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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/28/2014	.	
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The Committee on Regulated Industries (Stargel) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (22) is added to section 561.01,  
Florida Statutes, to read:

561.01 Definitions.—As used in the Beverage Law:

(22) "Growler" means a clean container made of glass,  
ceramic, metal, or similar leak-proof material having a capacity  
of 32 ounces, 64 ounces, or 128 ounces which, in response to an



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11 order in a face-to-face transaction for off-premises  
12 consumption, is filled with a malt beverage and sealed on the  
13 premises at or immediately before or after the time of sale.

14 Section 2. Section 561.221, Florida Statutes, is amended to  
15 read:

16 561.221 Licensing of manufacturers and distributors as  
17 vendors and of vendors as manufacturers; exceptions, conditions,  
18 and limitations.—

19 (1) (a) Nothing contained in s. 561.22, s. 561.42, or any  
20 other provision of the Beverage Law prohibits the ownership,  
21 management, operation, or control of not more than three  
22 vendor's licenses for the sale of alcoholic beverages by a  
23 manufacturer of wine who is licensed and engaged in the  
24 manufacture of wine in this state, even if such manufacturer is  
25 also licensed as a distributor; provided that no such vendor's  
26 license shall be owned, managed, operated, or controlled by any  
27 licensed manufacturer of wine unless the licensed premises of  
28 the vendor are situated on property contiguous to the  
29 manufacturing premises of the licensed manufacturer of wine.

30 (b) The Division of Alcoholic Beverages and Tobacco shall  
31 issue permits to a certified Florida Farm Winery to conduct  
32 tasting and sales of wine produced by certified Florida Farm  
33 Wineries at Florida fairs, trade shows, expositions, and  
34 festivals. The certified Florida Farm Winery shall pay all entry  
35 fees and shall have a winery representative present during the  
36 event. The permit is limited to the length of the event.

37 (2) Notwithstanding s. 561.22, s. 561.42, or any other  
38 provision of the Beverage Law, the division is authorized to  
39 issue vendor's licenses to a manufacturer of malt beverages,



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40 even if such manufacturer is also licensed as a distributor, for  
41 the sale of alcoholic beverages on property consisting of a  
42 single complex, which property shall include a brewery and such  
43 other structures which promote the brewery and the tourist  
44 industry of the state. However, such property may be divided by  
45 no more than one public street or highway. A vendor's license  
46 issued under this subsection is subject to the following  
47 restrictions:

48 (a) Sales to consumers for off-premises consumption of  
49 malt beverages are limited to growlers that are filled or  
50 refilled with malt beverages manufactured on the licensed  
51 premises pursuant to the requirements of s. 563.06(7). Such  
52 sales must be made directly to consumers in face-to-face  
53 transactions. Malt beverages manufactured at another location,  
54 including another licensed manufacturing premises directly or  
55 indirectly owned in whole or in part by the manufacturer, and  
56 malt beverages manufactured by any other manufacturer may be  
57 sold as authorized by the manufacturer's vendor license,  
58 provided that malt beverages sold for consumption off the  
59 licensed premises shall be obtained from a licensed distributor  
60 and sold to the consumer in their original sealed containers.  
61 This paragraph does not prohibit the sale of other alcoholic  
62 beverages for on-premises or off-premises consumption, as  
63 authorized under the manufacturer's vendor license, provided  
64 that such beverages are obtained from a licensed distributor.

65 (b) Notwithstanding s. 561.57(1), the delivery of a growler  
66 off a licensed premises, whether by common or premises carrier  
67 or by an operator of a privately owned motor vehicle or other  
68 conveyance, is prohibited. In addition, a consumer or other



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69 person may not arrange for the delivery of any growler off the  
70 licensed premises to the consumer, whether by common or premises  
71 carrier or by an operator of a privately owned motor vehicle or  
72 other conveyance. However, this paragraph does not prohibit a  
73 consumer from taking the growler purchased by the consumer under  
74 this subsection from the licensed premises to another location  
75 by a privately owned motor vehicle or other conveyance.

76 (c) A manufacturer licensed as a vendor is responsible for  
77 applicable reports pursuant to ss. 561.50 and 561.55 with  
78 respect to the amount of malt beverages sold or given to  
79 consumers on the licensed premises each month and must pay the  
80 applicable excise taxes to the division by the 10th day of each  
81 month for the previous month.

82 (d) This subsection does not preclude a licensed  
83 manufacturer of malt beverages from also holding a permanent  
84 food service license at the licensed premises.

