensee may return such alcoholic beverages to the vendor for a
142 credit or reimbursement. Regardless of the county or counties in
143 which the licensee operates, a licensee under this subparagraph
144 shall pay the annual state license tax set forth in s.
145 565.02(1)(b). A licensee under this subparagraph must maintain

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146 for a period of 3 years all records and receipts for each
147 catered event, including all contracts, customers' names, event
148 locations, event dates, food purchases and sales, alcoholic
149 beverage purchases and sales, nonalcoholic beverage purchases
150 and sales, and any other records required by the department by
151 rule to demonstrate compliance with the requirements of this
152 subparagraph. Notwithstanding any law to the contrary, any
153 vendor licensed under s. 565.02(1) subject to the limitation
154 imposed in subsection (1), may, without any additional licensure
155 under this subparagraph, serve or sell alcoholic beverages for
156 consumption on the premises of a catered event at which prepared
157 food is provided by a caterer licensed under chapter 509. If a
158 licensee under this subparagraph also possesses any other
159 license under the Beverage Law, the license issued under this
160 subparagraph may not authorize the holder to conduct activities
161 on the premises to which the other license or licenses apply
162 that would otherwise be prohibited by the terms of that license
163 or the Beverage Law. This section does not permit the licensee
164 to conduct activities that are otherwise prohibited by the
165 Beverage Law or local law. The Division of Alcoholic Beverages
166 and Tobacco is hereby authorized to adopt rules to administer
167 the license created in this subparagraph, to include rules
168 governing licensure, recordkeeping, and enforcement. The first
169 \$300,000 in fees collected by the division each fiscal year
170 pursuant to this subparagraph shall be deposited in the
171 Department of Children and Families' Operations and Maintenance
172 Trust Fund to be used only for alcohol and drug abuse education,
173 treatment, and prevention programs. The remainder of the fees
174 collected shall be deposited into the Hotel and Restaurant Trust

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175 Fund created pursuant to s. 509.072; or

176 6. A culinary education program as defined in s.
177 381.0072(2) which is licensed as a public food service
178 establishment by the Division of Hotels and Restaurants.

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

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

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204 of 3 years all records required by the department by rule to
205 demonstrate compliance with the requirements of this sub-
206 subparagraph.

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

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

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

225

226 However, any license heretofore issued to any such hotel, motel,
227 motor court, or restaurant or hereafter issued to any such
228 hotel, motel, or motor court, including a condominium
229 accommodation, under the general law may not be moved to a new
230 location, such license being valid only on the premises of such
231 hotel, motel, motor court, or restaurant. Licenses issued to
232 hotels, motels, motor courts, or restaurants under the general

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233 law and held by such hotels, motels, motor courts, or
234 restaurants on May 24, 1947, shall be counted in the quota
235 limitation contained in subsection (1). Any license issued for
236 any hotel, motel, or motor court under this law shall be issued
237 only to the owner of the hotel, motel, or motor court or, in the
238 event the hotel, motel, or motor court is leased, to the lessee
239 of the hotel, motel, or motor court; and the license shall
240 remain in the name of the owner or lessee so long as the license
241 is in existence. Any special license now in existence heretofore
242 issued under this law cannot be renewed except in the name of
243 the owner of the hotel, motel, motor court, or restaurant or, in
244 the event the hotel, motel, motor court, or restaurant is
245 leased, in the name of the lessee of the hotel, motel, motor
246 court, or restaurant in which the license is located and must
247 remain in the name of the owner or lessee so long as the license
248 is in existence. Any license issued under this section shall be
249 marked "Special," and nothing herein provided shall limit,
250 restrict, or prevent the issuance of a special license for any
251 restaurant or motel which shall hereafter meet the requirements
252 of the law existing immediately before the effective date of
253 this act, if construction of such restaurant has commenced
254 before the effective date of this act and is completed within 30
255 days thereafter, or if an application is on file for such
256 special license at the time this act takes effect; and any such
257 licenses issued under this proviso may be annually renewed as
258 now provided by law. Nothing herein prevents an application for
259 transfer of a license to a bona fide purchaser of any hotel,
260 motel, motor court, or restaurant by the purchaser of such
261 facility or the transfer of such license pursuant to law.

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262 (7)

263 (d) Any corporation, partnership, or individual operating a
264 club which owns or leases and which maintains any bona fide
265 beach or cabana club consisting of beach facilities, swimming
266 pool, locker rooms or bathroom ~~with~~ facilities for at least 100
267 persons, and a public food service establishment as defined in
268 s. 509.013(5) ~~restaurant with seats at tables for at least 100~~
269 ~~persons~~, comprising in all an area of at least 5,000 square feet
270 located on a contiguous tract of land of in excess of 1 acre may
271 be issued a license under s. 565.02(4). The failure of such club
272 to maintain the facilities shall be a ground for revocation of
273 the license.

274 Section 2. For the purpose of incorporating the amendment
275 made by this act to section 561.20, Florida Statutes, in a
276 reference thereto, paragraph (c) of subsection (1) of section
277 565.045, Florida Statutes, is reenacted to read:

278 565.045 Regulations for consumption on premises; penalty;
279 exemptions.—

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

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

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

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

290 3. The charge for the sale of food and nonalcoholic

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291 beverages must be at least 40 percent of the total charge for
292 the order, excluding the charge for any manufacturer-sealed
293 containers of alcoholic beverages included in the order; and

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

297

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

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