

By the Committee on Regulated Industries; and Senator Bradley

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1 A bill to be entitled
2 An act relating to alcoholic beverages and tobacco;
3 amending s. 210.13, F.S.; revising applicability to
4 include other persons who may be subject to a
5 determination of tax on failure to file and return;
6 amending s. 218.32, F.S.; requiring local governmental
7 entities to include revenues derived from the use of
8 temporary alcoholic beverage permits in annual
9 financial reports; amending s. 561.01, F.S.; defining
10 the term "railroad transit station"; amending s.
11 561.29, F.S.; requiring, rather than authorizing, the
12 Division of Alcoholic Beverages and Tobacco to give a
13 licensee a written waiver of certain requirements;
14 revising the requirements to obtain such waivers;
15 extending a certain waiver period; deleting a
16 provision prohibiting waivers from totaling more than
17 24 months; creating s. 561.4205, F.S.; requiring an
18 alcoholic beverage distributor to charge a deposit for
19 certain alcoholic beverage sales; providing an
20 inventory and reconciliation process as an accounting
21 alternative for specified vendors; providing an
22 inventory and reconciliation process for malt beverage
23 kegs; amending s. 561.422, F.S.; authorizing the
24 division to issue temporary permits to municipalities
25 and counties to sell alcoholic beverages for
26 consumption on the premises of an event; providing
27 conditions for such permits; requiring such
28 municipalities and counties to remove and properly
29 dispose of unconsumed alcoholic beverages; amending s.
30 562.14, F.S.; exempting railroad transit stations from
31 provisions regulating the time during which alcoholic
32 beverages may be sold, served, and consumed; amending

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33 s. 565.02, F.S.; authorizing operators of railroad
34 transit stations to obtain licenses to sell alcoholic
35 beverages; revising the locations where certain
36 beverages may be sold; prohibiting the transfer of
37 specified licenses to certain locations; prohibiting a
38 municipality or county from requiring an additional
39 license or levying a tax to sell certain beverages;
40 exempting railroad transit stations from liquor bottle
41 size restrictions; exempting operators of restaurants,
42 shops, or other facilities that are part of, or that
43 serve, railroad transit stations from certain
44 licensing regulations; authorizing alcoholic beverages
45 to be consumed in all areas within the property of a
46 railroad transit station; defining terms; revising
47 legislative findings; requiring permittees to submit a
48 report to the division; providing requirements for the
49 report; providing an effective date.

50
51 Be It Enacted by the Legislature of the State of Florida:

52
53 Section 1. Section 210.13, Florida Statutes, is amended to
54 read:

55 210.13 Determination of tax on failure to file a return.—If
56 a dealer or other person required to remit the tax under this
57 part fails to file any return required under this part, or
58 having filed an incorrect or insufficient return, fails to file
59 a correct or sufficient return, as the case may require, within
60 10 days after the giving of notice to the dealer by the Division
61 of Alcoholic Beverages and Tobacco that such return or corrected

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62 or sufficient return is required, the division shall determine
63 the amount of tax due by such dealer any time within 3 years
64 after the making of the earliest sale included in such
65 determination and give written notice of such determination to
66 such dealer. Such a determination shall finally and irrevocably
67 fix the tax unless the dealer against whom it is assessed shall,
68 within 30 days after the giving of notice of such determination,
69 apply to the division for a hearing. Judicial review shall not
70 be granted unless the amount of tax stated in the decision, with
71 penalties thereon, if any, shall have been first deposited with
72 the division, and an undertaking or bond filed in the court in
73 which such cause may be pending in such amount and with such
74 sureties as the court shall approve, conditioned that if such
75 proceeding be dismissed or the decision of the division
76 confirmed, the applicant for review will pay all costs and
77 charges which may accrue against the applicant in the
78 prosecution of the proceeding. At the option of the applicant,
79 such undertaking or bond may be in an additional sum sufficient
80 to cover the tax, penalties, costs, and charges aforesaid, in
81 which event the applicant shall not be required to pay such tax
82 and penalties precedent to the granting of such review by such
83 court.

