By Senator Mayfield

A bill to be entitled
An act relating to manufacturers of malt beverages;
amending s. 561.221, F.S.; authorizing a manufacturer
to transfer to its licensed facility certain malt
beverages that are brewed by another manufacturer;
exempting certain manufacturers from requirements
relating to relations between beer distributors and
manufacturers; authorizing certain manufacturers to
sell, transport, and deliver certain malt beverages to
vendors; providing applicability; requiring certain
manufacturers to get written permission from a
distributor before making certain deliveries; revising
requirements for a licensed vendor to be licensed as a
manufacturer of malt beverages; defining the term
“barrel”; amending s. 563.022, F.S.; conforming a
provision to changes made by the act; authorizing a
manufacturer to terminate a contract with a
distributor under certain circumstances; amending s.
561.411, F.S.; revising requirements relating to
distributors’ warehouse inventory and sales; amending
s. 561.5101, F.S.; providing an exception to the come-
to-rest requirement for certain deliveries made by
specified manufacturers; amending s. 561.57, F.S.;
deleting a prohibition on manufacturers with a
vendor’s license making certain deliveries;
authorizing certain manufacturers to use certain
vehicles when making specified deliveries; providing
an effective date.
Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (c) and (d) of subsection (2) and paragraph (a) of subsection (3) of section 561.221, Florida Statutes, are amended, and paragraphs (f) and (g) are added to subsection (2) of that section, to read:

561.221 Licensing of manufacturers and distributors as vendors and of vendors as manufacturers; conditions and limitations.—

(2)

(c) Notwithstanding any other provision of the Beverage Law, a manufacturer holding multiple manufacturing licenses may transfer malt beverages to a licensed facility, as provided in s. 563.022(14)(d), in an amount up to the yearly production amount at the receiving facility. A manufacturer may also transfer to its licensed facility malt beverages and other alcoholic beverages manufactured by another licensed manufacturer, including any malt beverages that are owned in whole or in part by the manufacturer but are brewed by another manufacturer, must be obtained through a licensed distributor that is not also a licensed manufacturer, a licensed broker or sales agent, or a licensed importer.

(d) A manufacturer possessing a vendor’s license under this subsection is not permitted to make deliveries under s. 561.57(1), except as provided in paragraph (g).

(f) A manufacturer licensed under this subsection that produces less than 250,000 barrels per year is not subject to the requirements of s. 563.022.

(g) Notwithstanding any other provision of the Beverage Law.
Law, a manufacturer possessing a vendor’s license under this subsection may sell, transport, and deliver to a vendor, from the manufacturer’s licensed premises, malt beverages that have been manufactured by the manufacturer. A manufacturer acting pursuant to this paragraph shall comply with the requirements of ss. 561.42 and 561.423, as applicable, to the same extent as if the manufacturer were a distributor.

1. The authority provided in this paragraph is limited to the sale, transport, and delivery of individual containers, kegs, or other bulk packages but does not include the sale, transport, and delivery of growlers, as described in s. 563.06(7).

2. Any delivery made pursuant to this paragraph is subject to s. 561.57(2).

3. This paragraph does not apply to a manufacturer that has a total production volume of more than 250,000 barrels of malt beverages per year.

4. A manufacturer that has an existing distribution agreement with a distributor pursuant to s. 563.022 must get permission in writing from the distributor before making a delivery of more than four kegs to any licensed vendor in the distributor’s sales territory.

(3)(a) Notwithstanding other provisions of the Beverage Law, any vendor licensed in this state may be licensed as a manufacturer of malt beverages upon a finding by the division that:

1. The vendor will be engaged in brewing malt beverages at a single location and in an amount which will not exceed 5,000 barrels of malt beverages per year. For purposes of
this section subsection, the term “barrel” “keg” means 31 gallons.

2. The malt beverages so brewed will be sold to consumers for consumption on the vendor’s licensed premises or on other contiguous licensed premises owned by the vendor.

Section 2. Paragraph (d) of subsection (14) of section 563.022, Florida Statutes, is amended, and subsection (22) is added to that section, to read:

563.022 Relations between beer distributors and manufacturers.—

(14) MANUFACTURER; PROHIBITED INTERESTS.—

(d) Nothing in the Beverage Law shall be construed to prohibit a manufacturer from shipping products to or between its breweries, or between its breweries and the licensed premises of a vendor pursuant to s. 561.221(2)(g), without a distributor’s license.

