

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 Regulated Industries

BILL: CS/SB 678

INTRODUCER: Regulated Industries Committee and Senators Mayfield and Gaetz

SUBJECT: Deductions for Certain Losses of Alcoholic Beverages

DATE: January 20, 2026

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2. _____	_____	<u>FT</u>	_____
3. _____	_____	<u>AP</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

## I. Summary:

CS/SB 678 allows alcoholic beverage distributors to deduct certain losses of unsalable products from the excise taxes they owe. Under the bill, distributors may deduct losses caused by warehouse breakage, spoliation, evaporation, expiration, or products becoming unfit for consumption, as follows:

- Vinous beverages (wine): 0.49 percent of gross tax.
- Spirituous beverages (liquor): 0.15 percent of gross tax.
- Malt beverages (beer): 0.20 percent of gross tax or the amount of actual breakage or spoliation.

For malt beverages, distributors must annually elect whether to use the percentage method or actual breakage or spoliation amount. 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.

The bill allows distributors to also deduct the actual gallonage of "extraordinary losses," defined as unusual losses from acts of God or nature not expected to recur, accidents during shipment between manufacturers, distributors, or retailers, or manufacturer recalls that require destruction.

Extraordinary losses do not include normal on-premises evaporation, breakage, or spoliation beyond the standard deduction limits. When an extraordinary loss occurs, distributors must immediately notify the Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation and provide proof, such as an accident or incident reports for transit losses. They must also submit a statement confirming destruction, dumping, or recycling of the product, and other information specified in the bill such as the gallonage and tax category of alcohol destroyed. Additionally, distributors must certify that the excise tax was not recovered elsewhere and provide insurance claim documentation upon request.

The bill requires distributors to maintain division-prescribed forms and the division must retain these records for three years.

The provisions of the bill apply retroactively to January 1, 2025.

The bill authorizes the division to adopt rules to implement the bill.

The bill takes effective upon becoming law.

## II. **Present Situation:**

### **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:<sup>3</sup>

- Receipt and processing of license applications; and
- Collection and auditing of taxes, surcharges, and fees paid by licensees.

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

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” have the same meaning when either term is used in 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>4</sup>

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,

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<sup>1</sup> Section 561.02, F.S.

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

<sup>3</sup> See s. 561.14, F.S.

<sup>4</sup> Section 563.01, F.S.

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>5</sup>

The term "fortified wine" means all wines containing more than 17.259 percent of alcohol by volume.<sup>6</sup>

The terms "liquor," "distilled spirits," "spirituous liquors," "spirituous beverages," or "distilled spirituous liquors" mean that 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>7</sup>

### **Three Tier System**

In the United States, the regulation of alcohol, since the repeal of Prohibition, has traditionally been through what is termed the "three-tier system." The system requires separation of the manufacture, distribution, and sale of alcoholic beverages. The manufacturer creates the beverages; the distributor obtains the beverages from the manufacturer and delivers them to the vendor. The vendor (retailer) makes the ultimate sale to the consumer.<sup>8</sup>

### **Excise Taxes**

The state of Florida imposes an excise tax on malt beverages containing 0.5 percent or more alcohol by volume that are brought into the state at the following tax rates.

- For malt beverage:
  - Pints at a tax rate of \$0.06 per pint;
  - Quarts at a tax rate of \$0.12 per quart; and
  - Gallons at a tax rate of \$0.48 per gallon.
- For wine:
  - Containing 0.5 percent or more alcohol by volume and less than 17.259 percent alcohol at a tax rate of \$2.25 per gallon;
  - Containing 17.259 percent or more alcohol by volume at the tax rate of \$3 per gallon.
- For natural sparkling wines at a tax rate of \$3.50 per gallon.
- For cider containing not less than one-half of 1 percent of alcohol by volume and not more than 7 percent of alcohol by volume at a tax rate of \$0.89 per gallon.
- For wine coolers, which are a combination of wines containing 0.5 percent or more alcohol by volume, carbonated water, and flavors or fruit juices and preservatives and which contain 1 to 6 percent alcohol content by volume, at a tax rate of \$2.25 per gallon.
- For alcoholic beverages (liquor) containing 17.259 percent or more of alcohol by volume and not more than 55.780 percent of alcohol by volume, except wines, at the tax rate of \$6.50 per gallon

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<sup>5</sup> Section 564.01(1), F.S.

