

**STORAGE NAME:** h2281s1z.rs  
**DATE:** June 8, 2000

**\*\*AS PASSED BY THE LEGISLATURE\*\***  
**CHAPTER #:** 00-191, Laws of Florida

**HOUSE OF REPRESENTATIVES  
AS FURTHER REVISED BY THE COMMITTEE ON  
REGULATED SERVICES  
FINAL ANALYSIS**

**BILL #:** CS/HB 2281

**RELATING TO:** Department of Business and Professional Regulation

**SPONSOR(S):** Committee on Regulated Services, Representative Bitner and Others

**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) REGULATED SERVICES YEAS 8 NAYS 0
  - (2) FINANCE & TAXATION (W/D)
  - (3) GENERAL GOVERNMENT APPROPRIATIONS YEAS 9 NAYS 0
  - (4)
  - (5)
- 

**I. SUMMARY:**

This is a multi-faceted bill addressing several areas of regulation under the purview of the Department of Business and Professional Regulation. Among its provisions relating to food service, the bill:

- Implements a food service training certificate program;
- Requires RFP for issuance of 4-year contract;
- Requires certification of food service employees by January 1, 2001, and provides for duration of training certificate; and
- Revises the membership of the Hotel and Restaurant Advisory Council.

Among its provisions relating to alcoholic beverages, the bill:

- Revises the definition of "licensee" and provides a definition and conditions for an "applicant" for purposes of the Beverage Law;
- Revises language with respect to the duration of temporary licenses;
- Increases the population requirements for quota liquor licenses;
- Creates a special alcoholic beverage license classification for caterers;
- Provides an additional prohibition for which a license suspension or revocation may occur under the Beverage Law; and
- Authorizes golf clubs to purchase and sell alcoholic beverages in specified size containers.

Preliminary estimates indicate that the quota license restriction in the bill may result in reduced license fee revenue collections of approximately \$40,000 annually and reduced disbursements to the Department of Children and Family Services' Operations and Maintenance Trust Fund of approximately \$258,000. The creation of an alcoholic beverage license for caterers is expected to generate an indeterminate amount of new revenue, the first \$300,000 of which is earmarked for the CFS Operations and Maintenance TF.

The act will take effect July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

**PUBLIC FOOD SERVICE ESTABLISHMENTS**

Food Service Training

Chapter 509, F.S., authorizes the Division of Hotels and Restaurants [division] of the Department of Business and Professional Regulation to regulate public lodging and public food service establishments.

Florida Administrative Code 61C-4.010, provides that public food service establishments shall be subject to the provisions of federal law, Chapter 3, Food Code, for purposes of food safety and sanitation issues, except when specifically authorized otherwise by rule. Combined, the Federal Food Code and Florida's Administrative Code provide detailed and comprehensive food service safety standards.

Section 509.049, F.S., created by Chapter 96-384, Laws of Florida, required the Division of Hotels and Restaurants to adopt, by rule, minimum food safety protection standards for food service employees which did not include examination or certification. These standards are to be used in the training of food service employees who are responsible for the storage, preparation, display, or serving of food to the public in establishments subject to the regulation of Chapter 509, F.S. This section requires that public food service licensees or their certified food service manager designees are to provide the training described by rule to the employees under their supervision.

Division of Hotels and Restaurants Advisory Council

Section 509.291, F.S., establishes an 18-member advisory council to assist the division by advising it on matters affecting the private-sector entities regulated by the division. The stated purposes of the advisory council are to promote better relations, understanding, and cooperation between such industries and the division; to suggest means of better protecting the health, welfare, and safety of persons using the services offered by such industries; to give the division the benefit of its knowledge and experience concerning the industries and individual businesses affected by the laws and rules administered by the division; and to promote and coordinate the development of programs to educate and train personnel for such industries. The Secretary of the Department of Business and

**STORAGE NAME:** h2281s1z.rs

**DATE:** June 8, 2000

**PAGE 3**

Professional Regulation appoints 11 voting members who must each be an operator of an establishment licensed under Chapter 509 and shall represent the industries regulated by the division. One of those 11 members, however, must be a layperson representing the general public. The council members serve staggered terms of four years.