(22) TERMINATION BASED ON SALES.—Notwithstanding this section, a manufacturer of malt beverages may terminate a contract with a distributor upon no less than 120 days’ written notice if the sales of products to the distributor by the manufacturer do not exceed 10 percent of the distributor’s total alcoholic beverage sales for the previous calendar year.

Section 3. Subsections (1) and (2) of section 561.411, Florida Statutes, are amended to read:

561.411 Qualifications for distributors.—No distributor’s license shall be issued to or held by any person or business which does not meet and maintain the following qualifications with respect to its warehouse inventory and sales.

(1) The distributor must maintain warehouse space which is
either owned or leased by the distributor, or dedicated to the
distributor’s use in a public warehouse, which is sufficient to
store at one time:

(a) An inventory of alcoholic beverages which is equal to
at least 5 percent of the distributor’s annual case sales to
licensed vendors within this state or to licensed vendors within
the malt beverage distributor’s exclusive sales territory; or

(b) An inventory for which the cost of acquisition is not
less than $10,000 $100,000.

(2) The distributor must maintain at all times, in a
warehouse which is either owned or leased by the distributor or
in public warehouse space dedicated to the distributor’s use, an
inventory of alcoholic beverages:

(a) Which consists of not less than 5 percent of the
distributor’s annual sales to licensed vendors within this state
or within the malt beverage distributor’s exclusive sales
territory; or

(b) For which the cost of acquisition is not less than
$10,000 $100,000. The inventory required herein shall be owned
by the distributor, not held on consignment, and not acquired
pursuant to a prior agreement to sell it to a specific licensee
or licensees.

(c) For purposes of calculating inventory or percentage of
annual sales as required by paragraphs (a) and (b), the
calculation must not include private label inventory whose
label is owned by a vendor.

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

561.5101 Come-to-rest requirement; exceptions; penalties.—
For purposes of inspection and tax-revenue control, all malt beverages, except those manufactured and sold by the same licensee, pursuant to s. 561.221(2) or (3), must come to rest at the licensed premises of an alcoholic beverage wholesaler in this state before being sold to a vendor by the wholesaler. The prohibition contained in this subsection does not apply to the shipment of malt beverages commonly known as private labels. The prohibition contained in this subsection shall not prevent a manufacturer from shipping malt beverages for storage at a bonded warehouse facility, provided that such malt beverages are distributed as provided in this subsection or to an out-of-state entity. The prohibition contained in this subsection does not apply to a malt beverage manufacturer that is licensed under s. 561.221(2) and that delivers malt beverages to a licensed vendor pursuant to s. 561.221(2)(g).

Section 5. Subsections (1) and (2) of section 561.57, Florida Statutes, are amended to read:

561.57 Deliveries by licensees.—

(1) Vendors shall be permitted to make deliveries away from their places of business of sales actually made at the licensed place of business; provided, telephone, electronic, or mail orders received at a vendor’s licensed place of business shall be construed as a sale actually made at the vendor’s licensed place of business. Deliveries made by a vendor away from his or her place of business may be made in vehicles that are owned or leased by the vendor or in a third-party vehicle pursuant to a contract with a third party with whom the vendor has contracted to make deliveries, including, but not limited to, common carriers. By acceptance of an alcoholic beverage license, the
vendor agrees that vehicles that are owned or leased by the vendor shall always be subject to inspection and search without a search warrant for the purpose of ascertaining that all provisions of the alcoholic beverage laws are complied with by authorized employees of the division and also by sheriffs, deputy sheriffs, and police officers during business hours or other times the vehicle is being used to transport or deliver alcoholic beverages. A manufacturer possessing a vendor’s license under s. 561.221(2) is not permitted to make deliveries under this subsection.

(2) Deliveries made by a manufacturer or distributor away from his or her place of business may be made only in vehicles that are owned or leased by the licensee. However, a manufacturer authorized to make deliveries under s. 561.221(2)(g) may use a vehicle owned or leased by the manufacturer or any person disclosed on a license application filed by the manufacturer and approved by the division to make such deliveries. By acceptance of an alcoholic beverage license and the use of such vehicles, the licensee agrees that such vehicle shall always be subject to be inspected and searched without a search warrant, for the purpose of ascertaining that all provisions of the alcoholic beverage laws are complied with, by authorized employees of the division and also by sheriffs, deputy sheriffs, and police officers during business hours or other times the vehicle is being used to transport or deliver alcoholic beverages.

Section 6. This act shall take effect July 1, 2019.