84 Section 2. Paragraph (a) of subsection (1) of section
85 218.32, Florida Statutes, is amended to read:

86 218.32 Annual financial reports; local governmental
87 entities.—

88 (1) (a) Each local governmental entity that is determined to
89 be a reporting entity, as defined by generally accepted
90 accounting principles, and each independent special district as

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91 defined in s. 189.012, shall submit to the department a copy of
92 its annual financial report for the previous fiscal year in a
93 format prescribed by the department. The annual financial report
94 must include a list of each local governmental entity included
95 in the report and each local governmental entity that failed to
96 provide financial information as required by paragraph (b). The
97 annual financial report must also include all revenues derived
98 from the use of temporary permits obtained by a reporting entity
99 pursuant to s. 561.422. The chair of the governing body and the
100 chief financial officer of each local governmental entity shall
101 sign the annual financial report submitted pursuant to this
102 subsection attesting to the accuracy of the information included
103 in the report. The county annual financial report must be a
104 single document that covers each county agency.

105 Section 3. Subsection (22) is added to section 561.01,
106 Florida Statutes, to read:

107 561.01 Definitions.—As used in the Beverage Law:

108 (22) "Railroad transit station" means a platform or a
109 terminal facility where passenger trains operating on a guided
110 rail system according to a fixed schedule between two or more
111 cities regularly stop to load and unload passengers or goods.
112 The term includes a passenger waiting lounge and dining, retail,
113 entertainment, or recreational facilities within the premises
114 owned or leased by the railroad operator or owner.

115 Section 4. Paragraphs (h) and (i) of subsection (1) of
116 section 561.29, Florida Statutes, are amended to read:

117 561.29 Revocation and suspension of license; power to
118 subpoena.—

119 (1) The division is given full power and authority to

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120 revoke or suspend the license of any person holding a license
121 under the Beverage Law, when it is determined or found by the
122 division upon sufficient cause appearing of:

123 (h) Failure by the holder of any license under s. 561.20(1)
124 to maintain the licensed premises in an active manner in which
125 the licensed premises are open for the bona fide sale of
126 authorized alcoholic beverages during regular business hours of
127 at least 6 hours a day for a period of 120 days or more during
128 any 12-month period commencing 18 months after the acquisition
129 of the license by the licensee, regardless of the date the
130 license was originally issued. Every licensee must notify the
131 division in writing of any period during which his or her
132 license is inactive and place the physical license with the
133 division to be held in an inactive status. The division shall,
134 upon written request of the licensee, give a written waiver or
135 extension of the requirement of this paragraph for a period not
136 to exceed 12 months ~~may waive or extend the requirement of this~~
137 ~~section upon the finding of hardship, including the purchase of~~
138 ~~the license in order to transfer it to a newly constructed or~~
139 ~~remodeled location. However, during such closed period, the~~
140 ~~licensee shall make reasonable efforts toward restoring the~~
141 ~~license to active status.~~ This paragraph shall apply to all
142 annual license periods commencing on or after July 1, 1981, but
143 shall not apply to licenses issued after September 30, 1988.

144 (i) Failure of any licensee issued a new or transfer
145 license after September 30, 1988, under s. 561.20(1) to maintain
146 the licensed premises in an active manner in which the licensed
147 premises are open for business to the public for the bona fide
148 retail sale of authorized alcoholic beverages during regular and

