

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 487 Pasco County

SPONSOR(S): Nehr

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Urban & Local Affairs</u>	<u>7 Y, 0 N</u>	<u>Nelson</u>	<u>Kruse</u>
2) <u>Government Efficiency & Accountability Council</u>	<u></u>	<u></u>	<u></u>
3) <u></u>	<u></u>	<u></u>	<u></u>
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SUMMARY ANALYSIS

Florida’s Beverage Law requires a person to be licensed prior to engaging in the sale of alcoholic beverages. Although there is no limit on the number of licenses that may be issued to sell beer or wine, state law restricts—with numerous exceptions—the number of liquor licenses issued in any county to one for each 7,500 residents.

This bill repeals a 1971 Pasco County special act providing for the issuance of special alcoholic beverage licenses to restaurants accommodating at least 200 patrons and occupying more than 4,000 square feet of floor space. Repeal of this act will allow Pasco County restaurants to apply for special alcoholic beverage licenses under a less restrictive general law provision which provides for special licenses to be issued to restaurants with 2,500 square feet of service area and equipped to serve 150 persons.

The bill provides an effective date of upon becoming law.

The Economic Impact Statement indicates that no significant change in revenues is anticipated.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The State of Florida/Regulation of Alcoholic Beverages

The regulation of alcoholic beverages within the State of Florida is governed by federal, state and local laws. Florida's "Beverage Law" consists of chs. 561-565, 567 and 568, F.S., and requires a person to be licensed prior to engaging in the sale of alcoholic beverages. The Florida Department of Business and Professional Regulation's Division of Alcoholic Beverages and Tobacco is responsible for licensing the alcoholic beverage industry, for collecting and auditing taxes and fees paid by licensees, and for enforcing alcoholic beverage laws and regulations.

Although there is no limit on the number of licenses that may be issued to sell beer or wine, s. 561.20, F.S., restricts the number of liquor licenses issued in any county to one for each 7,500 residents based on the last regular population estimate prepared pursuant to s. 186.901, F.S. See, s. 561.20(1), F.S. Licenses issued pursuant to this subsection are referred to as "quota" licenses.¹

State license taxes are based on a county's population and whether alcoholic beverages are consumed on the vendor's licensed premises or sold for consumption off-premises. The yearly cost ranges from \$624 in smaller counties to \$1,820 in counties with populations over 100,000.² These fees are deposited into the Alcoholic Beverages and Tobacco Trust Fund,³ with 24 percent of the amounts collected within a county returned to the appropriate tax collector, and 38 percent of the amounts collected within an incorporated municipality returned to the appropriate municipal officer.⁴

In addition to the annual license tax, there is an initial license fee of \$10,750. The revenues collected from this fee are deposited in the Department of Children and Family Services' Operations and Maintenance Trust Fund to be used for alcohol and drug abuse education, treatment and prevention programs⁵

Section 561.20, F.S., also provides for numerous exceptions to the quota limitation, including one which provides for special licenses to be issued to restaurants with 2,500 square feet of service area and equipped to serve 150 persons full course meals at tables at one time. The restaurant has to derive at least 51 percent of its gross revenue from the sale of food and non-alcoholic beverages, and may not operate as a package store. Further, the restaurant must not sell intoxicating beverages after the hours of serving food have ended. See, s. 561.20(2)(a)4., F.S.

Pasco County/Regulation of Alcoholic Beverages

¹ Quota limitations initially were 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. Florida's retail alcoholic beverage licensing system generally is built around the quota license structure with all other retail licenses which allow the sale of liquor enacted as exceptions to the quota limitation.

² Section 565.02(1), F.S.

³ Section 561.025, F.S.

⁴ Section 561.342, F.S.

⁵ Section 561.19(5), F.S.

Pasco County is located on the Gulf of Mexico in the Tampa Bay area. It has an estimated population of 434,425, and includes six incorporated cities, all with populations of fewer than 17,000.⁶

Chapter 71-841, L.O.F, provides that no limitation under the provisions of s. 561.20(1), F.S.,⁷ for the issuance of alcoholic beverage licenses under the provisions of s. 561.34(3)—(8), F.S., (which related to license fees and vendors), shall prohibit the issuance of a special license in a Pasco County restaurant containing the necessary equipment and supplies for serving meals and having accommodations for the service of 200 or more patrons at tables, and occupying more than 4,000 square feet, provided that:

1. The holders of such beverage licenses are prohibited from selling alcoholic beverages in packages for consumption and from operating as a package store.
2. The “division of beverage of the department of business regulation” (now, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation) shall suspend, revoke or assess a civil penalty against any such license holder pursuant to s. 561.29, F.S., if any intoxicating beverage is sold by such restaurant under such license after the hours of serving food have ceased.
3. No such special license shall be moved to a new location, such licenses being valid only on the premises of such restaurant.
4. Any such special license shall be issued only to the owner of the restaurant or in the event the restaurant is leased, to the lessee of the restaurant and the license shall remain in the name of the owner or lessee so long as the license is in existence.
5. Any applicant may apply to the division and, if the division determines that the application complies with the provisions of the act and otherwise qualifies as provided by law, then the license shall be issued.
6. Any license issued under the provisions of the act shall be marked “special.”
7. Any applicant for such special license to be located in a municipality shall also comply with all ordinances and building regulations of the municipality.

This local act also provides that all special licenses issued under the authority of ch. 69-681, L.O.F., are declared to be valid, renewable from year to year, and revocable only for such cause as is required for the revocation of other special licenses. The 1969 law authorizes the issuance of special alcoholic beverage licenses to restaurants and country clubs accommodating 100 patrons or more and occupying more than 2,000 square feet in all counties having a population of not less than 36,700 and not more than 38,000 according to the latest official decennial census. While this general act of local application apparently applied to Pasco County at one time, and ostensibly could apply to other Florida counties in the future, ch. 71-841, L.O.F., as a local law, is effective only within Pasco County, and its repeal similarly would affect only that county.

⁶ Florida Estimates of Population 2007, the Bureau of Economic and Business Research, Warrington College of Business Administration, University of Florida.

⁷ In 1971, this provision provided that no license under s. 561.34(3), F.S., could be issued so that the number of such licenses within the limits of any incorporated municipality or in the territory of any county lying outside of such municipalities therein exceeded one such license to each 2,500 residents, or major fraction thereof, within such municipality or county as shown by the last regular state-wide census, either federal or state; provided, however, that such limitation did not prohibit the issuance of at least three licenses in any county that could approve the sale of intoxicating liquors.

Effect of Proposed Changes

HB 487 repeals ch. 71-841, L.O.F., relating to the issuance of special alcoholic beverage licenses in Pasco County. Repealing this special act, which allows for the licensing of restaurants accommodating at least 200 patrons and occupying more than 4,000 square feet of floor space, would enable restaurants in Pasco County to apply for special alcoholic beverage licenses under the less restrictive general law provision, s. 561.20(2)(a)4., F.S., which provides for special licenses to be issued to restaurants with 2,500 square feet of service area and equipped to serve 150 persons. It is unknown how many restaurants in Pasco County will eventually obtain a special alcoholic beverage license as a result of this bill.

The bill provides an effective date of upon becoming law.

C. SECTION DIRECTORY:

Section 1: Repeals ch. 71-841, L.O.F.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 8, 2007

WHERE? The *Pasco Times*, a daily newspaper of general circulation published in Pasco County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES