Committee on Regulated Industries

CS/CS/HB 249 — Culinary Education Programs

by Health and Human Services Committee; Health Quality Subcommittee; and Rep. Moskowitz and others (CS/SB 706 by Regulated Industries Committee; and Senators Altman and Sachs)

The bill permits a culinary education program with a public food service establishment license issued by the Division of Hotels and Restaurants within the Department of Business and Professional Regulation (DBPR) to obtain a special alcoholic beverage license that permits the sale of beer, wine, and liquor. The special license allows for the sale of alcoholic beverages on the licensed premise in designated areas only. If the culinary education program is a licensed caterer, the bill allows for the sale and consumption of alcoholic beverages on the premises of the catered event at which the licensee is also providing prepared food. The bill does not permit the sale of alcoholic beverages by the package for off-premises consumption.

The bill defines a culinary education program to mean a program that educates enrolled students in the culinary arts, including preparation, cooking, and presentation of food, or a program that provides education and experience in culinary arts-related businesses. A culinary education program must be inspected by a state agency for compliance with sanitation standards. The culinary education program must be provided by a:

- State university;
- Florida College System institution;
- Career center;
- Charter technical career center;
- Nonprofit independent college or university that is located and chartered in this state, meets certain accreditation requirements, and is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program; or
- Nonpublic postsecondary educational institution.

The requirement that the caterer derive 51 percent of its gross revenue from the sale of food and nonalcoholic beverages to be eligible for a special alcoholic beverage license does not apply to a culinary education program with a public food service establishment license.

Under current law, if a culinary education program is subject to the food safety and sanitation regulations of the Department of Health, it will remain subject to its regulation, regardless of whether there is a charge for the food or whether the program is inspected by another state agency for compliance with sanitation standards.

The bill authorizes the DBPR to adopt rules to administer the bill's provisions.

If approved by the Governor, these provisions take effect July 1, 2016.
Vote: Senate 37-0; House 114-0

Committee on Regulated Industries

HB 303 — Unlicensed Activities Fees

by Reps. Burton and others (SB 394 by Senator Hays)

The bill requires waiver of a five dollar unlicensed activity fee charged to professionals renewing a license issued by the Department of Business and Professional Regulation (department), if certain benchmarks for a profession's operating account and unlicensed activity account are met. The waiver applies to all licensees in a renewal cycle for the duration of that cycle. The waiver does not apply if a profession's operating account has a deficit or is projected to have a deficit within five fiscal years.

If approved by the Governor, these provisions take effect July 1, 2016.
Vote: Senate 38-0; House 114-1

Committee on Regulated Industries

CS/HB 381 — Public Records/Florida State Boxing Commission

by Regulatory Affairs Committee and Rep. Raburn (CS/CS/SB 578 by Governmental Oversight and Accountability Committee; Regulated Industries Committee; and Senator Hutson)

The bill amends the current public records exemption in s. 548.062(2), F.S., related to proprietary confidential business information maintained by the Florida State Boxing Commission (commission) within the Department of Business and Professional Regulation. The bill provides that proprietary confidential business information provided by a promoter to the commission or obtained through an audit is confidential and exempt from public inspection and disclosure. The bill expands the public records exemption to include all proprietary confidential business information provided by the promoter to the commission by deleting the provision that the exemption applies only to the promoter's written report required to be filed with the commission after a match.

The bill provides the legislative finding that it is a public necessity to protect proprietary confidential business information from public disclosure to protect the interests of the promoter because a promoter's competitors could gain insights into the promotor's financial status and business plans and put the promoter at a competitive disadvantage. The bill provides that the harm to a promoter in disclosing proprietary confidential business information significantly outweighs any public benefit derived from the disclosure of such information.

These provisions were approved by the Governor and take effect July 1, 2016.
Vote: Senate 35-5; House 107-11

Committee on Regulated Industries

CS/CS/SB 698 — Alcoholic Beverages and Tobacco

by Fiscal Policy Committee; Regulated Industries Committee; and Senator Bradley

The bill revises alcoholic beverage and tobacco laws administered by the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation.

The bill includes other persons who are required to remit the tobacco taxes required under part I of ch. 210, F.S., within the process for determining the amount of unpaid taxes, including the three-year limitation for such determination and the process for judicial review.

The bill revises the method for calculating the requirement that restaurants with a special alcoholic beverage license must derive at least 51 percent of their gross revenue from the sale of food and nonalcoholic beverages. The bill provides that the 51 percent requirement is calculated on gross food and beverage revenue. It also provides that the 51 percent requirement must be maintained during the first 60-day operating period and during each 12-month operating period thereafter. The bill replaces the term "restaurant" with the term "food service establishment." The bill provides that licensees that fail to meet the required percentage must have their license revoked or a pending license application denied. The bill also provides that licensees whose license have been revoked or application denied for failure to meet the percentage requirement is ineligible to have any interest in a subsequent application for such a license for a period of 120 days after the date of the final denial or revocation. The ineligibility applies to any person who was required to qualify on the special license application of the revoked or denied license.

