

By the Committee on Community Affairs; and Senator Detert

578-03197-14

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1 A bill to be entitled
2 An act relating to malt beverage tastings; amending s.
3 561.42, F.S.; removing the prohibition on beer
4 samplings at the premises of vendors licensed for off-
5 premises sales only; authorizing malt beverage
6 tastings on the licensed premises of certain vendors,
7 subject to certain requirements, limitations,
8 liabilities, and penalties; providing construction
9 with respect to special acts and ordinances;
10 authorizing rulemaking; revising the prohibition on
11 cooperative advertising with a vendor and prohibiting
12 certain persons from naming vendors in advertising for
13 malt beverage tastings; revising language to conform
14 terminology and editorial style; providing an
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Subsection (14) of section 561.42, Florida
20 Statutes, is amended to read:

21 561.42 Tied house evil; financial aid and assistance to
22 vendor by manufacturer, distributor, importer, primary American
23 source of supply, brand owner or registrant, or any broker,
24 sales agent, or sales person thereof, prohibited; procedure for
25 enforcement; exception.—

26 (14) The division shall adopt reasonable rules governing
27 promotional displays and advertising, which rules may ~~shall~~ not
28 conflict with or be more stringent than the federal regulations
29 pertaining to such promotional displays and advertising

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30 furnished to vendors by distributors, manufacturers, importers,
31 primary American sources of supply, or brand owners or
32 registrants, or any broker, sales agent, or sales person
33 thereof; however:

34 (a) If a manufacturer, distributor, importer, brand owner,
35 or brand registrant of malt beverage, or any ~~broker,~~ sales
36 agent, or sales person thereof, provides a vendor with
37 expendable retailer advertising specialties such as trays,
38 coasters, mats, menu cards, napkins, cups, glasses,
39 thermometers, and the like, such items may ~~shall~~ be sold only at
40 a price not less than the actual cost to the industry member who
41 initially purchased them, without limitation in total dollar
42 value of such items sold to a vendor.

43 (b) Without limitation in total dollar value of such items
44 provided to a vendor, a manufacturer, distributor, importer,
45 brand owner, or brand registrant of malt beverage, or any
46 ~~broker,~~ sales agent, or sales person thereof, may rent, loan
47 without charge for an indefinite duration, or sell durable
48 retailer advertising specialties such as clocks, pool table
49 lights, and the like, which bear advertising matter.

50 (c) If a manufacturer, distributor, importer, brand owner,
51 or brand registrant of malt beverage, or any ~~broker,~~ sales
52 agent, or sales person thereof, provides a vendor with consumer
53 advertising specialties such as ashtrays, T-shirts, bottle
54 openers, shopping bags, and the like, such items may ~~shall~~ be
55 sold only at a price not less than the actual cost to the
56 industry member who initially purchased them, and ~~but~~ may be
57 sold without limitation in total value of such items sold to a
58 vendor.

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59 (d) A manufacturer, distributor, importer, brand owner, or
60 brand registrant of malt beverage, or any ~~broker,~~ sales agent,
61 or sales person thereof, may provide consumer advertising
62 specialties described in paragraph (c) to consumers on any
63 vendor's licensed premises.

64 (e) 1. A manufacturer, distributor, or importer of malt
65 beverages, or any contracted third-party agent thereof, may
66 ~~Manufacturers, distributors, importers, brand owners, or brand~~
67 ~~registrants of beer, and any broker, sales agent, or sales~~
68 ~~person thereof, shall not~~ conduct any sampling activities that
69 include the tasting of malt beverage products on:

70 a. The licensed premises of any vendor authorized to sell
71 alcoholic beverages by the drink for consumption on premises; or

72 b. The licensed premises of any vendor authorized to sell
73 alcoholic beverages only in sealed containers for consumption
74 off premises if:

75 (I) The licensed premises is at an establishment having at
76 least 10,000 square feet of interior floor space exclusive of
77 storage space not open to the general public; or

78 (II) The licensed premises is a package store licensed
79 under s. 565.02(1)(a) their product at a vendor's premises
80 ~~licensed for off-premises sales only.~~

81 2. A malt beverage tasting conducted under this paragraph
82 must be limited to and directed toward the general public of the
83 age of legal consumption.

