

By the Committee on Regulated Industries; and Senators Mayfield and Gaetz

580-02027-26

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A bill to be entitled

An act relating to deductions for certain losses of alcoholic beverages; creating s. 561.1215, F.S.; authorizing a distributor of vinous, spirituous, or malt beverages to make an excise tax deduction in its monthly tax report for alcoholic beverages that have become unsellable through warehouse breakage, spoliation, evaporation, or expiration or that have become unfit for human consumption; specifying the percentage a distributor may deduct for such alcoholic beverages; requiring that the method of determining breakage for malt beverages be elected annually; providing that the method is effective for a specified timeframe; providing an exception; requiring distributors that distribute more than one type of alcoholic beverage to deduct their gross taxes for products according to those specified in a specified manner; excluding extraordinary losses of vinous, spirituous, or malt beverages from such deductions; defining the term "extraordinary loss"; requiring a distributor to immediately notify the Division of Alcoholic Beverages and Tobacco when an extraordinary loss occurs; authorizing a distributor to deduct the actual gallonage of the extraordinary loss; requiring such distributors to show proof of the extraordinary loss before recovering or crediting any excise tax due to the unsellable alcoholic beverages; specifying the manner in which a distributor may show such proof; requiring a distributor to show proof of the

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30 destruction, dumping, or recycling of the alcoholic
31 beverages involved in the extraordinary loss;
32 specifying the manner in which to show such proof;
33 requiring the division to inspect any remaining
34 undamaged invoiced inventory intended to be
35 distributed upon being notified by the distributor;
36 requiring a distributor reporting extraordinary losses
37 to furnish proof that the excise tax has not been
38 recovered from any other source; requiring the
39 distributor to provide the division with copies of all
40 insurance claims and receipts of payment upon request;
41 requiring distributors to record certain information
42 on forms prescribed by the division; requiring the
43 division to retain such forms for a specified
44 timeframe; authorizing the division to adopt rules and
45 forms; providing retroactive application; providing an
46 effective date.

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48 Be It Enacted by the Legislature of the State of Florida:

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50 Section 1. Section 561.1215, Florida Statutes, is created
51 to read:

52 561.1215 Deductions for breakage, spoliation, evaporation,
53 expiration, and extraordinary losses.—
54 (1) (a) Distributors of vinous, spirituous, or malt
55 beverages may make deductions against any excise tax due under
56 s. 563.05, s. 564.06, or s. 565.12 on their monthly tax report
57 for alcoholic beverages that have become unsellable through
58 warehouse breakage, spoliation, evaporation, or expiration or

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59 that have become unfit for human consumption, in an amount equal
60 to the following:

61 1. For vinous beverage sales, 0.49 percent of gross tax.

62 2. For spirituous beverage sales, 0.15 percent of gross
63 tax.

64 3. For malt beverage sales, 0.20 percent of gross tax or
65 the actual breakage or spoliation.

66 (b) The method of determining breakage for malt beverages,
67 either percentage or actual gallonage, must be elected annually
68 and will be effective for 1 calendar year unless the license is
69 transferred or 100 percent of the stock is sold to a new owner.

70 (c) Distributors that distribute more than one type of
71 alcoholic beverage shall deduct the gross taxes for their
72 products as prescribed in this subsection for vinous,
73 spirituous, or malt beverages.

74 (2) (a) Extraordinary losses of vinous, spirituous, or malt
75 beverages are excluded from the deductions in subsection (1).
76 For purposes of this section, the term "extraordinary loss"
77 means an unusual loss resulting from acts of God or nature which
78 are not expected to recur; accidents that occur during
79 interstate or intrastate shipment from manufacturer to
80 distributor, from distributor to distributor, or from
81 distributor to retailer; or products being recalled by a
82 manufacturer and destroyed by a distributor. The term does not
83 include a loss from evaporation, breakage, or spoliation
84 incurred on the licensed premises in the normal course of
85 business which exceeds the standard deductions prescribed in
86 subsection (1).

87 (b) A distributor shall immediately notify the division

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88 when an extraordinary loss occurs. A distributor may deduct the
89 actual gallonage of the extraordinary loss. The distributor
90 shall show proof of the extraordinary loss before recovering or
91 crediting any excise tax due to the unsellable alcoholic
92 beverages by:

93 1. Providing a copy of a traffic accident investigation
94 report or an incident report from the investigating agency when
95 the loss occurs in transit;

96 2. Having the extraordinary loss witnessed or documented by
97 an authorized division employee when the extraordinary loss
98 occurs on the premises of the distributor; or

99 3. Clearly and objectively establishing the extraordinary
100 loss through appropriate documentation as determined by the
101 division.

102 (c) The distributor shall show proof of the destruction,
103 dumping, or recycling of the alcoholic beverages involved in the
104 extraordinary loss by providing a statement to the division from
105 the distributor, or the distributor's authorized employee or
106 agent, evidencing such destruction, dumping, or recycling. The
107 statement must include a description of the location of the
108 extraordinary loss; the alcoholic beverages, by gallonage and
109 tax category, which have been destroyed, dumped, or recycled;
110 and the location of the site where the alcoholic beverages were
111 destroyed, dumped, or recycled.

112 (3) (a) Upon notification by a distributor, the division
113 shall inspect any remaining undamaged invoiced inventory
114 intended to be distributed.

115 (b) 1. A distributor reporting extraordinary losses must
116 furnish proof that the excise tax has not been recovered from

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117 any other source. The distributor shall provide the division
118 with copies of all insurance claims and receipts of payment upon
119 request by the division.

120 2. The distributor shall record on forms prescribed by the
121 division the actual gallonage of breakage, spoliation, or
122 evaporation of alcoholic beverages; the date of product
123 destruction; the quantity destroyed, by tax classification; and
124 a statement signed by the distributor, or the distributor's
125 authorized employee or agent, that the product was destroyed.

126 3. The division shall retain all completed forms for 3
127 years.

128 (4) The division may adopt rules and forms to implement
129 this section.

130 (5) This section applies retroactively to January 1, 2025.

131 Section 2. This act shall take effect upon becoming a law.