The division, the Department of Health and several specifically named statewide associations are each afforded the opportunity to name one voting representative to sit on this council. Associations with appointment authority include: the Florida Hotel and Motel Association, the Florida Restaurant Association, the Florida Apartment Association, and the Florida Association of Realtors. One member appointed by the Secretary must be appointed to represent nontransient public lodging establishments. One member must be a hospitality administration educator from a state university affiliated with the Hospitality Education Program [HEP] who serves a 2-year term.

### Food Caterers

Caterers are classified, for purposes of Chapter 509, as any public food service establishment where food or drink is prepared for service elsewhere. Caterers must meet all applicable standards of public food service establishments as provided in Rules 61C-4.010 and 61C-4.023, FAC. At present there are nearly 300 caterers licensed with the Division of Hotels and Restaurants.

## **REGULATION OF THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES**

Chapters 561-565, 567 and 568, Florida Statutes, comprise Florida's Beverage Law. 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. The sale of alcoholic beverages is generally considered to be a privilege and as such, licensees are held to a high standard of accountability.

Of Florida's 67 counties, seven counties are "dry" which means that the sale of "intoxicating liquors, wines, or beer containing more than 6.243 percent of alcohol by volume" may not be lawfully sold in those counties. In addition to those seven counties, four counties allow the sale of intoxicating liquors, wines, or beer containing more than 6.243 percent of alcohol by volume to be sold only by the unopened package. Chapter 567 provides the guidelines by which counties may conduct a local option election to determine whether the sale of alcoholic beverages shall be permitted in that county; and, if allowed, whether they may be sold for consumption on premises or by the package only.

### Quota Liquor Licenses

Alcoholic beverage licenses are issued either for consumption on the licensed premises [COP] or for package sales [PS]. There is no limitation on the number of beer and wine retail licenses which may be issued in the state. There is, however, a limit on the number of liquor "quota" licenses which may be issued based on population: one license for every 5,000 residents in a county. A quota license allows the sale of all alcoholic beverages [beer, wine and liquor] for either consumption on or off the vendor's licensed premises. Florida's retail alcoholic beverage licensing system is generally built around the quota license structure with all other retail licenses which allow the sale of liquor enacted as *exceptions* to the quota limitation. Quota licenses also operate with considerable more flexibility than special classification licenses issued as an exception to the quota restriction. Liquor package stores and bars/nightclubs typically operate under the authority of a quota license. The law provides for an annual lottery-type, double random drawing to award

quota licenses. If the winning quota license applicant does not qualify for issuance of the license, the license option transfers to the next person in line based on their ranking from the quota drawing.

Retail quota license fees are based on the county's population and whether alcoholic beverages would be consumed on the vendor's licensed premises or sold for consumption off-premises. The cost of a quota license ranges from \$468 in the smaller counties to \$1,820 in counties with populations over 100,000. Alcoholic beverage license fees are deposited into the Alcoholic Beverages and Tobacco Trust Fund.

Section 561.342, F.S., requires that 24 percent of alcoholic beverage license fee revenue be returned to the county in which the business is located and that 38 percent of alcoholic beverage license fee revenue be returned to the municipality in which the business is located.

In addition to these license fees, s. 561.19(6), F.S., requires the payment of a \$10,750 fee on the initial issuance of a quota license. This fee, commonly referred to as the "Hughes Act" fee, is deposited in the Children and Family Services' Operations and Maintenance Trust Fund and is used to supplement funding of alcohol and drug abuse education, treatment and prevention programs.

