

# FLORIDA HOUSE OF REPRESENTATIVES

## BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/HB 1137](#)

**TITLE:** Deductions for Certain Losses of Alcoholic Beverages

**SPONSOR(S):** Robinson, W. and Overdorf

**COMPANION BILL:** [CS/SB 678](#) (Mayfield)

**LINKED BILLS:** None

**RELATED BILLS:** None

### Committee References

[Ways & Means](#)

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## SUMMARY

### Effect of the Bill:

The bill allows alcoholic beverage distributors a deduction from alcoholic beverage excise taxes for standard product losses, including losses caused by breakage, spoilage, evaporation, or expiration. The bill also allows an alternate deduction for extraordinary, one-time losses. The extraordinary loss deduction is for the actual gallonage of the beverages lost. The bill establishes documentation, reporting, and recordkeeping requirements and authorizes the Division of Alcoholic Beverages and Tobacco to adopt rules to administer and enforce the deductions.

### Fiscal or Economic Impact:

The Revenue Estimate Conference has not yet estimated the impact of the bill on state revenues.

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## ANALYSIS

### EFFECT OF THE BILL:

The bill allows alcoholic beverage distributors to deduct certain losses of unsalable products from the excise taxes they owe using one of two deductions: a deduction that applies to all dealers (standard deduction) or a deduction that applies only to extraordinary losses. The bill reinstates a [similar deduction](#) that was previously authorized under Rule 61A-4.0371, F.A.C.

### Standard Deduction

The bill creates s. 561.1215, F.S., which allows alcoholic beverage distributors to deduct losses in the ordinary course of business. Distributors of malt beverages ([beer](#)), vinous beverages ([wine](#)), and spirituous beverages ([liquor](#)) can deduct [excise taxes](#) paid on alcoholic beverages that cannot be sold due to warehouse breakage, spoilage, evaporation, expiration, or products that are unfit for human consumption. A deduction is also allowed when the breakage, spoilage, or destruction is witnessed and documented by an employee of the [Division of Alcoholic Beverages and Tobacco](#) within the Department of Business and Professional Regulation.

The deduction amounts are set as a percentage of gross excise tax collected:

- Wine: 0.49 percent
- Liquor: 0.15 percent
- Malt beverages: 0.20 percent, or the actual breakage or spoliation.

**STORAGE NAME:** h1137a.WMC

**DATE:** 1/27/2026

For malt beverages, distributors must annually elect whether to use the percentage method or the gallonage of actual breakage or spoliation. The election is binding for the calendar year unless the license is transferred or 100 percent of inventory is sold to a new owner.

Distributors handling multiple alcohol types must calculate deductions separately under each category's rules.

### **Deduction for Extraordinary Losses**

The bill also creates a separate deduction for "extraordinary losses" of alcoholic beverages, calculated based on the actual gallonage lost. An extraordinary loss is defined as:

- An unusual, non-recurring loss resulting from an act of God or natural event;
- An accident during interstate or intrastate shipment between manufacturers, distributors, or retailers; or
- A manufacturer product recall that requires the destruction, dumping, or recycling of the product.

Extraordinary loss does not include losses incurred during the normal course of business that exceed the standard deduction.

A distributor claiming an extraordinary loss must immediately notify the Division of Alcoholic Beverages and Tobacco and submit supporting proof, which may include:

- A copy of the traffic accident report or incident report;
- A division employee or authorized representative witnessing the loss on the premises where the loss occurs; or
- Other documentation deemed appropriate by the division which clearly and objectively establishes the loss.

The distributor must also submit a written statement from the employee responsible for the destruction, dumping, or recycling of the product. The statement must include:

- A description of the location where the extraordinary loss occurred;
- The identity of alcoholic beverages lost, by gallonage and tax category (malt, wine, or liquor); and
- The location of the site where the product was destroyed, dumped, or recycled.

