

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 959 Alcoholic Beverage License
SPONSOR(S): Joyner
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Affairs (Sub)</u>	<u>9 Y, 0 N</u>	<u>Nelson</u>	<u>Highsmith-Smith</u>
2) <u>Local Government & Veterans' Affairs</u>	<u>18 Y, 0 N</u>	<u>Nelson</u>	<u>Highsmith-Smith</u>
3) <u>Business Regulation</u>	<u></u>	<u>Morris</u>	<u>Liepshutz</u>
4) <u>Finance & Tax</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill creates an exception to the alcoholic beverage licensing statutes and authorizes the issuance of a special alcoholic beverage license to the University Area Community Development Corporation for use in the University Area Community Center Complex in Hillsborough County.

Pursuant to House Rule 5.5(b), a local bill providing an exception from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

University Area Community Center Complex

The University Area Community Center Complex (UACCC) opened in January 2002. The UACCC is county property; however, it is operated by the University Area Community Development Corporation (UACDC), Inc., a 501(c)(3), nonprofit under contract with Hillsborough County. The Complex provides meeting spaces. Occasionally, those making inquiries decide against rental upon learning that a liquor license is not available for use at an event.

The Beverage Law

Chapters 561-565 and 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 generally is considered to be a privilege and licensees are held to a high standard of accountability. The Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation is the state agency given responsibility for enforcement of the Beverage Law.

The Beverage Law requires the Division to conduct background investigations on potential licensees and requires that licensees meet prescribed standards of moral character. Further, the Beverage Law prohibits certain business practices and relationships. Alcoholic beverage licenses are subject to fine, suspension and/or revocation for violations of the Beverage Law.

Unless sold by the package for consumption off the licensed premises, the sale and consumption of alcoholic beverages by the drink is limited to the "licensed premises" of a retail establishment over which the licensee has dominion or control. The beverage law does not allow a patron to leave an establishment with an open alcoholic beverage and/or enter another licensed premise with an alcoholic beverage.

Section 316.1936, F.S., prohibits the possession of an open container of alcoholic beverages while operating a vehicle or while a passenger in or on a vehicle being operated in the state. An "open container" is defined as one which is immediately capable of being consumed from, or the seal of which has been broken. An operator of a vehicle who violates this prohibition commits a noncriminal moving traffic violation and a passenger in a vehicle who violates this prohibition commits a nonmoving traffic violation, both punishable as provided in chapter 318. Counties and municipalities are authorized to enact ordinances which impose more stringent restrictions on the possession of alcoholic beverages in vehicles than those imposed by this statute.

Effect of Proposed Change

This bill provides that, notwithstanding any other provision of law, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation is authorized, upon application, to issue an alcoholic beverage license to the UACDC for use by the corporation solely within the building known as the University Area Community Center Complex and its adjoining patio deck. The bill provides that the license may only be used for special events and prohibits the sale of alcoholic beverages in sealed containers for off-premise consumption. However, the bill does allow the purchaser of an alcoholic beverage to remove an opened, partially consumed container of alcoholic beverages from the complex.

The bill authorizes the UACDA to transfer the license to qualified applicants to provide food service at the Complex and provides that the license reverts to the UACDA by operation of law upon termination of the food service contract.

The applicant for this license is required to pay the \$1,820 quota license fee as provided in s. 565.02, F.S.; however, it does not appear that the applicant will be required to pay the one-time \$10,750¹ Hughes Act fee assessed upon initial issuance of regular quota licenses that are not issued as an exception to general law.

C. SECTION DIRECTORY:

Section 1: The bill provides that, notwithstanding any other provision of law, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation is authorized, upon application, to issue an alcoholic beverage license to the UACDC for use by the corporation solely within the building known as the University Area Community Center Complex and its adjoining patio deck. The license may only be used for special events.

Section 2: The bill provides that the license shall not permit the sale of alcoholic beverages in sealed containers for consumption outside the Community Center Complex and off its patio.

The bill allows open bottles to be removed from the premises.

Section 3: The bill provides that the UACDC may transfer the license to qualified applicants who are either authorized by or under contract with the UACDC to provide food services at the Complex. Upon termination of a transferee's contract, the license will automatically revert to the UACDC.

Section 4: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 30, 2003

WHERE? *The Tampa Tribune*, a newspaper of general circulation in Hillsborough County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

¹ s. 561.19 (5), F.S.

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Article III, Section 11, Subsection 12 of the Florida Constitution prohibits the legislature from passing a special law or general law of local application pertaining to a grant of privilege to a private corporation. Potentially, the granting of a special alcoholic beverage license would be considered unconstitutional if the operating entity is a private corporation and the bill is considered a special law or a general law of local application.

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Local Government & Veterans' Affairs

Senator Crist appeared before the Local Affairs Subcommittee and spoke in favor of the bill. The analysis prepared by the Hillsborough Local Delegation notes that the property at issue will have to be rezoned by Hillsborough County to permit use of the license contemplated by this act.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

None.