Section 561.32, F.S., assesses a transfer fee on the average annual value of gross sales of alcoholic beverages for the three years immediately preceding the transfer and levied at the rate of four mills, except that the transfer fee may not exceed \$5,000. In addition to that transfer fee, if a quota license is transferred within three years of issuance, an additional transfer fee in an amount equal to 15 times the annual license fee is assessed.

Quota limitations were initially enacted in the interest of promoting temperance by limiting the number of outlets and, therefore, the availability of alcoholic beverages. By restricting competition, quota limitations also enhance the value of existing liquor licenses. Quota licenses often sell on the private market for thousands of dollars.

There are numerous exceptions in general law to the quota limitation which provide for the issuance of liquor licenses to certain groups under specified conditions and with specified limitations. Since these licenses are *exceptions* to the quota restriction they are not allowed as much flexibility in their operations. For instance, s. 561.20, F.S., authorizes the issuance of a special liquor license to hotels, condominium associations, restaurants, boards of county commissioners, airports, etc., if they meet specified statutory qualifications. There is, however, no special license classification for caterers. These special license classifications were designed to enhance the operation of a business and are intended to be ancillary to the principal purpose of the business.

As of June 30, 1999, there were 4,834 quota licenses issued in the state. Of that number, 266 quota licenses are in escrow; that is, not in use. This is due, in part, to the difficulty in citing a location for the business, particularly in the most populous counties.

#### Temporary Licenses

Section 561.181, F.S., provides that the Division of Alcoholic Beverages and Tobacco 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. Temporary alcoholic beverage licenses are a distinct and separate classification under the Beverage Law. The issuance of a temporary license is granted by the division as a privilege awarded to any applicant who, on the surface, appears to meet all qualifications for permanent licensure and who has filed a completed application for permanent licensure. These sections provide 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.

Until recently, upon the division's determination that an application would not be approved, the division notified applicants of their "intent to disapprove" the application and took the position that the temporary license ceased to be valid on that date. In 1998, however, a court determined that the division was unable to revoke a temporary license pending the exhaustion of an administrative hearing on the division's decision. [See *Silver Show, Inc. v. Department of Business Regulation*, 706 So.2d 386 (Fla. 4<sup>th</sup> DCA 1998)] This ruling has enabled businesses to continue to operate, sometimes for a period of years, before all hearings were concluded and the agency was able to revoke the license.

### Waiver of Fees

Section 561.32, F.S., authorizes the division to waive the transfer fees and delinquent penalties when the transfer of an interest in an alcoholic beverage license occurs by operation of law because of a death, judicial proceedings, court appointment of a fiduciary, foreclosure or forced judicial sale, bankruptcy proceedings, or seizure of a license by a government agency.

### Applicants/Licensees

Section 561.01(14), F.S., provides the following definition:

"Licensee," "applicant," or "person" means an individual, corporation, firm, partnership, limited partnership, incorporated association, unincorporated association, professional association, or other legal or commercial entity; a combination of such entities; or any such entity having a financial interest, directly or indirectly, in another such entity.

Section 561.17, F.S., requires any "person" before dealing in the commerce of alcoholic beverages to file an application with the division. That section continues to state, in part, that prior to an application's approval the division may require, "...the applicant to file a set of fingerprints...for herself or himself and for any person or persons interested directly or indirectly with the application in the business..."

The department maintains that there exists a lack of clarity or specificity to determine who is required to be on a license application.

### Revocation or Suspension of Licenses

Section 561.29, F.S., authorizes the division to revoke or suspend the license of a licensee for certain enumerated violations, including, but not limited to: violations of the Beverage Law; violations of municipal or county regulations regarding hours of operation, etc.; maintaining a nuisance on the licensed premises; maintaining unsanitary premises; a determination that a person interested, directly or indirectly, with the license is not qualified; failure to maintain required records, etc. The department is unable, however, to revoke or

suspend a license when a licensee fails to comply with a stipulation, consent order or final agency order.