The bill provides quota license holders a one-time waiver for 12 months from the requirement that the license must be maintained in an active manner. The bill removes the provision in current law that gives the division the discretion to grant such waivers. The bill permits the agency to grant an additional 12 month extension of the waiver on the basis of the provided criteria. The criteria include physical damage to the licensed premises that makes active operation of the business impractical; when construction or remodeling is underway to relocate the license to another location; and a court order or local government action or inaction are preventing the permitting construction; or occupational capacity of the physical location of the licensed premises.

The bill requires distributors to charge vendors a deposit for kegs in an amount that is not less than that charged to the distributor by the manufacturer. It requires that the deposit for kegs of a like brand must be uniform and that deposits collected and credits allowed for empty kegs or containers must be shown separately on all sales tickets or invoices, which must also be given to the vendor at the time of delivery. The bill requires distributors of malt beverage kegs to implement an inventory and reconciliation process with certain vendors in which an accounting of draft kegs is completed and any loss or variance in the number of kegs is paid for by the vendor on a per-keg basis equivalent to the required keg deposit. This inventory and reconciliation process applies to vendors qualifying as an entertainment/resort complex, a theme park, or a marine exhibition park complex.

The bill permits municipalities, counties, and nonprofit civic and charitable organizations to be issued no more than 12 temporary alcoholic beverages permits per calendar year. It requires counties and municipalities to donate all net profits from the sale of alcoholic beverages to a nonprofit civic or charitable organization within 90 days of the event. As a condition for the permit, the county or municipality must have attempted to solicit a qualified civic or charitable organization to conduct the sales, but has been unable to find such an organization in a reasonable and practical time frame. Current law only permits "civic organizations" to receive no more than three temporary alcoholic beverage permit per year.

Effective upon the bill becoming law, the bill permits alcoholic beverage vendors who are license to sell beer and wine only for consumption off the premises (package stores) to sell growlers. To qualify to sell growlers, the package store's license must have been current and active on June 30, 2015, and must meet the following requirements:

- The vendor must prove that it had draft equipment and tapping accessories installed and had purchased kegs prior to June 30, 2015;
- The employee that fills growlers must be 18 or older;
- The taps or mechanisms used must not be accessible to customers;
- The growlers must meet the labeling or sealing requirements in current law; and
- The vendor cannot permit consumption on premises, including tastings or other sampling activities.

The bill permits the division to issue an alcoholic beverage license to railroad transit stations for the sale of beer, wine, and liquor. It also permits the division to issue a license for the sale of beer, wine, or liquor to the operators or restaurants, shops, or other facilities that are part, or that serve, railroad transit stations. Licenses issued to railroad transit stations would not be subject to the quota license restrictions that limit the number of such licenses that may be issued per county. The bill prohibits municipalities and counties from requiring any additional license or levying any tax for the privilege of selling alcoholic beverages. These licenses may not be transferred to premises beyond the railroad transit station. The bill requires the operator of the railroad and sleeping cars to keep separate the alcoholic beverages intended for sale on passenger trains and the alcoholic beverages intended for sale in the railroad transit station.

The bill revises the process for calculating alcoholic beverage and tobacco taxes that passenger vessels engaged exclusively in foreign commerce (cruise lines) must currently pay. The bill permits the cruise lines to calculate the taxes owed with a methodology based on ship capacity rather than the volume of alcohol or tobacco sold at port or within Florida's territorial waters. This process applies to excise taxes from the sale of alcoholic beverages, cigarettes, and other tobacco products. The bill requires that excise taxes must be calculated based upon the base rate, which is the total taxes paid by all passenger vessel permittees for period between January 1, 2015, and December 31, 2015. The bill also provides that the permit issued to passenger vessels under the Beverage Law in s. 565.02(9), F.S., applies to alcoholic beverages, cigarettes, and other tobacco products.

The bill permits a licensed distributor, when delivering alcoholic beverages to a licensed vendor, to transport the beverages through another premise owned in whole or in part by the vendor.

If approved by the Governor, these provisions take effect July 1, 2016, except where otherwise provided.
Vote: Senate 38-1; House 115-1

Committee on Regulated Industries

CS/CS/SB 826 — Mobile Homes

by Fiscal Policy Committee; Community Affairs Committee; and Senator Latvala

The bill requires the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (department) to notify the complainant of the status of the investigation within 30 days and within 90 days after receipt of a written complaint. The bill also requires the division to notify the complainant and the party complained against of the results of the investigation and disposition of the complaint.

