

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 202

SPONSOR: Senators Lee and Latvala

SUBJECT: Malt Beverages/Container Size

DATE: January 17, 2001

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Guthrie	RI	Favorable
2.			FT	
3.			AG	
4.				
5.				

I. Summary:

Florida law presently restricts container sizes of malt beverages sold at retail to 8, 12, 16, or 32 ounces. The statute does not restrict containers of one gallon or more as to specific size. The bill removes the 8, 12, and 16-ounce restrictions and allows malt beverages to be sold in individual containers of any size of 32 ounces or less.

The bill substantially amends section 563.06 of the Florida Statutes.

II. Present Situation:

Subsection 563.06(6), F.S., restricts the size of individual containers of malt beverages sold or offered for sale by vendors at retail in Florida to four sizes only, 8, 12, 16, or 32 ounces. The statute does not restrict the container size of malt beverages either packaged in individual containers of 1 gallon or more or packaged in bulk, in kegs, or in barrels.

The subsection was enacted in 1965 and has remained substantively unchanged since. The only evidence of legislative intent would be the legislative documents created at the time subsection 563.06(6), F.S., was enacted. The Bureau of Archives and Records Management within the Florida Department of State has no legislative records prior to 1969. Therefore, there is no authoritative evidence available from which to establish legislative intent for this statute.

III. Effect of Proposed Changes:

The bill allows malt beverages to be sold in this state in individual containers of any size that is 32 ounces or less.

The bill takes effect October 1, 2001.

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 Revenue Estimating Conference has not met on this bill. However, on an identical bill in the 2000 Regular Session, the Conference determination was that as the excise tax is based on the size of the container (6 cents on each pint or fraction thereof, s. 563.05, F.S.) and as the container product mix cannot be predicted, the tax impact is indeterminate.

B. Private Sector Impact:

The Committee on Regulated Industries' 2000 interim project report regarding the container size statute (Report No. 2000-65) included an extensive analysis of the effect amending the current law might have on the private sector. Although it is impossible to make an accurate, detailed prediction of the bill's effect, the report identified the following considerations and consequences:

- The current container size restriction prohibits bottle sizes preferred by some microbreweries and foreign breweries. It has been represented that the expense of producing additional bottle sizes is a factor in keeping some of the products of these breweries out of the Florida market, which limits consumer choice.
- The bill would benefit microbreweries that wish to compete both in Florida and in other states using only 22 ounce bottles. It would also benefit foreign breweries that wish to compete in Florida using their metric-sized bottles.
- The core brands of the three large domestic breweries enjoy strong brand loyalty and appear to be in a different market segment than the microbreweries' and foreign breweries' beers.
- Increased competition and greater consumer choice mainly will involve microbrewery beers, imports, and specialty brews.

- It cannot be determined how many new brands or container sizes would be introduced in Florida if the container size restriction statute were amended.
- Because of the cost of producing new bottle sizes, the three large domestic breweries are unlikely to introduce a large number of new container sizes to the Florida market. Also, some new container sizes may replace existing sizes.
- If the three large domestic breweries introduce new sizes and packages slowly, the effect on distributors should be minimal. If, on the other hand, these breweries react to the marketing of new product sizes by competitors by introducing a large number of new container sizes and packages themselves, the impact on distributors may be significant.
- Representatives of retailers have stated that the bill is unlikely to have a significant effect either on large retailers or on small retailers who are a part of a national chain. The primary effect will be on independent retailers who specialize in microbrewery beers, import beers, and specialty brews. These retailers may benefit by being able to supply products to meet consumer demand for malt beverages not now available in Florida.
- Having a larger number of container sizes available may make it more difficult for consumers to make price comparisons.

C. Government Sector Impact:

The bill will not have a significant impact on enforcement of malt beverage laws and regulations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.