

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.)

BILL: CS/SB 2542

SPONSOR: Committee on Regulated Industries and Senator King

SUBJECT: Department of Business and Professional Regulation

DATE: April 14, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Guthrie</u>	<u>RI</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill:

- Requires the Division of Hotels and Restaurants to adopt a rule providing for a food safety training certificate program to be administered by a private nonprofit provider under a contract with the Division of Hotels and Restaurants.
- Defines who may be an applicant for an alcoholic beverage license and revises the requirements as to information provided on applications.
- Increases the liquor license quota population requirement from one license per each 5,000 residents of a county to one license per each 7,500 residents.
- Creates a new special liquor license for caterers and authorizes vendors holding quota licenses to sell alcoholic beverages for on-premises consumption at a catered event.
- Provides that the first \$300,000 collected in caterer license fees is to be deposited in the Department of Children and Family Services' Operations and Maintenance Trust Fund.
- Provides that if an alcoholic beverage license applicant receives notice from the Department of intent to deny the license application for failure to disclose information relating to prior convictions, the temporary license expires and is not extended during any formal hearings relating to the denial.
- Provides for revocation or suspension of a license upon failure of the licensee to comply with a stipulation, consent order, or final order.
- Allows golf clubs to purchase and sell 50 milliliter or 1.7 ounce containers for consumption on the premises only.

The bill substantially amends the following sections of the Florida Statutes: 509.049, 509.291, 561.01, 561.17, 561.20, 561.29, 561.32, 565.05, and 565.06.

II. Present Situation:

Section 509.049, F.S., provides that the Division of Hotels and Restaurants of the Department of Business and Professional Regulation (DHR) is to adopt, by rule, minimum food safety protection

standards for the training of all food service employees who are responsible for the storage, preparation, display, or serving of foods to the public in establishments regulated under this chapter. These standards are not to include an examination or certification. It is the duty of the licensee of the public food service establishment to provide training in accordance with the described rule to all employees under the licensee's supervision or control.

Section 509.291, F.S., establishes an 18-member advisory council to promote better relations, understanding, and cooperation between industries such as hotels and motels, restaurants, apartments, Realtors, and nontransient public lodging establishments and the DHR; to suggest means of better protecting the health, welfare, and safety of persons using the services offered by such industries; to give the DHR the benefit of its knowledge and experience concerning the industries and individual businesses affected by the laws and rules administered by the DHR; and to promote and coordinate the development of programs to educate and train personnel for such industries.

Section 561.01 defines terms used in the beverage law. Subsection 561.01(14), F.S., defines the terms "licensee," "applicant," or "person" to mean "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 561.15, F.S., provides generally for the required qualifications to obtain an alcoholic beverage license. Licenses can be issued only to persons of good moral character who are not less than 21 years of age. Licenses to corporations can be issued only to corporations whose officers are of good moral character and not less than 21 years of age. A license may not be issued to any person who has been convicted within the last 5 years of any offense against the beverage laws of this state, the United States, or any other state; who has been convicted within the last past 5 years in this state or any other state or the United States of soliciting for prostitution, pandering, letting premises for prostitution, or keeping a disorderly place or of any criminal violation of the statutes on controlled substances of this state or of any other state or the Federal Government; or who has been convicted in the last past 15 years of any felony in this state or any other state or the United States; or to a corporation, any of the officers of which shall have been so convicted. The term "conviction" includes an adjudication of guilt on a plea of guilty or nolo contendere or the forfeiture of a bond when charged with a crime. However, any company regularly traded on a national securities exchange and not over the counter; any insurer, as defined in the Florida Insurance Code; or any bank or savings and loan association chartered by this state, another state, or the United States which has an interest, directly or indirectly, in an alcoholic beverage license shall not be required to obtain Division of Alcoholic Beverages and Tobacco (DABT) approval of its officers, directors, or stockholders or any change of such positions or interests. Any such company, insurer, bank, or savings and loan association which has a direct or indirect interest or which has an ownership interest in the business sought to be licensed, but which does not operate that business, may elect to place the license solely in the name of the operator. The operator's license application shall list the direct, indirect, or ownership interest and the names of the officers, directors, stockholders, or partners of such company, insurer, bank, or association. A shopping center with five or more stores, one or more of which has an alcoholic beverage license and is required under a lease common to all shopping center tenants to pay no more than 10

percent of the gross proceeds of the business holding the license to the shopping center, shall not be considered as having an interest, directly or indirectly, in the license.

