

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS
FINAL BILL ANALYSIS**

BILL #: CS/HB 1351 City of St. Cloud, Osceola County
SPONSOR(S): State Affairs Committee; La Rosa and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N	Renner	Miller
2) Business & Professions Subcommittee	10 Y, 0 N	Thompson	Anstead
3) State Affairs Committee	21 Y, 0 N, As CS	Renner	Williamson
FINAL HOUSE FLOOR ACTION: GOVERNOR'S ACTION: Approved			
116	Y's 1	N's	

SUMMARY ANALYSIS

CS/HB 1351 passed the House on April 17, 2019, and subsequently passed the Senate on May 1, 2019.

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. DBPR is not limited by the Beverage Law on the number of licenses it may issue for businesses that serve only malt beverages and wine.

As an exception to the quota limitation, DBPR may issue a Special Food Service License to allow a restaurant to sell any alcoholic beverage, including liquor, under certain circumstances. Under general law, a restaurant 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.

The bill creates the "Downtown Restaurant Area" in the City of St. Cloud. The bill creates an exception to the quota limitation and requires DBPR to issue a Special Food Service License to a bona fide restaurant in the "Downtown Restaurant Area" that meets the following requirements: occupies at least 1,500 square feet of contiguous space, is equipped to serve meals to at least 65 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 failure of a licensee to meet the 51 percentage of food and nonalcoholic beverage gross revenue 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 operating with a temporary license. A licensee whose license is revoked, an applicant whose pending application for a permanent license is denied, or any person required to qualify for the license application is ineligible to have any interest in a subsequent license application for a period of 120 days after the date of the final denial of revocation.

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

The bill was approved by the Governor on June 4, 2019, ch. 2019-182, L.O.F., and became effective on that date.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1351z1.LFV.DOCX

DATE: 7/8/2019

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

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 within the state of alcoholic beverages. Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law.

Under the Beverage Law, DBPR is not limited on the number of licenses it issues to businesses who wish to sell 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 that meet the requirements set out in one of the exceptions may be issued a special license by DBPR that allows the business to serve any alcoholic beverages regardless of alcoholic content.⁴ For example, the Special Food Service License⁵ may be issued to a restaurant having 2,500 square feet of service area that is equipped to serve meals to 150 persons at one time. To be eligible, the restaurant must derive 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.⁷

Effect of the Bill

The bill creates the "Downtown Restaurant Area" in the City of St. Cloud.

The bill requires DBPR to issue a Special Food Service License to a bona fide restaurant in the "Downtown Restaurant Area" of the City of St. Cloud that occupies at least 1,500 square feet of contiguous space, is equipped to serve meals to at least 65 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 includes a complete legal description of the area in which the exemption to the quota license will apply.

The bill provides that failure of a licensee who is issued a special license to meet the 51 percentage of food and nonalcoholic beverage gross revenue 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 operating with a temporary license. A licensee whose license is revoked, an applicant whose pending application for a permanent license is denied, or any person required to qualify for the special license

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 code. See Rule 61A-3.0141, F.A.C.

⁶ S. 561.20(2)(a)4., F.S.

⁷ Rule 61A-3.0141(2), F.A.C.

application is ineligible to have any interest in a subsequent license application for a period of 120 days after the date of the final denial or revocation.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the Economic Impact Statement,⁸ the bill is revenue positive due to the increase in sales tax revenue.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

According to the Economic Impact Statement,⁹ the bill is revenue positive due to the increase in sales tax revenue and licensing revenue.

2. Expenditures:

None.

C. ECONOMIC IMPACT STATEMENT FILED? Yes ☒ No ☐

D. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? November 1, 2018

WHERE? *Osceola News-Gazette*, a newspaper published in Osceola County, Florida

E. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

⁸ See 2019 Economic Impact Statement, <https://myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=66177&SessionId=87> (Last visited May 1, 2019).

⁹ *Id.*