

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1265 Alcoholic Beverages
SPONSOR(S): Commerce Committee, Miller
TIED BILLS: **IDEN./SIM. BILLS:** SB 922

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee	15 Y, 0 N	Willson	Anstead
2) Commerce Committee	20 Y, 0 N, As CS	Willson	Hamon

SUMMARY ANALYSIS

In Florida, the Beverage Law regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors. The Division of Alcoholic Beverages and Tobacco in the Department of Business and Professional Regulation administers and enforces the Beverage Law and issues licenses to those authorized to sell beer, wine and distilled spirits in the state.

Currently, licensees that are operators of railroads or sleeping cars in this state are only permitted to purchase or sell liquor on a passenger train in miniature bottles of not more than two ounces.

The bill:

- Removes the requirement intrastate operators of railroads or sleeping cars only purchase or sell liquor on a passenger train in miniature bottles.
- Clarifies that interstate train operators must continue to only purchase or sell liquor in miniature bottles.
- Clarifies that interstate train operators must continue to keep alcoholic beverages intended for sale on passenger trains separate from alcoholic beverages intended for sale in a railroad transit station.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

In Florida, the Beverage Law¹ regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.² The Division of Alcoholic Beverages and Tobacco (Division) in the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law.³

“Alcoholic beverages” are defined in s. 561.01, F.S., as “distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume.”

Quota Licenses and Special Licenses

Quota licenses authorize the sale of liquor, in addition to beer and wine, and are limited by county population. In accordance with s. 561.20, F.S., only one quota license may be issued for every 7,500 people residing in a county, as determined using census bureau data, and may increase with an increase in population. However, the county must first allow the sale of intoxicating liquor in order for a quota license to be issued for that county. The quota license is the only type of alcoholic beverage license that is limited in number.

Section 561.20(2), F.S., provides for several exceptions to the population-dependent quota license system. These exceptions are known as “special licenses,” and include specialty licenses for qualifying restaurants, caterers, hotels and motels, specialty centers built on government-owned land, bowling establishments, trains, train stations and airports⁴.

Operators of Railroads, Sleeping Cars and Vendors Located in Railroad Transit Stations

The Division may issue a special license for the sale of beer, wine, or liquor to:

- an operator of railroads or sleeping cars, or
- a vendor in a railroad transit station.⁵

The license costs \$2,500 per year, and local governments are prohibited from requiring any licenses or taxes in addition to the special license.

Licensed intrastate and interstate operators of railroads or sleeping cars in this state:

- May keep and sell alcoholic beverages for consumption upon any dining, club, parlor, buffet, or observation car of a passenger train in which certified copies of the licenses issued to the operators are posted.

¹ Section 561.01(6), F.S., provides that the “The Beverage Law” means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

² See s. 561.14, F.S.

³ s. 561.02, F.S.

⁴ s. 561.20(2)(d), F.S. The Division may issue special airport licenses to restaurants that are a part of, or serve, publicly owned or leased airports. The special airport license permits the general public to purchase alcoholic beverages for consumption within designated areas of the airport terminal. The license further permits the vendor to sell wine and distilled spirits to the airlines in sealed miniature containers and other alcoholic beverages for consumption on the aircraft by the passengers of the plane while the plane is airborne.

⁵ s. 565.02(2), F.S.

- May not purchase or sell any liquor on a passenger train except in miniature bottles of not more than 2 ounces.
- Must keep alcoholic beverages intended for sale on a passenger train separate from the alcoholic beverages intended for sale in the railroad transit station.

Licensed vendors in a railroad transit station:

- May keep and sell alcoholic beverages for consumption on the licensed premises, including all areas within the railroad transit station as well as on a passenger train.
- Are not subject to the mini-bottle requirement for liquor.
- May not transfer their special license to a location outside the railroad transit station.

A “railroad transit station” is a platform or terminal facility where passenger trains operating on a guided rail system according to a fixed schedule between two or more cities regularly stop to load and unload passengers or goods. The term includes the passenger waiting lounge or dining, retail, entertainment, or recreational facilities within the premises owned or leased by the railroad operator or owner.⁶

All Aboard Florida

All Aboard Florida is the operator of “Brightline,” an express passenger rail service between Miami and Orlando that uses the existing Florida East Coast Railway corridor between Miami and Cocoa. It is also building a new track along State Road 528 between Cocoa and Orlando. Portions of the service, between Miami and West Palm Beach, started operating in January, 2018.⁷ The full-service route from Miami to Orlando is set to open later this year. The Orlando station is under construction at the Intermodal Transportation Center at Orlando International Airport.⁸

Effect of the Bill

The bill:

- Removes the requirement intrastate operators of railroads or sleeping cars only purchase or sell liquor on a passenger train in miniature bottles.
- Clarifies that interstate train operators must continue to only purchase or sell liquor in miniature bottles.
- Clarifies that interstate train operators must continue to keep alcoholic beverages intended for sale on passenger trains separate from alcoholic beverages intended for sale in a railroad transit station.

B. SECTION DIRECTORY:

Section 1 Amends s. 565.02, F.S., clarifying that interstate operators of railroads or sleeping cars are subject to certain liquor bottle size restrictions and keep certain inventory separated.

Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

⁶ See s. 561.01(22), F.S.

⁷ Dan Rorabaugh, *Brightline announces launch date for service between West Palm Beach, Fort Lauderdale*, TCPALM (Dec. 28, 2017), <https://www.tcpalm.com/story/news/local/shaping-our-future/all-aboard-florida/2017/12/28/brightline-announces-launch-date-service-between-west-palm-beach-fort-lauderdale/989273001/>.

⁸ See All Aboard Florida at: <http://www.allaboardflorida.com/> (Last visited January 16, 2018).

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will allow intrastate operators of railroads or sleeping cars to buy and sell beyond the current bottle size limitation.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 22, 2018, the Commerce Committee adopted an amendment and reported the bill favorably as a committee substitute.

The amendment:

- Clarified that interstate train operators must continue to only purchase or sell liquor in miniature bottles.
- Clarified that interstate train operators must continue to keep alcoholic beverages intended for sale on passenger trains separate from alcoholic beverages intended for sale in a railroad transit station.

This analysis is drafted to the committee substitute.