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149 reasonable business hours for at least 8 hours a day for a
150 period of 210 days or more during any 12-month period commencing
151 6 months after the acquisition of the license by the licensee.
152 It is the intent of this act that for purposes of compliance
153 with this paragraph, a licensee shall operate the licensed
154 premises in a manner so as to maximize sales and tax revenues
155 thereon; this includes maintaining a reasonable inventory of
156 merchandise, including authorized alcoholic beverages, and the
157 use of good business practices to achieve the intent of this
158 law. Any attempt by a licensee to circumvent the intent of this
159 law shall be grounds for revocation or suspension of the
160 alcoholic beverage license. Every licensee must notify the
161 division in writing of any period during which his or her
162 license is inactive and place the physical license with the
163 division to be held in an inactive status. The division shall
164 ~~may~~, upon written request of the licensee, give a written waiver
165 or extension of the ~~this~~ requirement of this paragraph for a
166 period not to exceed 24 ~~12~~ months ~~in cases where the licensee~~
167 ~~demonstrates that the licensed premises has been physically~~
168 ~~destroyed through no fault of the licensee, when the licensee~~
169 ~~has suffered an incapacitating illness or injury which is likely~~
170 ~~to be prolonged, or when the licensed premises has been~~
171 ~~prohibited from making sales as a result of any action of any~~
172 ~~court of competent jurisdiction. Any waiver given pursuant to~~
173 ~~this subsection may be continued upon subsequent written request~~
174 ~~showing that substantial progress has been made toward restoring~~
175 ~~the licensed premises to a condition suitable for the resumption~~
176 ~~of sales or toward allowing for a court having jurisdiction over~~
177 ~~the premises to release said jurisdiction, or that an~~

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178 ~~incapacitating illness or injury continues to exist. However, in~~
179 ~~no event may the waivers necessitated by any one occurrence~~
180 ~~cumulatively total more than 24 months. Every licensee shall~~
181 ~~notify the division in writing of any period during which his or~~
182 ~~her license is inactive and place the physical license with the~~
183 ~~division to be held in an inactive status.~~

184 Section 5. Section 561.4205, Florida Statutes, is created
185 to read:

186 561.4205 Keg deposits; limited alternative inventory and
187 reconciliation process.-

188 (1) A distributor selling an alcoholic beverage to a vendor
189 in bulk, by recyclable keg or other similar reusable container,
190 for the purpose of sale in draft form on tap, must charge the
191 vendor a deposit, to be referred to as a "keg deposit," in an
192 amount not less than that charged to the distributor by the
193 manufacturer for each keg or container of the beverage sold. The
194 deposit amount charged to a vendor for a draft keg or container
195 of a like brand must be uniform. Charges made for deposits
196 collected or credits allowed for empty kegs or containers
197 returned must be shown separately on all sale tickets or
198 invoices. A copy of such sales tickets or invoices must be given
199 to the vendor at the time of delivery.

200 (2) In lieu of receiving a keg deposit, a distributor
201 selling alcoholic beverages by recyclable keg or other similar
202 reusable container for the purpose of sale in draft form to a
203 vendor identified in s. 561.01(18) or s. 565.02(6) or (7) shall
204 implement an inventory and reconciliation process with such
205 vendor in which an accounting of kegs is completed and any loss
206 or variance in the number of kegs is paid for by the vendor on a

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207 per-keg basis equivalent to the required keg deposit. This
208 inventory and reconciliation process may occur twice per year,
209 at the discretion of the distributor, but must occur at least
210 annually. Upon completion of an agreed upon keg inventory and
211 reconciliation, the vendor shall remit payment within 15 days
212 after receiving an invoice from the distributor. The vendor may
213 choose to establish and fund a separate account with the
214 distributor for the purpose of expediting timely payments.

215 Section 6. Section 561.422, Florida Statutes, is amended to
216 read

217 561.422 Municipalities, counties, and nonprofit civic
218 organizations; temporary permits.—

219 (1) Upon the filing of an application, presentation of a
220 local building and zoning permit, and payment of a fee of \$25
221 per permit, the director of the division may issue a permit
222 authorizing a municipality, county, or ~~bona fide~~ nonprofit civic
223 organization to sell alcoholic beverages for consumption on the
224 premises of an event only, for a period not to exceed 3 days,
225 subject to any state law or municipal or county ordinance
226 regulating the time for selling such beverages. All net profits
227 from sales of alcoholic beverages collected during the permit
228 period must be retained by the municipality, county, or
229 nonprofit civic organization. Any such municipality, county, or
230 nonprofit civic organization may be issued only three such
231 permits per calendar year. The sworn application filed by a
232 municipality or county for a temporary permit under this section
233 must be signed by the chief executive officer of the
234 municipality or county.