#### Purchase and Sale of Alcoholic Beverages by Clubs

Section 565.05, F.S., restricts club licensees from purchasing distilled spirits in individual containers larger than 1.75 liters or 59.18 ounces or smaller than 0.50 liter or 16.9 ounces. Clubs are also limited to the sale of alcoholic beverages by the drink for consumption on premises.

### C. EFFECT OF PROPOSED CHANGES:

#### **PUBLIC FOOD SERVICE ESTABLISHMENTS**

##### Food Service Training

Present law requires the Department of Business and Professional Regulation [DBPR] to establish food safety 'standards' which restaurants are to use in their individual training programs. Florida Administrative Code 61C-4.010, provides that public food service establishments shall be subject to the provisions of federal law, Chapter 3, Food Code, for purposes of food safety and sanitation issues, except when specifically authorized otherwise by rule.

This bill amends s. 509.049, F.S., to establish a food safety training certificate program to be administered by a private non-profit provider chosen by the division. The division is required to issue a request for competitive sealed proposals which will include a statement of the contractual services sought and all terms and conditions applicable to the contract. The division is required to award the contract to the provider whose proposal is determined, in writing, to be the most advantageous to the state, taking into consideration the price and other criteria set forth in the RFP. The division shall consider, but is not limited to, the minimum food safety standards adopted by the division, the experience and history of the provider in representing the food service industry, the provider's demonstrated commitment to food safety, and its ability to provide a statewide program with industry support and participation. The contract will be for a four-year period.

Food service employees must receive certification pursuant to this section by January 1, 2001. Food service employees hired after November 1, 2000, must receive certification within 60 days after employment. Certification will remain valid for three years. The division may establish, by rule, a per employee fee sufficient to cover the contracted price for the program.

Established food safety training programs which are already being utilized at a public food service establishment on the effective date of this act and which meet the division's standards may be grandfathered in, if the restaurant utilizing the program submits it to the division for review and approval. Thereafter, any other restaurant will be allowed to utilize any program which has been approved by the division upon their verification that the program is on the division's list of approved programs.

##### Division of Hotels and Restaurants Advisory Council

Present law establishes an 18-member advisory council on food safety. The amendment to s. 509.291, F.S., in this legislation reduces the membership on the advisory council to ten. The Secretary will appoint 5, rather than 11, voting members. The Florida Hotel and Motel

Association, the Florida Restaurant Association, the Florida Apartment Association, and the Florida Association of Realtors will continue to appoint one member each to serve as a voting member of the council. One hospitality administration educator affiliated with the Hospitality Education Program will continue to be designated on a rotating basis by the institution or institutions of higher education affiliated with the program. The division and the Department of Health will no longer appoint a voting member. The previous requirement that the Secretary appoint a representative from nontransient public lodging establishments is deleted.

## **REGULATION OF THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES**

### Quota Liquor Licenses

This bill amends s. 561.20(1), F.S., to increase the quota license restriction from one license for every 5,000 residents in a county to one license for every 7,500 residents in a county. Based on recent estimates of population increases, this change will result in 24 fewer quota licenses being issued in the 2001 quota drawing.

The bill requires that a transfer fee equal to fifty times the annual license fee be assessed on the transfer of any quota license issued after October 1, 2000. This transfer fee is in addition to the transfer fees assessed in s. 561.32(3)(a) and appears to be applicable to each and every transfer for the life of the license.

### Caterer's License

This bill amends s. 561.20(2)(a), F.S., to create a new subparagraph 5. and creates a special alcoholic beverage license for caterers. This special license will allow caterers, who derive at least 51 percent of their gross revenue from the sale of food and nonalcoholic beverages, to sell alcohol by the drink for consumption on the premises of a catered event at which the caterer is providing prepared food. The caterer is required to purchase all alcoholic beverages it sells or serves at catered events from licensed retail vendors. The caterer may not store alcohol but must leave excess inventory either with the customer or return it to the retail vendor from whom it was purchased, if the retailer accepts unopened containers. The caterer is required to maintain specific records for a period of three years.

