

By the Appropriations Committee on Agriculture, Environment, and General Government; 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., relating to regulations for
7 consumption on premises, to incorporate the amendment
8 made to s. 561.20, F.S., in a reference thereto;
9 providing an effective date.

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

12
13 Section 1. Paragraph (a) of subsection (2) and paragraph
14 (d) of subsection (7) of section 561.20, Florida Statutes, are
15 amended to read:

16 561.20 Limitation upon number of licenses issued.—

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

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

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30 than 10 and no more than 25 guest rooms which is a historic
31 structure, as defined in s. 561.01(20), in a municipality that
32 on the effective date of this act has a population, according to
33 the University of Florida's Bureau of Economic and Business
34 Research Estimates of Population for 1998, of no fewer than
35 25,000 and no more than 35,000 residents and that is within a
36 constitutionally chartered county may be issued a special
37 license. This special license shall allow the sale and
38 consumption of alcoholic beverages only on the licensed premises
39 of the hotel or motel. In addition, the hotel or motel must
40 derive at least 60 percent of its gross revenue from the rental
41 of hotel or motel rooms and the sale of food and nonalcoholic
42 beverages; provided that this subparagraph shall supersede local
43 laws requiring a greater number of hotel rooms;

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

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

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59 4. A bona fide food service establishment that has a
60 minimum of 2,000 ~~2,500~~ square feet of service area, is equipped
61 to serve meals to 120 ~~150~~ persons at one time, has at least 120
62 physical seats available for patrons to use during operating
63 hours, holds itself out as a restaurant, and derives at least 51
64 percent of its gross food and beverage revenue from the sale of
65 food and nonalcoholic beverages during the first 120-day
66 operating period and the first 12-month operating period
67 thereafter. Subsequent audit timeframes must be based upon the
68 audit percentage established by the most recent audit and
69 conducted on a staggered scale as follows: level 1, 51 percent
70 to 60 percent, every year; level 2, 61 percent to 75 percent,
71 every 2 years; level 3, 76 percent to 90 percent, every 3 years;
72 and level 4, 91 percent to 100 percent, every 4 years. A
73 licensee under this subparagraph may sell or deliver alcoholic
74 beverages in a sealed container for off-premises consumption if
75 the sale or delivery is accompanied by the sale of food within
76 the same order. Such authorized sale or delivery includes wine-
77 based and liquor-based beverages prepared by the licensee or its
78 employee and packaged in a container sealed by the licensee or
79 its employee. This subparagraph may not be construed to
80 authorize public food service establishments licensed under this
81 subparagraph to sell a bottle of distilled spirits sealed by a
82 manufacturer. Any sale or delivery of malt beverages must comply
83 with the container size, labeling, and filling requirements
84 imposed under s. 563.06. Any delivery of an alcoholic beverage
85 under this subparagraph must comply with s. 561.57. An alcoholic
86 beverage drink prepared by the vendor and sold or delivered for
87 consumption off the premises must be placed in a container

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

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117 application, is ineligible to have any interest in a subsequent
118 application for such a license for a period of 120 days after
119 the date of the final denial or revocation;

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

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

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175 treatment, and prevention programs. The remainder of the fees
176 collected shall be deposited into the Hotel and Restaurant Trust
177 Fund created pursuant to s. 509.072; or

178 6. A culinary education program as defined in s.
179 381.0072(2) which is licensed as a public food service
180 establishment by the Division of Hotels and Restaurants.

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

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

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204 annual state license tax set forth in s. 565.02(1)(b). A
205 licensee under this sub-subparagraph must maintain for a period
206 of 3 years all records required by the department by rule to
207 demonstrate compliance with the requirements of this sub-
208 subparagraph.

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

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

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

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

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

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262 motel, motor court, or restaurant by the purchaser of such
263 facility or the transfer of such license pursuant to law.

264 (7)

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

276 Section 2. For the purpose of incorporating the amendment
277 made by this act to section 561.20, Florida Statutes, in a
278 reference thereto, paragraph (c) of subsection (1) of section
279 565.045, Florida Statutes, is reenacted to read:

280 565.045 Regulations for consumption on premises; penalty;
281 exemptions.—

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

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

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

290 2. The sale or delivery must be accompanied by the sale of

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291 food within the same order;

292 3. The charge for the sale of food and nonalcoholic
293 beverages must be at least 40 percent of the total charge for
294 the order, excluding the charge for any manufacturer-sealed
295 containers of alcoholic beverages included in the order; and

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

299

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

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