

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1099 City of Kissimmee, Osceola County
SPONSOR(S): Tomkow
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N	Rivera	Miller
2) Business & Professions Subcommittee	14 Y, 0 N	Thompson	Anstead
3) State Affairs Committee	20 Y, 0 N	Rivera	Williamson

SUMMARY ANALYSIS

Florida's Beverage Law places a limit on the number of "quota licenses" that the Department of Business and Professional Regulation (DBPR) may issue per county. A quota license allows a business to serve any alcoholic beverage regardless of alcoholic content, including liquor, for both on and off premises consumption.

In excess of the quota limitation, DBPR is authorized to issue a Special Food Service License, which allows a food service establishment to sell any alcoholic beverage, including liquor, under certain circumstances. Under general law, a food service establishment may be issued a Special Food Service License if it has at least 2,500 square feet of service area, is equipped to serve meals to 150 customers simultaneously, and derives at least 51 percent of its gross revenue from the sale of food and non-alcoholic beverages during the first 60-day operating period and each 12-month operating period thereafter.

The bill creates an exception to general law by requiring DBPR to issue a Special Food Service License to a bona fide restaurant in the Downtown Community Redevelopment District of Kissimmee that occupies at least 1,800 square feet of contiguous space, is equipped to serve meals to at least 80 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 60-day operating period and each 12-month operating period thereafter.

The bill provides that the license will be revoked if the licensee fails to meet the 51 percent food and nonalcoholic beverage gross revenue requirement. A licensee whose license is revoked, an applicant whose pending application for permanent license is denied, or any person required to qualify for the license, may not have any interest in a subsequent special food service establishment license application for a period of 120 days after the date of the final denial or revocation.

According to the Economic Impact Statement, the bill is revenue positive due to the increase in sales tax revenue and licensing revenue.

Pursuant to House Rules 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Alcoholic Beverage Licensing

The Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation (DBPR) is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of alcoholic beverages within the state. Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law.

The Beverage Law does not limit the number of licenses DBPR may issue to businesses selling malt beverages or wine.¹ However, the Beverage Law limits the number of licenses that may be issued allowing a business to sell any alcoholic beverage regardless of alcoholic content, including liquor or distilled spirits.² This license, often referred to as a "quota license," is limited to one license per 7,500 residents per county with a minimum of three licenses per county that has approved the sale of intoxicating liquors.³

There are several exceptions to the quota license limitation. Businesses meeting the requirements of the exceptions may be issued a special license by DBPR allowing the business to serve any alcoholic beverages regardless of alcoholic content.⁴

The Special Food Service License⁵ is one such special license. DBPR may issue a Special Food Service License to a "food service establishment having 2,500 square feet of service area, is equipped to serve meals to 150 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 60-day operating period and each 12-month operating period thereafter."⁶ Before DBPR will issue a Special Food Service License, the business must have a valid food service establishment license issued by the state agency with proper jurisdiction.⁷

Effect of Proposed Changes

The bill creates an exception to s. 561.20(1), F.S., by requiring DBPR to issue special alcoholic beverage licenses to bona fide restaurants in the Downtown Community Redevelopment District, in the City of Kissimmee, with at least 1,800 square feet of contiguous space, equipped to serve meals to at least 80 persons at one time, and that derive at least 51 percent of their gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 60-day operating period and each 12-month operating period thereafter. The bill includes a complete legal description of the area in which the exemption applies.

The bill provides that failure of a licensee who is issued a special license to meet the 51 percent food and nonalcoholic beverage gross revenue requirement during the covered operating period will result in the revocation of the license or denial of the pending application for a permanent license of a licensee

¹ See ss. 563.02 and 564.02, F.S.

² S. 561.20(1), F.S. See s. 565.02(1)(a)-(f), F.S.

³ S. 561.20(1), F.S.

⁴ S. 561.20(2), F.S.

⁵ Formerly known as the Special Restaurant License (SRX), the name of the license was changed in 2016 when DBPR drastically revised and shortened the relevant administrative rule. See Rule 61A-3.0141, F.A.C. (eff. 10/22/1991 - 9/12/2016), https://www.flrules.org/gateway/notice_Files.asp?ID=1951754 (last visited Feb. 26, 2019).

⁶ S. 561.20(2)(a)4., F.S.

⁷ Rule 61A-3.0141(2), F.A.C.

operating with a temporary license. A licensee, applicant, or any person required to qualify on the license application who has his or her license revoked, or pending application for permanent license denied, may not apply for a subsequent license for a period of 120 days after the date of the final denial or revocation.

B. SECTION DIRECTORY:

Section 1. Creates the "Downtown Community Redevelopment District" in the City of Kissimmee.