Caterers must observe all provisions of the Beverage Law and any local act or ordinance concerning the sale or service of alcoholic beverages. The annual license fee is \$1,820 regardless of the county in which the caterer is licensed or operates. In contrast to all other alcoholic beverage license fee revenue, this bill requires that all fees collected pursuant to this subparagraph shall be deposited into the Hotel and Restaurant Trust Fund. The first \$300,000 in caterer license fee revenue collected in each fiscal year, however, will be transferred to the Department of Children and Family Services' Operations and Maintenance Trust Fund to offset the reduction in deposits to that fund as a result of fewer quota licenses being issued.

The bill also allows quota license holders, without additional license or fees, to sell alcoholic beverages for consumption on the premises of a catered event. The division is authorized to adopt rules to implement these amendments.

Presently nearly 300 caterers are licensed by the Division of Hotels and Restaurants. The food service industry indicates that there may be many more unlicensed caterers actually operating in the state. At this time, the number of caterers who will avail themselves of this license capability is indeterminate.

### Temporary Licenses

This bill amends ss. 561.181 and 561.331, F.S., to address the duration of temporary alcoholic beverage licenses. The bill provides that a temporary license shall not be continued during any proceeding for administrative or judicial review pursuant to Chapter 120 challenging the final agency action when the denial is due to the failure of the applicant to disclose information required by s. 561.15(2) or (4). Otherwise, a temporary license will continue through all administrative and judicial reviews. A temporary license is valid for 90 days and may be extended by the division for good cause.

### Waiver of Fees

This bill amends s. 561.32, F.S., to clarify that license renewal fees may not be waived when the transfer of an interest in an alcoholic beverage license occurs by operation of law because of a death, judicial proceedings, court appointment of a fiduciary, foreclosure or forced judicial sale, bankruptcy proceedings, or seizure of a license by a government agency. Transfer fees and delinquent penalties may be waived.

### Applicants/Licensees

Section 3 of the bill amends s. 561.01(14), F.S., and provides a definition for licensee as “a legal or business entity, person, or persons that hold a license issued by the division and meet the qualifications set forth in s. 561.15, F.S.”

The bill amends s. 561.17(1), F.S., in Section 4, and provides a definition for applicants. This subsection states that an applicant includes:

“... all persons, officers, shareholders, and directors of such legal or business entity that have a direct or indirect interest in the business seeking to be licensed...the applicant does not include any person that derives revenue from the license solely through a contractual relationship with the licensee, the substance of which contractual relationship is not related to the control of the sale of alcoholic beverages.”

### Revocation or Suspension of Licenses

Existing law allows the division to revoke or suspend an alcoholic beverage license for various acts or violations. This bill creates a new paragraph (k) in s. 561.29(1), F.S., and allows the division to revoke or suspend an alcoholic beverage license for the failure of a licensee to comply with any term of a stipulation, consent order or final order.

### Purchase and Sale of Alcoholic Beverages by Clubs

Sections 565.05 and 565.06, F.S., restrict club licensees from purchasing distilled spirits in individual containers larger than 1.75 liters or 59.18 ounces or smaller than 0.50 liter or 16.9 ounces and prohibit the packaged sale of alcoholic beverages. This bill amends those sections to enable golf clubs licensed pursuant to s. 561.20(7)(b), F.S., to purchase 50 milliliter and 1.7 ounce containers, commonly referred to as “miniatures” and also to sell those miniatures for consumption on the licensed premises of the golf club.

The bill provides that this act will take effect on July 1, 2000.



D. SECTION-BY-SECTION ANALYSIS:

**Section 1. Amends s. 509.049, Florida Statutes**

Present law requires the DBPR to establish food safety 'standards' which restaurants are to use in their individual training programs. The proposed amendment to this statute establishes a food safety training certificate program to be administered by a private non-profit provider chosen by the division. A competitive sealed proposal is required and the contract is for four years. The DBPR may establish fees by rule. Existing food safety training programs which meet the division's standards will be grandfathered.