235 (2) Notwithstanding other provisions of the Beverage Law,

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236 any municipality, county, or nonprofit civic organization
237 licensed under this section may purchase alcoholic beverages
238 from a distributor or vendor licensed under the Beverage Law.

239 (3) All alcoholic beverages purchased for sale by a
240 municipality or county which remain unconsumed after an event
241 must be removed from the premises of the event and properly
242 disposed of by the municipality or county.

243 Section 7. Subsection (1) of section 562.14, Florida
244 Statutes, is amended to read:

245 562.14 Regulating the time for sale of alcoholic and
246 intoxicating beverages; prohibiting use of licensed premises.-

247 (1) Except as otherwise provided by county or municipal
248 ordinance, ~~no~~ alcoholic beverages may not be sold, consumed,
249 served, or permitted to be served or consumed in any place
250 holding a license under the division between the hours of
251 midnight and 7 a.m. of the following day. This section does
252 ~~shall~~ not apply to railroad transit stations or to railroads
253 selling only to passengers for consumption on railroad cars.

254 Section 8. Subsections (2) and (9) of section 565.02,
255 Florida Statutes, are amended to read:

256 565.02 License fees; vendors; clubs; caterers; and others.-

257 (2) (a) Any operator of railroad transit stations,
258 railroads, or sleeping cars in this state may obtain a license
259 to sell the beverages mentioned in the Beverage Law ~~on passenger~~
260 ~~trains~~ upon the payment of an annual license tax of \$2,500, ~~the~~
261 ~~tax to be paid~~ to the division. The ~~Such~~ license is good
262 throughout the state and authorizes ~~shall authorize~~ the licensee
263 ~~holder thereof~~ to keep for sale and to sell all beverages
264 mentioned in the Beverage Law on ~~upon~~ any dining, club, parlor,

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265 buffet, or observation car or within the property of a railroad
266 transit station operated by the licensee. ~~it in this state, but~~
267 Such beverages may be sold only to passengers on such ~~upon the~~
268 cars or within the property of the railroad transit station and
269 must be served for consumption thereon. Licenses issued pursuant
270 to this paragraph for railroad transit stations may not be
271 transferred to locations beyond the premises of the railroad
272 transit station. A municipality or county may not require an
273 additional license or levy a tax for the privilege of selling
274 such beverages.

275 (b) Except for alcoholic beverages sold within the property
276 of a railroad transit station, it is unlawful for such licensees
277 to purchase or sell any liquor except in miniature bottles of
278 not more than 2 ounces. ~~Every such license shall be good~~
279 ~~throughout the state. No license shall be required, or tax~~
280 ~~levied by any municipality or county, for the privilege of~~
281 ~~selling such beverages for consumption in such cars.~~ Such
282 beverages may ~~shall~~ be sold only on cars in which ~~are posted~~
283 certified copies of the licenses issued to the ~~such~~ operator are
284 posted. ~~Such~~ Certified copies of such licenses shall be issued
285 by the division upon the payment of a tax of \$10.

286 (c) A limitation of the number of licenses issued pursuant
287 to this section does not prohibit the issuance of a license
288 authorized by the Beverage Law or a special license issued
289 pursuant to s. 561.20 to operators of restaurants, shops, or
290 other facilities that are part of, or that serve, railroad
291 transit stations, and any such licenses issued are exempt from
292 s. 562.45(2). The alcoholic beverages sold by a licensed
293 operator may be consumed in all areas within the property of the

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294 railroad transit station as defined in s. 561.01(22).

295 (9) (a) As used in this subsection, the term:

296 1. "Annual capacity" means an amount equal to the number of
297 lower berths on a vessel multiplied by the number of
298 embarkations of that vessel during a calendar year.

299 2. "Base rate" means an amount equal to the total taxes
300 paid by all permittees pursuant to this subsection for sales of
301 alcoholic beverages, cigarettes, and other tobacco products
302 taking place between January 1, 2015 and December 31, 2015,
303 inclusive, divided by the sum of the annual capacities of all
304 vessels permitted pursuant to this subsection for calendar year
305 2015.