85 (e) This subsection is a limited exception to ss. 561.42  
86 and 561.22. Except as specifically provided in this subsection  
87 to permit a manufacturer of malt beverages to also be licensed  
88 as a vendor, a manufacturer of malt beverages is subject to the  
89 restrictions in ss. 561.42 and 561.22.

90 Section 3. Section 561.37, Florida Statutes, is amended to  
91 read:

92 561.37 Bond for payment of taxes.—Each manufacturer and  
93 each distributor shall file with the division a surety bond  
94 acceptable to the division in the sum of \$25,000 as surety for  
95 the payment of all taxes, provided, however, that when in the  
96 discretion of the division the amount of business done by the  
97 manufacturer or distributor is of such volume that a bond of



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98 less than \$25,000 will be adequate to secure the payment of all  
99 taxes assessed or authorized by the Beverage Law, the division  
100 may accept a bond in a lesser sum than \$25,000, but in no event  
101 shall it accept a bond of less than \$10,000, and it may at any  
102 time in its discretion require any bond in an amount less than  
103 \$25,000 to be increased so as not to exceed \$25,000; provided,  
104 however, that the amount of bond required for a brewer shall be  
105 \$5,000 ~~\$20,000~~, except that where, in the discretion of the  
106 division, the amount of business done by the brewer is of such  
107 volume that a bond of less than \$5,000 ~~\$20,000~~ will be adequate  
108 to secure the payment of all taxes assessed or authorized by the  
109 Beverage Law, the division may accept a bond in a lesser sum  
110 than \$5,000 ~~\$20,000~~, but in no event shall it accept a bond of  
111 less than \$2,500 ~~\$10,000~~, and it may at any time in its  
112 discretion require any bond in an amount less than \$5,000  
113 ~~\$20,000~~ to be increased so as not to exceed \$5,000 ~~\$20,000~~;  
114 provided further that the amount of the bond required for a wine  
115 or wine and cordial manufacturer shall be \$5,000, except that,  
116 in the case of a manufacturer engaged solely in the experimental  
117 manufacture of wines and cordials from Florida products, where  
118 in the discretion of the division the amount of business done by  
119 such manufacturer is of such volume that a bond of less than  
120 \$5,000 will be adequate to secure the payment of all taxes  
121 assessed or authorized by the Beverage Law, the division may  
122 accept a bond in a lesser sum than \$5,000, but in no event shall  
123 it accept a bond of less than \$1,000 and it may at any time in  
124 its discretion require a bond in an amount less than \$5,000 to  
125 be increased so as not to exceed \$5,000; provided, further, that  
126 the amount of bond required for a distributor who sells only



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127 beverages containing not more than 4.007 percent of alcohol by  
128 volume, in counties where the sale of intoxicating liquors,  
129 wines, and beers is prohibited, and to distributors who sell  
130 only beverages containing not more than 17.259 percent of  
131 alcohol by volume and wines regardless of alcoholic content, in  
132 counties where the sale of intoxicating liquors, wines, and  
133 beers is permitted, shall file with the division a surety bond  
134 acceptable to the division in the sum of \$25,000, as surety for  
135 the payment of all taxes; provided, however, that where in the  
136 discretion of the division the amount of business done by such  
137 distributor is of such volume that a bond of less than \$25,000  
138 will be adequate to secure the payment of all taxes assessed or  
139 authorized by the Beverage Law the division may accept a bond in  
140 a less sum than \$25,000 but in no event shall it accept a bond  
141 less than \$1,000 and it may at any time in its discretion  
142 require any bond in an amount less than \$25,000 to be increased  
143 so as not to exceed \$25,000; provided, further, that the amount  
144 of bond required for a distributor in a county having a  
145 population of 15,000 or less who procures a license by which his  
146 or her sales are restricted to distributors and vendors who have  
147 obtained licenses in the same county, shall be \$5,000.

148 Section 4. Subsection (1) of section 561.5101, Florida  
149 Statutes, is amended to read:

150 561.5101 Come-to-rest requirement; exceptions; penalties.-

151 (1) For purposes of inspection and tax-revenue control, all  
152 malt beverages, except those manufactured and sold pursuant to  
153 s. 561.221(2) or (3) ~~s. 561.221(3)~~, must come to rest at the  
154 licensed premises of an alcoholic beverage wholesaler in this  
155 state before being sold to a vendor by the wholesaler. The



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156 prohibition contained in this subsection does not apply to the  
157 shipment of malt beverages commonly known as private labels. The  
158 prohibition contained in this subsection does ~~shall~~ not prevent  
159 a manufacturer from shipping malt beverages for storage at a  
160 bonded warehouse facility if, ~~provided that~~ such malt beverages  
161 are distributed as provided in this subsection or to an out-of-  
162 state entity.