<sup>6</sup> Section 564.01(2), F.S.

<sup>7</sup> Section 565.01, F.S.

<sup>8</sup> Section 561.14, F.S.

- For beverages containing more than 55.780 percent of alcohol by volume at the tax rate of \$9.53 per gallon.

Excise taxes are not levied upon any alcoholic beverage sold to a post exchange, ship service store, or base exchange located in a military, naval, or air force reservation within this state.<sup>9</sup>

Distributors are required to pay the tax to the division monthly on or before the 10<sup>th</sup> day of the following month. Distributors may withhold a portion of the tax due for keeping prescribed records, furnishing bond, and properly accounting for and remitting taxes due to the state as follows:<sup>10</sup>

- Distributors of malt beverages may withhold 2.5 percent of the tax due.<sup>11</sup>
- Distributors of wine may withhold 1.9 percent of the tax due.<sup>12</sup>
- Distributors of liquor may withhold 1 percent of the tax due.<sup>13</sup>

However, no allowance shall be granted or permitted when the tax is delinquent at the time of payment.<sup>14</sup>

### **Monthly Reporting**

Each alcoholic beverage manufacturer, distributor, broker, sales agent, importer, and exporter is required to make a full and complete report by the 10<sup>th</sup> of each month of all product transactions for the previous calendar month. Such report must show the amount of:

- Beverages manufactured or sold within the state and to whom sold;
- Beverages imported from beyond the limits of the state and to whom sold;
- Beverages exported beyond the limits of the state, to whom sold, the place where sold, and the address of the person to whom sold.

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

Current law does not authorize alcoholic beverages distributors to deduct from the amount of excise tax remitted to the division an amount for the cost of any breakage or spoilage of alcoholic beverages.

Recently repealed Fla. Admin. Code R. Rule 61A-4.0371 allowed alcoholic beverages distributors to make an excise tax deduction in their monthly tax report for alcoholic beverages which have become unsaleable through warehouse breakage, spoilage, evaporation, expiration, or which have become unfit for human consumption.

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<sup>9</sup> See s. 563.05, F.S., relating to malt beverages, s. 564.06(8), F.S., relating to wine, and s. 565.12(3), F.S., relating to liquor.

<sup>10</sup> See s. 564.06(7), F.S., relating to wine, and s. 565.13, F.S., relating to liquor.

<sup>11</sup> Section 563.07, F.S.

<sup>12</sup> Section 564.06(7), F.S.

<sup>13</sup> Section 565.13, F.S.

<sup>14</sup> Section 563.07, F.S., relating to malt beverages, s. 564.06(7), F.S., relating to wine, and s. 565.13, F.S., relating to liquor.

On July 7, 2025, the division published a notice of intent to repeal Fla. Admin. Code R. Rule 61A-4.0371<sup>15</sup> because the original statutory authority in s. 564.06(5), F.S. (1972) was repealed in 1985.<sup>16</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>17</sup>

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

- 0.49 percent of gross tax for vinous sales;
- 0.15 percent of gross tax for spirituous beverage sales; and
- 0.20 percent of gross tax for malt beverage sales.

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 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>18</sup>

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

- Not expected to recur 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 do 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>19</sup>

Distributors were required to show proof of the extraordinary loss occurrence prior to recovery or crediting of any excise tax due on unsaleable alcoholic beverages by providing a copy of a traffic accident investigation or incident report from the investigating agency when the loss occurs in transit, or be witnessed by an authorized division employee where the loss occurs on the premise of the distributor, or other appropriate documentation which clearly and objectively establishes the extraordinary loss.

The distributors were also required to show proof of the destruction, dumping, or recycling of the alcoholic beverages involved in the extraordinary loss occurrence by providing a statement to the division from the distributor's employee responsible for the destruction or recycling. The statement had to include a description of alcoholic beverages, by gallon and tax category, which

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<sup>15</sup> See Vol. 51 No. 130, July 7, 2025, issue of the Florida Administrative Register.

<sup>16</sup> See Section 1, ch. 85-204, Laws of Fla.

<sup>17</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 Senate Regulated Industries 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.