The bill permits mobile home park owners to pass on to the tenant, at any time during the term of the rental agreement, non-ad valorem assessments or increases of non-ad valorem assessments, if the passing on of this charge was disclosed prior to the tenancy. The bill requires the park owner to give the tenant notice of a rent increase 90 days before the renewal date of the rental agreement. If the 90-day notice is not provided, the rental amount will remain with the same terms until a 90-day notice of increase in lot rental amount is given.

The purchaser of a mobile home is permitted to cancel or rescind a contract if the tenancy has not been approved by the park owner 5 days before the closing of the purchase.

The bill clarifies that in order to exercise the rights of a homeowners' association provided under ch. 723, F.S., mobile home owners must form an association. Additionally, upon incorporation of an association, all consenting mobile home owners in the park may become members or shareholders, and they consent to be bound by the articles of incorporation, bylaws, and policies of the incorporated homeowners' association. All the successors of the consenting homeowner are no longer bound to the articles of incorporation, the bylaws, and restrictions of the homeowners' association.

The bill provides that the joint owner of a mobile home or subdivision lot must be counted as one vote when determining the number of votes required for a majority and that only one vote may be counted per mobile home or subdivision lot. It permits association members to vote by secret ballot, including an absentee ballot.

If approved by the Governor, these provisions take effect July 1, 2016.
Vote: Senate 34-0; House 116-0

Committee on Regulated Industries

CS/CS/HB 1347 — Illicit Drugs

by Appropriations Committee; Criminal Justice Subcommittee; and Rep. Ingram and others (CS/CS/SB 1528 by Appropriations Committee; Regulated Industries Committee; and Senator Simpson)

The bill amends the schedule of controlled substances in s. 893.03, F.S., to describe, by core structure, the following synthetic controlled substances: synthetic cannabinoids; substituted cathinones; substituted phenethylamines; N-benzyl Phenethylamine compounds; substituted tryptamines; and substituted phenylcyclohexylamines. Each class description includes examples of compounds that are covered by the class description.

The bill:

- Revises the definition of the term "substantially similar" for the purpose of determining whether a substance is an analog to a controlled substance. The bill defines the term according to the chemical structure of the substance instead of according to its physiological effect. The bill also provides additional factors for determining whether a substance is an analog of a controlled substance to include comparisons to the accepted methods of marketing, distribution, and sales of the substance.
- Revises the chemical terms for existing controlled substances by correcting errors in existing substance listings and deleting double entries.
- Creates a noncriminal penalty for selling, manufacturing, or delivering, or possessing with intent to sell, manufacture, or deliver, certain unlawful controlled substance in, on, or near an assisted living facility. The noncriminal penalty is a $500 fine and 100 hours of community service in addition to any other penalty.
- Creates a third degree felony for a person 18 years of age or older who delivers certain illegal controlled substances to a person under the age of 18, who uses or hires a person under the age of 18 in the sale or delivery of such substance, or who uses a person under the age of 18 to assist in avoiding detection for specified violations.
- Creates a second degree felony for actual or constructive possession of a Schedule V controlled substance unless the controlled substance was lawfully obtained from a medical practitioner or pursuant to a valid prescription or order of a medical practitioner while acting in the course of his or her professional practice.
- Provides that a place or premises that has been used on two or more occasions within a six-month period as a site of a violation of ch. 499, F.S., may be declared a public nuisance and abated.
- Includes misbranded drugs in the listing of paraphernalia that are deemed to be contraband and subject to civil forfeiture.

If approved by the Governor, these provisions take effect July 1, 2016.
Vote: Senate 36-0; House 116-0

Committee on Regulated Industries

CS/CS/CS/SB 1602 — Elevators

by Fiscal Policy Committee; Community Affairs Committee; Regulated Industries Committee; and Senator Galvano

The bill creates s. 399.031, F.S., to require that new elevators in private residences must:

- Meet minimum distance requirements between the hoistway face of the hoistway doors and the hoistway edge of the landing sill for swinging and sliding doors;
- Be equipped with doors or gates that can withstand a force of 75 pounds without permanent deformation or displacing the door from its guides or track;
- Meet minimum distance requirements between the hoistway face of the landing door and the hoistway face of the car door or gate for different types of doors and gates; and
- Be equipped with a device that stops the downward motion of the elevator car under certain circumstances.

Current law defines the term "private residence" to mean a separate dwelling or a separate apartment in a multiple unit dwelling which is occupied by members of a single-family.

The provisions must be adopted into the Florida Building Code by October 1, 2016.

The bill provides that s. 339.031, F.S., may be cited as the "Maxwell Erik 'Max' Grablin Act."

If approved by the Governor, these provisions take effect July 1, 2016.
Vote: Senate 40-0; House 117-0