**Section 2. Amends s. 509.291(1), Florida Statutes**

Present law establishes an 18-member advisory council on food safety. The proposed amendment to this statute reduces the membership on the advisory council to ten. The Secretary will appoint 5, rather than 11, voting members. The Florida Hotel and Motel Association, the Florida Restaurant Association, the Florida Association of Realtors and the Florida Apartment Association will continue to appoint one member each to serve as a voting member of the council. An educator affiliated with the Hospitality Education Program will continue to be appointed. The division and the Department of Health will no longer appoint a member. The previous requirement that the Secretary appoint a representative from nontransient public lodging establishments is deleted.

**Section 3. Amends s. 561.01(14), Florida Statutes**

Amends the definition for "licensee" for purposes of the Beverage Law.

**Section 4. Amends s. 561.17(1), Florida Statutes**

Provides a definition for "applicant" which includes anyone with a direct or indirect interest in the business. It does not, however, include someone who derives a benefit through a contractual relationship with the licensee if the contract does not relate to the control of the sale of alcoholic beverages.

**Section 5. Amends s. 561.181, Florida Statutes**

Addresses the duration of a temporary initial alcoholic beverage license. Provides that a temporary license expires and cannot be extended during an administrative or judicial review if the DBPR determines that the licensee did not disclose information required by s. 561.15(2) or (4). Otherwise, a temporary license will continue through all administrative and judicial reviews. Technical amendments are also made to this section.

**Section 6. Amends s. 561.20, Florida Statutes**

Makes the quota liquor license statute more restrictive by amending the statute which allows the issuance of one liquor license for every 5,000 residents in a county to allow the issuance of one liquor license for every 7,500 residents in a county.

Section 6 also creates an alcoholic beverage license for caterers who receive at least 51 percent of their gross revenue from the sale of food and nonalcoholic beverages. This special license classification will allow a licensed caterer to sell alcohol by the drink for consumption on the premises of a catered event at which the caterer is providing prepared

food. The caterer is required to purchase all alcoholic beverages from licensed retail vendors. The caterer may not store alcohol but must leave excess inventory with the customer or return it to the retail vendor. The caterer is required to maintain specific records for a period of three years. This amendment also enables quota license holders to serve alcoholic beverages at catered events without the need to purchase an additional license. Fees collected from caterers' licenses will be deposited into the Hotel and Restaurant Trust Fund, except that the first \$300,000 collected will be deposited in the Children and Family Services' Operations and Maintenance Trust Fund to be used for alcohol and drug abuse education, treatment, and prevention programs. The division is authorized to adopt rules by which to implement the provisions of this section.

**Section 7. Creates s. 561.29(1)(k), Florida Statutes**

Allows the DABT to revoke or suspend an alcoholic beverage license for the failure of a licensee to comply with any term of a stipulation, consent order or final order.

**Section 8. Amends s. 561.32(5) and (6), Florida Statutes**

Specifies that the division shall not waive license renewal fees when a transfer of an interest in an alcoholic beverage license occurs by operation of law because of a death, judicial proceedings, court appointment of a fiduciary, foreclosure or forced judicial sale, bankruptcy proceedings, or seizure of a license by a governmental agency. The division may still waive transfer fees and delinquent penalties.

Requires a fee be assessed on the transfer of any quota license issued after October 1, 2000, equal to 50 times the annual license fee. This fee is in addition to other transfer fees prescribed by law.

**Section 9. Amends s. 561.331, Florida Statutes**

Addresses the duration of a temporary alcoholic beverage license for a transfer, change of type or series or change of location. Provides that a temporary license ceases to be effective if the DBPR determines that the licensee did not disclose the information required by s. 561.15(2) or (4). Otherwise, a temporary license will continue through all administrative and judicial reviews. Technical amendments are also made to this section.