306 3. "Embarkation" means an instance where a vessel departs
307 from a port in Florida.

308 4. "Lower berth" means a bed that is:

309 a. Affixed to a vessel;
310 b. Not located above another bed in the same cabin; and
311 c. Located in a cabin not in use by employees of the
312 operator of the vessel or its contractors.

313 5. "Quarterly capacity" means an amount equal to the number
314 of lower berths on a vessel multiplied by the number of
315 embarkations of that vessel during a calendar quarter.

316 (b) It is the finding of the Legislature that passenger
317 vessels engaged exclusively in foreign commerce are susceptible
318 to a distinct and separate classification for purposes of the
319 sale of alcoholic beverages, cigarettes, and other tobacco
320 products under the Beverage Law and chapter 210.

321 (c) Upon the filing of an application and payment of an
322 annual fee of \$1,100, the director is authorized to issue a

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323 permit authorizing the operator, or, if applicable, his or her
324 concessionaire, of a passenger vessel which has cabin-berth
325 capacity for at least 75 passengers, and which is engaged
326 exclusively in foreign commerce, to sell alcoholic beverages,
327 cigarettes, and other tobacco products on the vessel for
328 consumption on board only:

329 1.(a) During a period not in excess of 24 hours prior to
330 departure while the vessel is moored at a dock or wharf in a
331 port of this state; or

332 2.(b) At any time while the vessel is located in Florida
333 territorial waters and is in transit to or from international
334 waters.

335
336 One such permit shall be required for each such vessel and shall
337 name the vessel for which it is issued. No license shall be
338 required or tax levied by any municipality or county for the
339 privilege of selling beverages, cigarettes, or other tobacco
340 products for consumption on board such vessels. The beverages,
341 cigars, or other tobacco products so sold may be purchased
342 outside the state by the permittee, and the same shall not be
343 considered as imported for the purposes of s. 561.14(3) solely
344 because of such sale. The permittee is not required to obtain
345 its beverages, cigarettes, or other tobacco products from
346 licensees under the Beverage law or chapter 210. Each permittee,
347 ~~but it~~ shall keep a strict account of the quarterly capacity of
348 each of its vessels ~~all such beverages sold within this state~~
349 and shall make quarterly ~~monthly~~ reports to the division on
350 forms prepared and furnished by the division. ~~A permittee who~~
351 ~~sells on board the vessel beverages withdrawn from United States~~

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352 ~~Bureau of Customs and Border Protection bonded storage on board~~
353 ~~the vessel may satisfy such accounting requirement by supplying~~
354 ~~the division with copies of the appropriate United States Bureau~~
355 ~~of Customs and Border Protection forms evidencing such~~
356 ~~withdrawals as importations under United States customs laws.~~

357 (d) Each Such permittee shall pay to the state an excise
358 tax for beverages, cigarettes, and other tobacco products sold
359 pursuant to this subsection ~~section~~, if such excise tax has not
360 previously been paid, ~~in an amount equal to the tax which would~~
361 ~~be required to be paid on such sales by a licensed manufacturer~~
362 ~~or distributor.~~ The excise tax must be an amount equal to the
363 base rate multiplied by the permittee's quarterly capacity
364 during the calendar quarter.

365 (e) A vendor holding such permit shall pay the tax
366 quarterly ~~monthly~~ to the division at the same time he or she
367 furnishes the required report. Such report shall be filed on or
368 before the 15th day of each quarter ~~month~~ for the quarterly
369 capacity sales ~~occurring~~ during the previous calendar quarter
370 ~~month~~.

371 (f) No later than August 1, 2016, each permittee shall
372 report the annual capacity for each of its vessels for calendar
373 year 2015 to the division on forms prepared and furnished by the
374 division. No later than September 1, 2016, the division shall
375 calculate the base rate and report it to each permittee. The
376 department shall publish the base rate in the Florida
377 Administrative Register and on the department's website.

378 Section 9. This act shall take effect July 1, 2016.