Subsection (1) of s. 561.17, F.S., provides for license applications, requiring that before any person engages in the business of manufacturing, bottling, distributing, selling, or in any way dealing in alcoholic beverages, the person must file, with the district supervisor of the district of the DABT in which the place of business for which a license is sought is located, a sworn application in duplicate on forms provided to the district supervisor by the DABT.

Subsection (1) of s. 561.20, F.S., provides a limitation or quota on the number of liquor licenses that can be issued. The number of liquor licenses within the territorial limits of any county cannot exceed one license per each 5,000 residents and no license may be issued that would cause the number of licenses to exceed this limit. Regardless of the number of quota licenses issued prior to October 1, 1992, a new license is to be issued for each population increase of 5,000 residents above the number of residents who resided in the county according to the April 1, 1991, Florida Estimate of Population as published by the Bureau of Economic and Business Research at the University of Florida, and thereafter, based on the last regular population estimate prepared for the county.

Subsection (5) of s. 561.19, F.S., requires that a fee of \$10,750 be collected from each person, firm, or corporation that is issued a new liquor license subject to the limitation imposed in s. 561.20(1), F.S. This initial license fee is not to be imposed on any license renewal and is in addition to the license fees imposed by s. 565.02, F.S. The revenues collected from the initial license fee imposed by this subsection are deposited in the Department of Children and Family Services' Operations and Maintenance Trust Fund to be used only for alcohol and drug abuse education, treatment, and prevention programs.

Subsection (1) of s. 561.29, F.S., authorizes the DABT to revoke or suspend alcoholic beverage licenses for specified grounds, including: violation by the licensee or his or her or its agents, officers, servants, or employees, on the licensed premises, or elsewhere while in the scope of employment, of any of the laws of this state or of the United States, or violation of any municipal or county regulation in regard to the hours of sale, service, or consumption of alcoholic beverages or license requirements of special licenses, or engaging in or permitting disorderly conduct on the licensed premises, or permitting another on the licensed premises to violate any of the laws of this state or of the United States; violation by the licensee or, if a corporation, by any officers thereof, of any laws of this state or any state or territory of the United States; or, violation by the licensee, or, if a corporation, by any officer or stockholder thereof, of any rule or rules promulgated by the DABT in accordance with the provisions of the beverage law, or a violation of any such rule or law by any agent, servant, or employee of the licensee on the licensed premises or in the scope of such employment.

Section 561.32, F.S., establishes a fee for transfer of an alcoholic beverage license and requires the DABT to waive the transfer fee and any 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.

Section 565.05, F.S., provides that it is unlawful for any person holding a license as a club for the sale of distilled spirits to purchase any distilled spirits in individual containers larger than 1.75 liters or 59.18 ounces, or smaller than 0.50 liter or 16.9 ounces.

Section 565.06, F.S., provides that it is unlawful for any person holding a license as a club for the sale of intoxicating liquors and beverages to sell the same except by the individual drink.

III. Effect of Proposed Changes:

Section 1 amends s. 509.049, F.S., to require that the DHR rule on food service employee training provide for a food safety training certificate program to be administered by a private nonprofit provider chosen by the DHR. The DHR is to issue a request for competitive sealed proposals and award the contract to the provider whose proposal is determined, in writing, to be the most advantageous to the state. The DHR is to contract with this provider on a 4-year basis and is authorized to promulgate a rule establishing a per employee fee to cover the contract price.

Section 2 amends s. 509.291, F.S., to decrease the number of members on the advisory council.

Section 3 amends s. 561.01, F.S., to define “licensee” only, deleting the terms “applicant” and “person.” Licensee is defined as “a legal or business entity, person, or persons that hold a license issued by the [DABT] and meet the qualifications set forth in s. 561.15.” As is discussed above, s. 561.15, F.S., provides generally for the required qualifications to obtain an alcoholic beverage license, requiring that an applicant be of good moral character and not less than 21 years of age and not have been convicted of specified crimes within specified times. If the applicant is a corporation, these requirements generally apply to its officers.