163 Section 5. Subsections (1) and (3) of section 562.34,  
164 Florida Statutes, are amended to read:

165 562.34 Containers; seizure and forfeiture.-

166 (1) A ~~It shall be unlawful for any person~~ may not ~~to~~ have  
167 in her or his possession, custody, or control any cans, jugs,  
168 jars, bottles, vessels, or any other type of containers that  
169 ~~which~~ are being used, are intended to be used, or are known by  
170 the possessor to have been used to bottle or package alcoholic  
171 beverages. ~~;~~ ~~however,~~ This subsection does ~~provision shall~~ not  
172 apply to a ~~any~~ person properly licensed to bottle or package  
173 such alcoholic beverages, a ~~or to any~~ person intending to  
174 dispose of such containers to a person, firm, or corporation  
175 properly licensed to bottle or package such alcoholic beverages,  
176 or a person that has in her or his possession a growler.

177 (3) A ~~It shall be unlawful for any person~~ may not ~~to~~  
178 transport any cans, jugs, jars, bottles, vessels, or any other  
179 type of containers intended to be used to bottle or package  
180 alcoholic beverages. ~~;~~ ~~however,~~ This subsection does ~~section~~  
181 ~~shall~~ not apply to a ~~any~~ firm or corporation holding a license  
182 to manufacture or distribute such alcoholic beverages, a ~~and~~  
183 ~~shall not apply to any~~ person transporting such containers to a  
184 ~~any~~ person, firm, or corporation holding a license to



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185 manufacture or distribute such alcoholic beverages, or a person  
186 transporting a growler.

187 Section 6. Subsection (14) of section 563.022, Florida  
188 Statutes, is reenacted and amended to read:

189 563.022 Relations between beer distributors and  
190 manufacturers.—

191 (14) MANUFACTURER; PROHIBITED INTERESTS.—

192 (a) This subsection applies to:

193 1. A manufacturer;

194 2. An ~~Any~~ officer, director, agent, or employee of a  
195 manufacturer; or

196 3. An affiliate of a ~~any~~ manufacturer, regardless of  
197 whether the affiliation is corporate or by management,  
198 direction, or control.

199 (b) Except as provided in paragraph (c), an ~~no~~ entity or  
200 person specified in paragraph (a) may not have an interest in  
201 the license, business, assets, or corporate stock of a licensed  
202 distributor and may not ~~nor shall such entity~~ sell directly to a  
203 ~~any~~ vendor in this state other than a vendor ~~to vendors who are~~  
204 licensed pursuant to s. 561.221(2).

205 (c) An ~~Any~~ entity or person specified ~~described~~ in  
206 paragraph (a) may financially assist a proposed distributor in  
207 acquiring ownership of the distributorship through participation  
208 in a limited partnership arrangement in which the entity or  
209 person specified ~~described~~ in paragraph (a) is a limited partner  
210 and the proposed distributor seeking to acquire ownership of the  
211 distributorship is the general partner. Such a limited  
212 partnership arrangement ~~arrangements~~ may exist for up to ~~no~~  
213 ~~longer than~~ 8 years from its ~~their~~ creation and may ~~shall~~ not be



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214 extended or renewed by means of a transfer of full ownership to  
215 an entity or person specified ~~described~~ in paragraph (a)  
216 followed by the creation of a new limited partnership or by any  
217 other means. In any such arrangement for financial assistance,  
218 the federal basic permit and distributor's license issued by the  
219 division shall be issued in the name of the distributor and not  
220 in the name of an entity or person specified ~~described~~ in  
221 paragraph (a). If, after the creation of a limited partnership  
222 pursuant to this paragraph, an entity or person specified  
223 ~~described~~ in paragraph (a) acquires title to the distributorship  
224 that ~~which~~ was the subject of the limited partnership, the  
225 entity or person specified ~~described~~ in paragraph (a) shall  
226 divest itself of the distributorship within 180 days, and the  
227 distributorship shall be ineligible for limited partnership  
228 financing for 20 years thereafter. An ~~No~~ entity or person  
229 specified ~~described~~ in paragraph (a) may not ~~shall~~ enter into a  
230 limited partnership arrangement with a licensed distributor  
231 whose distributorship existed and was operated before ~~prior to~~  
232 the creation of such limited partnership arrangement.

233 (d) ~~Nothing in~~ The Beverage Law does not ~~shall be construed~~  
234 ~~to~~ prohibit a manufacturer from shipping products to or between  
235 its breweries without a distributor's license.

