HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	CS/CS/HB 347	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	Regulatory Affairs Committee; Business & Professional Regulation Subcommittee; Renuart and others	111 **Y's**	4 **N's**
COMPANION BILLS:	(CS/CS/SB 642)	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

CS/CS/HB 347 passed the House on April 24, 2013, and subsequently passed the Senate on April 26, 2013. Florida's alcoholic beverage law provides for a structured three-tiered distribution system: manufacturer, distributor (wholesaler), and vendor (retailer).The Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation (DBPR) is responsible for enforcing the provisions of the beverages laws.

The bill defines a "craft distillery" to mean a licensed distillery that produces 75,000 or fewer gallons of distilled spirits on its premises. The bill allows a liquor manufacturer that meets the requirements of a craft distillery to sell two sealed containers per year of the distilled spirits it produces on its premises, to a consumer, for off-premises consumption. The bill requires that sales of the spirits be made on "private property" contiguous to the distillery premises.

Once a craft distillery's production limitations have been surpassed (i.e., 75,000 gallons), the bill requires the craft distillery to notify the division within five days and immediately cease retail sales to consumers.

The bill provides that a craft distillery may not have its ownership affiliated with another distillery, unless the distillery produces 75,000 or fewer gallons of distilled spirits per calendar year on its premises.

The bill specifies that the provisions of the bill relating to craft distilleries are nonseverable.

The bill allows the board of county commissioners in a county where the voters have approved the sale of alcoholic beverages by package only in a prior election, to order an election, no more frequently than every two years, on the sole question of whether the sale by the drink for consumption on the premises for alcoholic beverages should be allowed. The bill requires the board to order the second election upon a majority vote of the board of county commissioners or after a petition signed by one-tenth of the registered voters in the county.

The bill specifies that the provisions relating to elections are severable.

The DBPR indicates that any fiscal impact as a result of this bill is insignificant and can be covered within existing resources.

The bill was approved by the Governor on June 12, 2013, ch. 2013-157, L.O.F., and will become effective on July 1, 2013.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

<u>Present situation</u>

Chapters 561-565 and 567-568, F.S., comprise Florida's beverage law. The Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation is responsible for the regulation of the alcoholic beverage industry. Florida's alcoholic beverage law provides for a structured three-tiered distribution system: manufacturer, distributor (wholesaler), and vendor (retailer). The retailer makes the ultimate sale to the consumer. Alcoholic beverage excise taxes are collected at the wholesale level based on inventory depletions and the state sales tax is collected at the retail level.

There are some exceptions to this regulatory system. The exceptions include allowing a vendor license to be issued to a manufacturer of malt beverages for the sale of alcoholic beverages on property that includes a brewery and promotes tourism. An additional exception provides that a vendor may be licensed as a manufacturer of malt beverages if the vendor brews malt beverages at a single location in an amount of no more than 10,000 kegs per year and sells the beverages to consumers for consumption on the premises or consumption on contiguous licensed premises owned by the vendor. An exception is also allowed for in-state wineries to manufacture and sell directly to consumers.

Section 565.01, F.S., provides a definition for purposes of the beverage law and states:

> 565.01 Definition; liquor.--The words "liquor," "distilled spirits," "spirituous liquors," "spirituous beverages," or "distilled spirituous liquors" mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.

"Manufacturer" is defined to mean all persons who make alcoholic beverages except those who make beer or wine for personal or family consumption. "Distillery" or "distiller" is not specifically defined in statute or division rule.

Local Option Elections

Chapter 567, F.S., provides the process for local county elections to authorize or prohibit sales of alcoholic beverages in a particular county. The board of county commissioners must first be presented with a written application asking for an election to be held in the county. The application must be signed by one-fourth (25%) of the registered voters of the county and the election is conducted pursuant to current provisions of ch. 567, F.S.

The election must decide whether the sale of alcoholic beverages are to be prohibited or permitted in the county, and, if approved, to decide also whether sales should be restricted to sales by the package for off-premises consumption.

Currently, s. 567.07(2)(c), F.S., specifies, in part, when a prior election has authorized the sale of alcoholic beverages and has restricted sales to by the package only then after the expiration of 2 years, an election may be held to determine the sole question of whether alcoholic beverages may be sold by the drink for consumption on premises. Currently, there is no provision for the board of county commissioners to order an election, either initially or subsequently, on its own initiative.

Three counties are "package sales only": Calhoun, Holmes, and Jackson.

<u>Effect of changes</u>

Craft Distilleries

Provisions of the bill relate to ch. 565, F.S., relating to “liquor” (distilled spirits) and define “craft distillery” as a licensed distillery that produces 75,000 or fewer gallons of distilled spirits on its premises and notifies the division of the desire to operate as a craft distillery. The bill allows a craft distillery to sell the distilled spirits it produces to consumers for off-premise consumption. The bill requires that sales of the spirits be made on “private property” contiguous to the distillery premises at a souvenir gift shop operated by the distillery. Once a craft distillery’s production limitations have been surpassed (75,000 gallons), the bill requires the craft distillery to notify the division within five days and immediately cease sales to consumers.

The bill prohibits craft distilleries from selling distilled spirits except in face-to-face transactions with consumers making the purchases for personal use and caps the total sales to each consumer to two or less containers per customer per year. In addition, the craft distilleries are prohibited from shipping their distilled spirits to consumers.

The bill specifies that each craft distillery is responsible for submitting any excise taxes under the beverage law in its monthly report to the division with any excise tax payments due to the state.

The bill specifies that the provisions of the bill relating to craft distilleries are nonseverable.

Local Option Elections

The bill also addresses ch. 567, F.S., relating to the process for local elections to authorize or prohibit sales of alcoholic beverages in a particular county. The bill amends s. 567.01, F.S., to allow the board of county commissioners in a county where the voters have approved the sale of alcoholic beverages by package only in a prior election, to order an election, no more frequently than every two years, on the sole question of whether the sale by the drink for consumption on the premises should be allowed.

The bill requires the board of county commissioners to order a subsequent election upon a majority vote of the board of county commissioners or after receiving a petition signed by one-tenth of the registered voters in the county.

The bill specifies that the provisions relating to elections are severable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The fiscal impact of this bill is insignificant. The DBPR indicates that any additional workload or expenditures as a result of this bill could be absorbed within existing resources

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The DBPR notes that there would be a benefit to the distilleries being able to sell directly to the consumer, which would provide another source of revenue.

D. FISCAL COMMENTS:

None.