**Section 10. Amends s. 565.05, Florida Statutes**

Allows golf clubs to purchase alcoholic beverages in 50 milliliter and 1.7 ounce containers, otherwise known as miniatures.

**Section 11. Amends s. 565.06, Florida Statutes**

Allows golf clubs to sell miniatures [alcoholic beverages in 50 milliliter and 1.7 ounce containers] for consumption on the licensed premises.

**Section 12. Effective date of July 1, 2000.**

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Hotel and Restaurant Trust Fund, DBPR

License fee revenue generated from the newly created alcoholic beverage license for caterers will be deposited into this trust fund, except that the first \$300,000 will be transferred to the Operations and Maintenance Trust Fund at the Department of Children and Family Services. The new alcoholic beverage license fee is \$1,820 annually. There are currently 291 food caterers licensed with the Division of Hotels and Restaurants. The number of food caterers who will avail themselves of this special alcoholic beverage license is unknown; therefore, this provision will generate an indeterminate amount of new revenue to this trust fund.

Alcoholic Beverages and Tobacco Trust Fund, DBPR

The increased quota license restrictions of this bill will reduce the number of quota licenses issued annually and is estimated to reduce revenue collections by approximately \$40,000 annually.

Operations and Maintenance Trust Fund, CFS

The increased quota restrictions included in this bill will reduce the number of quota licenses issued annually and, consequently, reduce Hughes Act deposits into this fund. The DBPR estimates that this change will result in 24 fewer quota licenses being issued in the 2001 quota drawing which would reduce deposits to this fund by approximately \$258,000 for that quota license issuance period. The bill requires the first \$300,000 in license fee revenue from the alcoholic beverage license for caterers to be deposited into this trust fund. Whether this new revenue will be sufficient to offset the Hughes Act decline is indeterminate at this time.

2. Expenditures:

No significant increase in expenditures is anticipated by the department.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Food Service Training Program

The food service training provider chosen by the division will benefit to the extent their training program will be utilized to a greater extent than other programs.

Additionally, since only food service training programs currently utilized on the effective date of this act will be allowed to provide the required food service training, this bill limits new business enterprises from entering that arena.

Quota Licenses

The increased alcoholic beverage quota license restriction provided in this legislation will enhance the value of existing quota licenses to the benefit of the owners of those quota licenses currently in operation and also for the owners of those quota licenses in escrow.

To the extent that any reduction in the number of alcoholic beverage retail outlets reduces the number of alcohol related accidents, injuries, illnesses or social problems, the quota limitation may have a positive impact on the private sector as a whole.

D. FISCAL COMMENTS:

Quota Licenses

The increased quota license restrictions of this bill may reduce the number of quota licenses issued annually. Utilizing preliminary figures obtained from the Department of Business and Professional Regulation in late 1999, it appears that based on 2001 population estimates, new license fee revenue collections may be reduced from \$81,016 to \$40,040, which may result in an estimated \$40,976 reduction in revenue collections for that license period.

Twenty-four percent of license fee revenue goes to the county where the license is located and 38 percent of the license fee revenue goes to the municipality where the license is located. Therefore, under the fall estimates provided above, \$9,834 less may be disbursed to the licensee's counties and \$15,571 less may be disbursed to the municipalities in which the licenses are issued.

Section 561.19(5), F.S., requires a fee of \$10,750, commonly referred to as the Hughes Act fee, to be collected from each new quota license holder. This fee is deposited into the Department of Children and Family Services' Operations and Maintenance Trust Fund. Based on the above estimates, Hughes Act deposits may be reduced by approximately \$258,000 for that quota license issuance period.

Alcoholic Beverage License for Caterers

At present there are 291 caterers licensed by the Division of Hotels and Restaurants. According to industry estimates, the number of caterers operating in the state is considerably greater than the number actually licensed by the state. Assuming all of the *licensed* caterers in the state obtain an alcoholic beverage license as provided in this bill, annual license fee revenue collections for the Hotel and Restaurant Trust Fund may be increased by \$529,620. The actual number of new licensees and new revenue collections is indeterminate.