After notification from a distributor of an extraordinary loss, the division must inspect the remaining inventory. The distributor must show proof that the standard excise tax deduction or any other source of recovery has not been recovered through any other means. The division may require copies of insurance claims, receipts, or other supporting documentation.

The distributor must record on forms prescribed by the division:

- The actual gallonage of breakage, spoilage, or evaporation;
- The date of product destruction;
- The quantity destroyed by tax classification; and
- A statement by an authorized employee or agent of the destruction that the product was destroyed.

All forms and documentation must be maintained for three years by the division.

The new statute created by the bill applies retroactively to January 1, 2025.

The bill authorizes the Division of Alcoholic Beverages & Tobacco to adopt rules to implement these provisions. (Section [1](#))

The bill takes effect upon becoming law. (Section [2](#))

**RULEMAKING:**

The bill grants rulemaking authority to the Division of Alcoholic Beverages & Tobacco within the Department of Business and Professional Regulation to implement the provisions of the act.

***Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.***

**FISCAL OR ECONOMIC IMPACT:****STATE GOVERNMENT:**

The Revenue Estimate Conference has not yet estimated the impact of the bill on state revenues.

**RELEVANT INFORMATION****SUBJECT OVERVIEW:**[Division of Alcoholic Beverages and Tobacco](#)

The Division of Alcoholic Beverages and Tobacco (the “division”) administers and enforces<sup>1</sup> the Beverage Law,<sup>2</sup> which regulates the manufacture, distribution, and sale of wine, beer, and liquor, including the:

- Receipt and processing of license applications;<sup>3</sup>
- Collection<sup>4</sup> and auditing of taxes, surcharges, and fees paid by licensees;<sup>5</sup> and
- Review and collection of reports detailing the beverages manufactured, imported, exported, and sold.<sup>6</sup>

The division is also responsible for the administration and enforcement of tobacco products under ch. 569, F.S.

[Beer](#)

The term “beer” means a brewed beverage that meets the federal definition of beer in 27 C.F.R. s. 25.11 and contains less than 6 percent alcohol by volume. A “malt beverage” means any brewed beverage containing malt. The terms “beer” and “malt beverage” are used interchangeable for purposes of the Beverage Law, but do not include alcoholic beverages that require a certificate of label approval by the Federal Government as wine or as distilled spirits.<sup>7</sup>

[Wine](#)

The term “wine” means “all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages, sake, vermouths, and like products. Sugar, flavors, and coloring materials may be added to wine to make it conform to the consumer's taste, except that the ultimate flavor or the color of the product may not be altered to imitate a beverage other than wine or to change the character of the wine.”<sup>8</sup>

<sup>1</sup> Section [561.08, F.S.](#)

<sup>2</sup> Section [561.01\(6\), F.S.](#) The “Beverage Law” is comprised of Chapters 561 through 568, F.S.

<sup>3</sup> See, e.g., [s. 561.17, F.S.](#)

<sup>4</sup> Section [561.025, F.S.](#)

<sup>5</sup> See, e.g., [s. 563.02, F.S.](#), [s. 564.02, F.S.](#), and [s. 565.02, F.S.](#)

<sup>6</sup> Section [561.55, F.S.](#)

<sup>7</sup> Section [563.01, F.S.](#)

<sup>8</sup> Section [564.01\(1\), F.S.](#)

“Fortified wine” means all wines containing more than 17.259 percent of alcohol by volume.<sup>9</sup>

### Liquor

The term “liquor” is used interchangeably with “distilled spirits,” “spirituous liquors,” “spirituous beverages,” or “distilled spirituous liquors,” and means the substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.<sup>10</sup>

### Excise Taxes on Alcoholic Beverages

Excise taxes on alcoholic beverages are levied at the wholesale level and collected from distributors. Current rates under Chs. 564 and 565, F.S., are as follows:

- malt beverages (beer) at \$0.48 per gallon<sup>11</sup>;
- wine at \$2.25 to \$3.50 per gallon, depending on type and alcohol content<sup>12</sup>;
- cider at \$0.89 per gallon<sup>13</sup>; and
- liquor at \$6.50 to \$9.53 per gallon, depending on proof<sup>14</sup>.