236 (e) Notwithstanding ~~the provisions of~~ paragraph (b), an ~~any~~  
237 entity or person specified ~~named~~ in paragraph (a) may have an  
238 interest in the license, business, assets, or corporate stock of  
239 a licensed distributor for a maximum of 180 consecutive days as  
240 the result of a judgment of foreclosure against the distributor  
241 or for 180 consecutive days after acquiring title pursuant to  
242 the written request of the licensed distributor. Under either of



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243 these circumstances, manufacturer ownership of an interest in  
244 the license, business, assets, or corporate stock of a licensed  
245 distributor may ~~shall~~ only be for 180 days and only for the  
246 purpose of facilitating an orderly transfer of the  
247 distributorship to an owner not affiliated with a manufacturer.

248 (f) Notwithstanding ~~the provisions of~~ paragraph (b), an ~~any~~  
249 entity or person specified ~~named~~ in paragraph (a) may have a  
250 security interest in the inventory or property of its licensed  
251 distributors to secure payment for that ~~said~~ inventory or other  
252 loans for other purposes.

253 Section 7. Subsection (6) of section 563.06, Florida  
254 Statutes, is amended to read:

255 563.06 Malt beverages; imprint on individual container;  
256 size of containers; growlers; exemptions.-

257 (6) All malt beverages packaged in individual containers  
258 sold or offered for sale by vendors at retail in this state,  
259 except for malt beverages sold in growlers pursuant to section  
260 563.061, must ~~shall~~ be in individual containers containing no  
261 more than 32 ounces of such malt beverages. ~~; provided, however,~~  
262 ~~that nothing contained in~~

263 Section 8. Section 563.061, Florida Statutes, is created to  
264 read:

265 563.061 Malt beverages; filling and refilling of growlers.-

266 (1) The filling or refilling of a growler is limited to:

267 (a) A manufacturer of malt beverages who holds a valid  
268 vendor's license pursuant to s. 561.221(2) if the growler is  
269 filled or refilled with malt beverages manufactured on the  
270 licensed premises for sale for off-premises consumption to  
271 consumers in a face-to-face transaction on the licensed



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272 premises; or

273 (b) A vendor holding a quota license under ss. 561.20(1)  
274 and 565.02(1)(a) with malt beverages authorized under that  
275 license for sale for off-premises consumption to consumers in a  
276 face-to-face transaction on the licensed premises;

277 (2) The growler must have an unbroken seal, or its contents  
278 must be incapable of being immediately consumed.

279 (3) The growler must be clearly labeled as containing an  
280 alcoholic beverage and provide the name of the manufacturer, the  
281 brand, the volume, the percentage of alcohol by volume, and the  
282 required federal health warning notice for alcoholic beverages.

283 If a growler being refilled has an existing label or other  
284 identifying mark of a manufacturer or brand from a prior filling  
285 or refilling, that label must be covered sufficiently to  
286 indicate the manufacturer and brand of the malt beverage being  
287 placed in the container at that refilling.

288 (4) The growler must be clean before being filled or  
289 refilled.

290 (5) A licensee authorized to fill and refill growlers may  
291 not use growlers for purposes of distribution or sale outside  
292 the manufacturer's or vendor's licensed premises, except as  
293 authorized under this subsection and s. 561.221(2).

294 Section 9. If any provision of this act or its application  
295 to any person or circumstance is held invalid, the invalidity  
296 does not affect other provisions or applications of the act  
297 which can be given effect without the invalid provision or  
298 application, and to this end the provisions of this act are  
299 severable.

300 Section 10. This act shall take effect July 1, 2014.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to malt beverages; amending s. 561.01, F.S.; defining the term "growler"; amending s. 561.221, F.S.; clarifying three-tier system exceptions and application with respect to the manufacture, distribution, and sale of malt beverages; revising requirements for licensure and operation of manufacturers and vendors; providing legislative intent; amending s. 561.37, F.S., to revise bond requirements for brewers; amending s. 561.5101, F.S.; adding an exception to the come-to-rest requirement; amending s. 562.34, F.S.; authorizing the possession and transportation of a growler; reenacting s. 563.022(14), F.S., relating to prohibited interests between a manufacturer and a distributor of malt beverages, to incorporate the amendments made to s. 561.221, F.S., in a reference thereto; amending s. 563.06, F.S.; revising provisions relating to the sale of malt beverages at retail in containers of specified sizes, to conform to changes made by the act; creating s. 563.061, F.S.; providing requirements for and limitations on the filling, refilling, and sale or distribution of growlers; providing penalties; providing severability; providing an effective date.