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:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

The Division of Hotels and Restaurants, Department of Business and Professional Regulation will be required to adopt rules in order to establish appropriate fees for the food safety training certificate program for food service employees.

Additionally, the Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation will be required to adopt rules in order to implement the special license classification created for caterers.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

**Committee on Regulated Services**

The Committee on Regulated Services considered HB 2281 on April 10, 2000, and passed the bill as a committee substitute. The committee substitute clarifies a number of issues in the original HB 2281.

Food Service Issues:

- ▶ requires the Division of Hotels and Restaurants to issue a request for competitive sealed proposals for the food safety training certificate program;
- ▶ authorizes existing established and administered programs to be grandfathered; and

- ▶ reinserts the Florida Association of Realtors to the Division of Hotels and Restaurants' Advisory Council.

Alcoholic Beverage Issues:

- ▶ allows quota liquor license holders to also operate as caterers
- ▶ further clarifies definition of applicant for purposes of the Beverage Law;
- ▶ amends temporary license statute to provide that a temporary license will not be continued or extended during any proceeding for administrative or judicial review appealing a denial, if the denial was due to an undisclosed felony conviction or failure of an applicant to disclose a true identity; and
- ▶ allows golf clubs to buy alcoholic beverages in 50 milliliter and 1.7 ounce size containers [miniatures] and to sell same for consumption on premises.

**Committee on General Government Appropriations**

On April 26, 2000, the Committee on General Government Appropriations considered CS/HB 2281 and passed the bill with four amendments:

Amendment #1. Changes composition of advisory committee by removing language from the bill which made the representative from the hospitality education program an ex officio, non-voting member of the council and reinstates current law status as a voting member.

Amendment #2. Removes new language from the bill that required the continuance of a temporary initial license through the administrative and appellate process for reasons other than a felony conviction or disclosure of applicant's true identity. Clarifies by specifically referencing to those statutorily enumerated convictions which will preclude issuance of a permanent license and therefore the continuation of a temporary license through appellant and administrative process.

Amendment #3. Requires first \$300,000 of cater's license fee collections to be deposited into the Children and Family Services' Operations and Maintenance Trust Fund to offset loss of revenue due to the reduction in the number of quota licenses issued.

Amendment #4. Conforming amendment to amendment #2 relating to temporary licenses for transfers, change of location and change of type or series.

**Final Action**

The bill was placed on the Special Order Calendar on April 27, 2000, where three amendments were adopted.

Amendment #1. Requires food service employees to receive certification by January 1, 2001, and requires those employees hired after November 1, 2000, to receive certification within 60 days of employment. The certification remains valid for three years.

Amendment #2. Provides that caterers must derive at least 51 percent of their gross revenue from the sale of food and nonalcoholic beverages in order to qualify for the special alcoholic beverage license.

Amendment #3. Imposes a transfer fee in an amount equal to 50 times the annual license fee on all quota licenses issued under the more restrictive quota limitation.

**STORAGE NAME:** h2281s1z.rs

**DATE:** June 8, 2000

**PAGE 15**

The bill was read a third time on May 2, 2000, and three additional clarifying amendments were adopted. The bill passed the House with 110 Yeas and 5 Nays and was referred to the Senate. On May 3, 2000, the Senate substituted CS/HB 2281, 2nd engrossed for CS/SB 2542 and passed the bill with 35 Yeas and 1 Nay.

VII. SIGNATURES:

**COMMITTEE ON REGULATED SERVICES:**

Prepared by:

Staff Director:

Janet Clark Morris

Paul Liepshutz

**AS FURTHER REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT  
APPROPRIATIONS:**

Prepared by:

Staff Director:

Juliette Noble

Cynthia P. Kelly

**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON REGULATED SERVICES:**

Prepared by:

Staff Director:

Janet Clark Morris

Paul Liepshutz