Section 2. Creates an exception to general law, providing space, seating, and minimum gross revenue requirements for special alcoholic beverage licenses for restaurants in the Downtown Community Redevelopment District.

Section 3. Provides that the bill takes effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? January 26, 2019

WHERE? *Osceola News-Gazette*, Osceola County, Florida

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN? Not Applicable

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Pursuant to House Rules 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

HOUSE OF REPRESENTATIVES

2019 - 2020 LOCAL BILL CERTIFICATION FORM

BILL #:

SPONSOR(S):

Representative Tomkow

RELATING TO:

City of Kissimmee, Osceola County

[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION:

Osceola

CONTACT PERSON:

Don Smallwood, City Attorney

PHONE NO.:

407-518-2310

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Dsmallwood@kissimmee.org

- I. House local bill policy requires the following steps must occur before a committee or subcommittee of the House considers a local bill:
- (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level;
 - (2) The legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s);
 - (3) The bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting; and
 - (4) An Economic Impact Statement for local bills must be prepared at the local level and filed with the Clerk of the House. Under House policy, a local bill will not be considered by a committee or subcommittee without an Economic Impact Statement.

- (1) Does the delegation certify the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES ☒

NO ☐

Brief Explanation as to why the purpose of the bill cannot be accomplished at the local level:

Requires an exception to F.S. 561.20(1) to amend square footage and meal service in the Downtown Community Redevelopment District.

- (2) Did the delegation conduct a public hearing on the subject of the bill?

YES ☒

NO ☐

Date hearing held:

January 17, 2019

Location:

Osceola County Administration Building

- (3) Was this bill formally approved by a majority of the delegation members?

YES ☐

NO ☐

UNANIMOUSLY APPROVED ☒

- (4) Was an Economic Impact Statement prepared at the local level and filed with the Clerk of the House?

YES ☒

NO ☐

- II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or

HOUSE OF REPRESENTATIVES
2019 ECONOMIC IMPACT STATEMENT FORM

Read all instructions carefully.

House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared by an individual who is qualified to establish fiscal data and impacts and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please file this completed, original form with the Clerk of the House as soon as possible after a bill is filed. Additional pages may be attached as necessary.

BILL #:
SPONSOR(S): Representative Tomkow
RELATING TO: Special area for restaurant licensing in downtown Kissimmee
[Indicate Area Affected (City, County or Special District) and Subject]

☐ Check if this is a revised Economic Impact Statement

I. REVENUES:

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 19-20</u>	<u>FY 20-21</u>
Revenue decrease due to bill:	\$ <input type="text"/>	\$ <input type="text"/>
Revenue increase due to bill:	\$ 50k <input type="text"/>	\$ 50k <input type="text"/>

II. COST:

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

<u>FY 19-20</u>	<u>FY 20-21</u>
\$ N/A <input type="text"/>	\$ N/A <input type="text"/>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

Like similar bills that have been approved, this bill is revenue positive with an increase in sales tax revenue and licensing revenue, which is not possible to quantify. However, easing restrictions for a bona fide restaurant to serve all alcohol increases the opportunity for profit, thus creating more jobs and sales tax revenue.

III. FUNDING SOURCE(S):

State the specific sources from which funding will be received, for example, license plate fees, state funds, borrowed funds, or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	FY 19-20	FY 20-21
Local:	\$ N/A	\$ N/A
State:	\$ N/A	\$ N/A
Federal:	\$ N/A	\$ N/A

IV. ECONOMIC IMPACT:

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals:

The bill facilitates more diverse dining options and the creation of jobs.

2. Advantages to Businesses:

The bill increases the likelihood of success for small independently-owned restaurants in a highly competitive field.

3. Advantages to Government:

The bill enables more sales tax revenue without increasing services or staff.

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals:

None.

2. Disadvantages to Businesses:

None.

3. Disadvantages to Government:

None.

V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:

There is already staff in place to support this bill. As similar bills have shown, the only change would be issuing more 4COP/SFS (formally known as 4COP/SRX) licenses and fewer 2COP licenses resulting in more license revenue for the State as well as sales tax revenue from businesses.

VI. SPECIFIC DATA USED IN REACHING ESTIMATES:

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

Data derives from real world application of business operation with a 2COP and 4COP license. Additionally, this process has provided a direct positive to other areas in the state that similar bills have been approved.

VII. CERTIFICATION BY PREPARER

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY:


[Must be signed by Preparer]

Print preparer's name:

Amy S. Ady

01/24/2019

Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

Finance Director

REPRESENTING:

City of Kissimmee

PHONE:

407-518-2220

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