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 The bill also provides that licensees whose license have been revoked or application denied for failure to meet the percentage requirement is ineligible to have any interest in a subsequent application for such a license for a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