<sup>18</sup> Fla. Admin. Code R. Rule 61A-4.0371(1)

<sup>19</sup> Fla. Admin. Code R. Rule 61A-4.0371(2)

have been destroyed or recycled, the location of the extraordinary loss occurrence, and the location of the site of destruction or recycling.<sup>20</sup>

Distributors were required to notify the division to witness the remaining undamaged, invoiced inventory which is utilized by the distributor. The distributor who reported extraordinary breakage, spoilage or evaporation was required to furnish proof that Florida Excise Taxes have not been recovered from any other source.<sup>21</sup>

### **III. Effect of Proposed Changes:**

The bill creates s. 561.1215, F.S., to allow alcoholic beverage distributors to deduct against any excise taxes due under s. 563.05, F.S., 564.06, F.S., or s. 565.12, F.S., for unsalable alcoholic beverages due to warehouse breakage, spoliation, evaporation, or expiration or that have become unfit for human consumption. Distributors may deduct:

- For vinous sales, 0.49 percent of gross tax.
- For spirituous beverage sales, 0.15 percent of gross tax.
- For malt beverage sales, 0.20 percent of gross tax or the actual breakage or spoliation.

For malt beverages, the distributor must annually elect the method for determining breakage by either percentage or actual gallonage. The chosen method is effective for 1 calendar year unless the license is transferred or 100 percent of the stock is sold to a new owner.

Distributors that distribute more than one type of alcoholic beverage must deduct the gross taxes for their products as prescribed by the bill for vinous, spirituous, or malt beverages.

The bill also allows distributors to deduct extraordinary losses of vinous, spirituous, or malt beverages. Under the bill, an “extraordinary loss” means an unusual loss resulting from acts of God or nature which are not expected to recur; accidents that occur during interstate or intrastate shipment from manufacturer to distributor, from distributor to distributor, or from distributor to retailer; or products being recalled by a manufacturer and destroyed by a distributor. The term does not include a loss from evaporation, breakage, or spoliation incurred on the licensed premises in the normal course of business which exceeds the standard deductions prescribed in the bill.

Distributors immediately notify the division when an extraordinary loss occurs. Distributors may deduct the actual gallonage of the extraordinary loss and must show proof of the extraordinary loss before recovering or crediting any excise tax due to the unsalable alcoholic beverages by:

- Providing a copy of a traffic accident investigation report or an incident report from the investigating agency when the loss occurs in transit;
- Having the extraordinary loss witnessed or documented by an authorized division employee when the extraordinary loss occurs on the premises of the distributor; or
- Clearly and objectively establishing the extraordinary loss through appropriate documentation as determined by the division.

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<sup>20</sup> *Id.*

<sup>21</sup> Fla. Admin. Code R. Rule 61A-4.0371(3)

Distributors must show proof of the destruction, dumping, or recycling of the alcoholic beverages involved in the extraordinary loss by providing a statement to the division from the distributor, or the distributor's authorized employee or agent, evidencing such destruction, dumping, or recycling. The statement must include:

- A description of the location of the extraordinary loss;
- The alcoholic beverages, by gallonage and tax category, which have been destroyed, dumped, or recycled; and
- The location of the site where the alcoholic beverages were destroyed, dumped, or recycled.

Additionally, distributors reporting extraordinary losses must furnish proof that the excise tax has not been recovered from any other source and must provide the division with copies of all insurance claims and receipts of payment upon request by the division.

Distributors must record on forms prescribed by the division the actual gallonage of breakage, spoliation, or evaporation of alcoholic beverages and the date of product destruction, quantity destroyed by tax classification, and a statement signed by the distributor, or the distributor's authorized employee or agent, that the product was destroyed.

The bill requires the division to retain all completed forms for 3 years.

The bill authorizes the division to adopt rules to implement the provisions of the bill.

The provisions of the bill apply retroactively to January 1, 2025.

The bill takes effect upon becoming law.

#### **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:**

Distributors of alcoholic beverages will be able to deduct a percentage, as specified in the bill, from the amount of gross excise tax due to the division for breakage and spoliation of alcoholic beverages.

**C. Government Sector Impact:**

The Revenue Estimating Conference has not performed a fiscal analysis for this bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates the section 561.1215 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

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

**CS by Regulated Industries on January 20, 2026:**

The committee substitute:

- Revises s. 561.1215(1)(a), F.S., for clarity;
- Deletes the provision requiring that breakage and spoliation must be documented by an employee of the division or other authorized person; and
- Provides that the bill applies retroactively to January 1, 2025.

**B. Amendments:**

None.