Section 4 amends s. 561.17, F.S., to require that an alcoholic beverage license applicant be a legal or business entity, person, or persons and to require that the application include all persons, officers, shareholders, and directors of such legal or business entity that have a direct or indirect interest in the business applicant. The applicant does not include any person, however, who derives revenue solely through a contractual relationship with the licensee that is unrelated to the control of the sale of alcoholic beverages.

Section 5 amends s. 561.20, F.S., on the liquor license quota, to increase the current population requirement from one license per each 5,000 residents of a county to one license per each 7,500 residents. The section also creates a new special liquor license for caterers, which allows them to sell or serve alcoholic beverages only for consumption on the premises of a catered event at which the licensee is also providing the food. A licensed caterer must purchase the alcoholic beverages to be sold or served at a catered event from a licensed retail vendor, may not store the alcoholic beverages, and must leave any alcoholic beverages not used at a catered event with the customer, except that the caterer may return unopened containers to the vendor. The section also authorizes any vendor holding a quota liquor license to serve at a catered event, without any additional license. The DABT is authorized to adopt rules to administer the caterer special license. The bill provides that the first \$300,000 collected in caterer license fees is to be deposited in the Department of Children and Family Services’ Operations and Maintenance Trust Fund. As s. 561.501, F.S., requires that a surcharge be imposed on alcoholic beverages sold at retail for consumption *on premises licensed by the division as an alcoholic beverage vendor*, and as a

caterer will have no licensed premises, no surcharge is imposed on alcoholic beverages sold for consumption on the premises at a catered event.

Section 6 amends s. 561.29, F.S., to add another ground for revocation or suspension of a license, that being failure of the licensee to comply with a stipulation, consent order, or final order.

Section 7 amends s. 561.32(5), F.S., to provide that, although the DABT is to waive the transfer fee and any delinquent penalties when a license is transferred for specified reasons, it cannot waive the license renewal fee.

Section 8 amends s. 565.05, F.S., to allow golf clubs licensed under s. 561.20(7)(b), F.S., to purchase 50 milliliter or 1.7 ounce containers.

Section 9 amends s. 565.06, F.S., to allow golf clubs licensed under s. 561.20(7)(b), F.S., to sell individual containers of 50 milliliter or 1.7 ounce for consumption on the premises only.

Section 10 amends s. 561.181, F.S., to provide that if an alcoholic beverage license applicant receives notice from the Department of intent to deny the license application for failure to disclose information relating to prior convictions, the temporary license expires and is not extended during any formal hearings relating to the denial.

Section 11 amends s. 561.331, F.S., to provide that if an applicant for transfer of an alcoholic beverage license receives notice from the Department of intent to deny the application for transfer of the license for failure to disclose information relating to prior convictions, the temporary license expires and is not extended during any formal hearings relating to the denial.

Section 12 provides that the bill takes effect July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The Division of Hotels and Restaurants is authorized to promulgate a rule establishing a per employee fee to cover the cost of contracts for a food safety training certificate program.

B. Private Sector Impact:

Those businesses employing food service employees will have to pay the fee referenced above, if promulgated by DHR.

Due to the changes in the liquor license quota, there will be fewer liquor licenses issued in the future than under current law. This decrease in supply should result in an increase in the value of existing and newly issued licenses.

C. Government Sector Impact:

Subsection (5) of s. 561.19, F.S., requires that a fee of \$10,750 be collected from each person, firm, or corporation that is issued a new liquor license subject to the quota limitation imposed in s. 561.20(1), F.S., as provided in this section. The revenues collected from this fee are deposited in the Department of Children and Family Services' Operations and Maintenance Trust Fund to be used only for alcohol and drug abuse education, treatment, and prevention programs.

The bill will reduce the number of quota licenses issued per year. The Department of Children and Family Services estimates that the reduction in deposits to its trust fund will be approximately \$285,000, per year, which will impact services to approximately 76 adults and their families.

To offset this reduction, the bill requires that the first \$300,000 collected in caterer license fees is to be deposited in the Department of Children and Family Services' Operations and Maintenance Trust Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
