HOUSE OF REPRESENTATIVES
COMMITTEE ON
REGULATED SERVICES
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 725

RELATING TO: Beverage Law; manufacturers licensed as distributors

SPONSOR(S): Representative Villalobos

STATUTE(S) AFFECTED: s. 561.24, Florida Statutes

COMPANION BILL(S): SB 1216

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) REGULATED SERVICES
(2) GOVERNMENTAL RULES AND REGULATIONS
(3)
(4)
(5)

I. SUMMARY:

This bill would prohibit manufacturers of wine from also being licensed as a wholesale distributor. The bill provides a grandfather clause to exempt wine manufacturers who may hold a distributor's license on April 1, 1997 from the prohibitions of the bill.

The bill has an insignificant fiscal impact on state revenue.

The bill provides that the act shall take effect upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Beverage Law consists of chapter 561 relating to administration, chapter 562 relating to enforcement, chapters 563, 564 and 565 relating to beer, wine and liquor; and chapters 567 and 568 relating to wet and dry county elections. The Beverage Law requires a person to be licensed prior to engaging in the business of manufacturing, bottling, distributing, selling, or in any way dealing in the commerce of alcoholic beverages.

A simple explanation of the Florida Beverage Law is that the law generally requires all alcoholic beverages to move through three separate regulated tiers (manufacturer, wholesaler, retailer) before reaching the ultimate consumer. Activities between the three tiers are extensively regulated and constitute Florida's "Tied-House Evil" laws. The term "tied house" was derived from pre-prohibition era manufacturers' practice of controlling, or owning and operating their own, retail outlets (houses) where trade was restricted (tied) to the manufacturers' products and where an abundance of social evils existed. These laws were designed to prohibit the direct or indirect ownership or affiliation between a manufacturer of alcoholic beverages and a retail vendor.

Section 561.24, F.S., provides that no manufacturer, rectifier, or distiller of *"spirituous liquors"* can be licensed as a distributor or registered as an exporter. The statute provides an exception for manufacturers licensed on June 3, 1947, if not more than 40% of the alcoholic beverages sold by the licensee were manufactured by any corporation with which the licensee is directly or indirectly affiliated. The malt beverage franchise law, s. 563.022, F.S., governs relationships between breweries and distributors and provides limited periods of ownership which would necessitate dual licensure.

Section 561.22, F.S., provides that no manufacturer, distributor or exporter may be licensed as a vendor. This statute further provides that no vendor may also be licensed as a manufacturer, distributor or exporter. Section 561.221, F.S., contains a series of exceptions to the prohibitions of s. 561.22.

B. EFFECT OF PROPOSED CHANGES:

HB 725 amends s. 561.24, F.S., to prohibit a manufacturer, rectifier, or distiller of wine from being dually licensed as a distributor or registered as an exporter. The bill contains a grandfather clause which exempts any manufacturer of wine who holds a distributor's license on April 1, 1997 from the new prohibition.

Present law provides an exception for liquor manufacturers also licensed as distributors on June 3, 1947, if not more than 40% of the alcoholic beverages sold by the distributor were manufactured by any corporation with which the licensee is directly or indirectly affiliated. HB 725 exempts wine manufacturers who are also licensed as distributors from this 40% limitation.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. <u>Lower Taxes:</u>

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes, the bill prohibits the dual licensure of a winery as both manufacturer and distributor.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

N/A

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

   Minimal.

2. Recurring Effects:

   Minimal.

3. Long Run Effects Other Than Normal Growth:

   Indeterminate.

4. Total Revenues and Expenditures:

   The bill would have a negative, but indeterminate, impact on license fee revenue due to the prohibition of licensure for a certain class of businesses.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   None.

2. Recurring Effects:

   None.

3. Long Run Effects Other Than Normal Growth:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   None.

2. Direct Private Sector Benefits:

   The bill potentially benefits businesses presently licensed as distributors by prohibiting a certain class of licensees (wineries) from holding dual licensure.

3. Effects on Competition, Private Enterprise and Employment Markets:

   Indeterminate.

D. FISCAL COMMENTS:

   None

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

   This bill does not require counties or municipalities to spend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

   This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES

   This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

Subsection (5) of the bill contains an obsolete reference to license renewal based upon approval from the board of county commissioners (page 2, line 30). The committee may wish to consider a technical amendment which would strike that reference and replace with a reference to the Division of Alcoholic Beverages and Tobacco.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON REGULATED SERVICES:

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