Distributors are required to pay the tax to the division on or before the 10<sup>th</sup> day of the following month.<sup>15</sup> Of the monthly collections, 2 percent is deposited into the Alcoholic Beverage and Tobacco Trust Fund, specified distributions totaling no more than \$60 million are distributed to specified medical facilities in the state, and the remainder is credited to the General Revenue Fund.<sup>16</sup>

### Prior Excise Tax Deduction for Breakage and Spoilage of Alcoholic Beverages

The bill authorizes provisions that previously existed in rule. On July 7, 2025, the division published a notice of intent to repeal Fla. Admin. Code R. Rule 61A-4.0371<sup>17</sup> because the original statutory authority in [s. 564.06\(5\), F.S.](#) (1972) was repealed in 1985.<sup>18</sup> The Joint Administrative Procedures Committee subsequently issued a Notice of Nullification of the rule pursuant to [s. 120.536\(2\)\(a\), F.S.](#)<sup>19</sup>

Under the repealed rule, distributors could deduct an amount equal to:

- 0.49 percent of gross tax for wine;
- 0.15 percent of gross tax for liquor; and
- 0.20 percent of gross tax for malt beverages (beer).

Alternatively, distributors could deduct the actual breakage or spoilage destruction witnessed and documented by the division employee or other authorized person. Distributors were required to annually elect the method of

<sup>9</sup> Section [564.01\(2\), F.S.](#)

<sup>10</sup> Section [565.01, F.S.](#)

<sup>11</sup> [Section 564.06, F.S.](#)

<sup>12</sup> Ibid

<sup>13</sup> Ibid.

<sup>14</sup> [Section 565.12, F.S.](#)

<sup>15</sup> See, e.g., [s. 564.06\(7\), F.S.](#)

<sup>16</sup> Section [561.121\(1\), F.S.](#)

<sup>17</sup> See Vol. 51 No. 130, July 7, 2025, issue of the Florida Administrative Register

<sup>18</sup> See Section 1, ch. 85-204, Laws of Fla

<sup>19</sup> See Joint Administrative Procedures Committee, *Notice of Nullification of Rule 61A-4.0371, F.A.C.*, dated August 27, 2025 (on file with the House Ways & Means Committee). Section [120.536\(2\)\(a\), F.S.](#), provides that, if a law is repealed, any administrative rule created solely to implement that specific law is automatically rendered null and void. Whenever a notice of the nullification of a rule is received from the Joint Administrative Procedures Committee, the Department of State must remove the rule from the Florida Administrative Code as of the effective date of the law effecting the nullification and update the historical notes for the code to show the rule repealed by operation of law.

breakage for malt beverages (percentage or actual) and such election will be effective for 1 year unless the license is transferred or 100 percent of the stock is sold to a new owner.<sup>20</sup>

Distributors could also deduct the amount due to extraordinary losses, including losses which are:

- Not expected to recur and resulting from acts of God or nature;
- Accidents which occur during interstate or intrastate shipment; or
- Products being recalled by a manufacturer and destroyed by a distributor.

Extraordinary losses did not include losses from evaporation, breakage, or spoilage incurred on the licensed premises in the normal course of business which merely exceed the standard deductions.<sup>21</sup>

BILL HISTORY				
COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Ways &amp; Means Committee</a>	15 Y, 0 N, As CS		Aldridge	Hallaian
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none"><li>• Made non-substantive changes to align with Senate companion.</li><li>• Provisions will be retroactive to January 1, 2025.</li></ul>			

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**THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.**  
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<sup>20</sup> Fla. Admin. Code R. Rule 61A-4.0371(1)

<sup>21</sup> Fla. Admin. Code R. Rule 61A-4.0371(2)