84 3. For a malt beverage tasting conducted under this
85 paragraph on the licensed premises of a vendor authorized to
86 sell alcoholic beverages for consumption on premises, each
87 serving of a malt beverage to be tasted must be provided to the

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88 consumer by the drink in a tasting cup, glass, or other open
89 container and may not be provided by the package in an unopened
90 can or bottle or in any other sealed container.

91 4. For a malt beverage tasting conducted under this
92 paragraph on the licensed premises of a vendor authorized to
93 sell alcoholic beverages only in sealed containers for
94 consumption off premises, the tasting must be conducted in the
95 interior of the building constituting the vendor's licensed
96 premises and each serving of a malt beverage to be tasted must
97 be provided to the consumer in a tasting cup having a capacity
98 of 3.5 ounces or less.

99 5. A manufacturer, distributor, or importer, or any
100 contracted third-party agent thereof, may not pay a vendor, and
101 a vendor may not accept, a fee or compensation of any kind,
102 including the provision of any malt beverage at no or reduced
103 cost, to authorize the conduct of a malt beverage tasting under
104 this paragraph.

105 6.a. A manufacturer, distributor, or importer, or any
106 contracted third-party agent thereof, conducting a malt beverage
107 tasting under this paragraph must provide all of the beverages
108 to be tasted, the total volume of which per tasting may not
109 exceed 576 ounces; must have paid all excise taxes on those
110 beverages which are required of the manufacturer or distributor;
111 and must return to the manufacturer's or distributor's inventory
112 all of the malt beverages provided for the tasting that remain
113 unconsumed after the tasting. More than one tasting may be held
114 on the licensed premises each day, but only one manufacturer,
115 distributor, importer, or contracted third-party agent thereof,
116 may conduct a tasting on the premises at any one time.

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117 b. Any samples of malt beverages provided to a vendor by a
118 manufacturer, distributor, or importer, or any contracted third-
119 party agent thereof, in conjunction with or at the time of a
120 tasting conducted under this paragraph on the licensed premises
121 of that vendor are subject to the volume limit for that premises
122 set forth under sub-subparagraph a.

123 c. This subparagraph does not preclude a manufacturer,
124 distributor, or importer, or any contracted third-party agent
125 thereof, from buying the malt beverages it provides for the
126 tasting from a vendor at no more than the retail price, but all
127 of the malt beverages so purchased and provided for the tasting
128 which remain unconsumed after the tasting must be removed from
129 the premises of the tasting and properly disposed of.

130 7. A manufacturer, distributor, or importer of malt
131 beverages that contracts with a third-party agent to conduct a
132 malt beverage tasting under this paragraph on its behalf is
133 responsible for any violation of this section by that agent.

134 8. This paragraph does not preclude a vendor from
135 conducting a malt beverage tasting on its licensed premises
136 using malt beverages from its own inventory.

137 9. This paragraph is supplemental to and does not supersede
138 any special act or ordinance.

139 10. The division may, pursuant to ss. 561.08 and 561.11,
140 adopt rules to implement, administer, and enforce this
141 paragraph.

142 (f) A manufacturer ~~Manufacturers,~~ distributor ~~distributors,~~
143 importer ~~importers,~~ brand owner ~~owners,~~ or brand registrant
144 ~~registrants~~ of malt beverages ~~beer,~~ and any ~~broker,~~ sales agent,
145 or sales person thereof or contracted third-party agent under

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146 paragraph (e), may shall not engage in cooperative advertising
147 with a vendor and may not name a vendor in any advertising for a
148 malt beverage tasting authorized under paragraph (e) vendors.

149 (g) A distributor ~~Distributors~~ of malt beverages ~~beer~~ may
150 sell to a vendor ~~vendors~~ draft equipment and tapping accessories
151 at a price not less than the cost to the industry member who
152 initially purchased them, except there is no required charge,
153 and the ~~a~~ distributor may exchange any parts that ~~which~~ are not
154 compatible with a competitor's system and are necessary to
155 dispense the distributor's brands. A distributor of malt
156 beverages ~~beer~~ may furnish to a vendor at no charge replacement
157 parts of nominal intrinsic value, including, but not limited to,
158 washers, gaskets, tail pieces, hoses, hose connections, clamps,
159 plungers, and tap markers.

160 Section 2. This act shall take effect July 1, 2014.