

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 21, 1998

Revised: _____

Subject: The Beverage Law

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	Rodriguez	Guthrie	RI	Favorable/CS
2.				
3.				
4.				
5.				

I. Summary:

The bill provides legislative intent that a temporary alcoholic beverage license issued by the Division of Alcoholic Beverages and Tobacco expires if the applicant is denied a permanent license and that such temporary license not be continued for any reason, including a proceeding challenging the denial. The bill also exempts a municipality or county from the limit under s. 561.422, F.S., of three temporary alcoholic beverage permits to a municipality or county.

This bill substantially amends the following sections of the Florida Statutes: 561.181, 561.331 and 561.422.

II. Present Situation:

Section 561.181, F.S., provides that the Division of Alcoholic Beverages shall issue a temporary initial alcoholic beverage license to any person who files an application for a permanent license that does not, on its face, disclose any reason for denying the license. Section 561.331, F.S., similarly provides for the issuance of temporary licenses when a person files an application for a transfer, change of location, or change in the type or series of license issued.

Section 561.181, F.S., provides that the temporary initial license shall be valid until the application is denied or until 14 days after the application is approved. The temporary license cannot be extended or renewed beyond these dates. Despite this provision, the division recently found itself unable to revoke a temporary license after denying a permanent license, pending the exhaustion of all administrative hearings and appeals of the decision to deny the permanent license. Therefore, under current law, an applicant for a permanent license can continue to operate under the temporary license, even after the division has denied a permanent license.

Section 561.422, F.S., provides that a 3-day temporary permit may be issued to any nonprofit civic organization but limits the organization to three such permits in any calendar year.

III. Effect of Proposed Changes:

Sections 1 and 2 amend ss. 561.181 and 561.331, F.S., to provide legislative intent that a temporary license a privilege that is extended when an application for a permanent license complies with the provisions of these sections. The bill specifies that issuance of a temporary license does not confer any entitlement to the applicant for the alcoholic beverage license applied for. It also provides that it is the intent of the legislature that a temporary license should expire once a notice of intent to deny has been issued and that the temporary license should not be continued or extended for any reason, including any administrative or judicial proceeding. The provisions in the bill do not usurp a court's authority to continue or extend a temporary license but they do put an applicant and others on notice that a temporary license is intended to expire once the notice to deny has been issued.

Section 3 amends s. 561.422, F.S., to exempt a municipality or county from the limit of three temporary permits per year.

Section 4 provides an effective date of July 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill addresses the due process concerns raised in the original bill by providing legislative intent to advise applicants and others that a temporary license is intended to expire once the division has either denied or approved an application for a permanent license.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

An applicant denied a permanent license will be severely affected while appealing the ruling since the temporary license is revoked and any future business in the sale of alcoholic beverages will be halted until a final determination is made.

C. Government Sector Impact:

The division should incur a minor reduction in legal expenses if fewer challenges are made to their authority to revoke temporary licenses.

The division may see an increase in temporary permits issued to municipalities and counties resulting in a minor increase in total fees collected.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides adequate and appropriate standards and guidelines to direct the agency's implementation of the proposed legislation.

VIII. Amendments:

None.