



563586

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/28/2014	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (22) is added to section 561.01,
Florida Statutes, to read:

561.01 Definitions.—As used in the Beverage Law:

(22) "Growler" means a clean container made of glass,
ceramic, metal, or similar leak-proof material having a capacity
of 32 ounces, 64 ounces, or 128 ounces which, in response to an



563586

11 order in a face-to-face transaction for off-premises
12 consumption, is filled with a malt beverage and sealed on the
13 premises at or immediately before or after the time of sale.

14 Section 2. Section 561.221, Florida Statutes, is amended to
15 read:

16 561.221 Licensing of manufacturers and distributors as
17 vendors and of vendors as manufacturers; exceptions, conditions,
18 and limitations.—

19 (1) (a) Nothing contained in s. 561.22, s. 561.42, or any
20 other provision of the Beverage Law prohibits the ownership,
21 management, operation, or control of not more than three
22 vendor's licenses for the sale of alcoholic beverages by a
23 manufacturer of wine who is licensed and engaged in the
24 manufacture of wine in this state, even if such manufacturer is
25 also licensed as a distributor; provided that no such vendor's
26 license shall be owned, managed, operated, or controlled by any
27 licensed manufacturer of wine unless the licensed premises of
28 the vendor are situated on property contiguous to the
29 manufacturing premises of the licensed manufacturer of wine.

30 (b) The Division of Alcoholic Beverages and Tobacco shall
31 issue permits to a certified Florida Farm Winery to conduct
32 tasting and sales of wine produced by certified Florida Farm
33 Wineries at Florida fairs, trade shows, expositions, and
34 festivals. The certified Florida Farm Winery shall pay all entry
35 fees and shall have a winery representative present during the
36 event. The permit is limited to the length of the event.

37 (2) Notwithstanding s. 561.22, s. 561.42, or any other
38 provision of the Beverage Law, the division is authorized to
39 issue vendor's licenses to a manufacturer of malt beverages,



563586

40 even if such manufacturer is also licensed as a distributor, for
41 the sale of alcoholic beverages on property consisting of a
42 single complex, which property shall include a brewery and such
43 other structures which promote the brewery and the tourist
44 industry of the state. However, such property may be divided by
45 no more than one public street or highway. A vendor's license
46 issued under this subsection is subject to the following
47 restrictions:

48 (a) Sales to consumers for off-premises consumption of
49 malt beverages are limited to growlers that are filled or
50 refilled with malt beverages manufactured on the licensed
51 premises pursuant to the requirements of s. 563.06(7). Such
52 sales must be made directly to consumers in face-to-face
53 transactions. Malt beverages manufactured at another location,
54 including another licensed manufacturing premises directly or
55 indirectly owned in whole or in part by the manufacturer, and
56 malt beverages manufactured by any other manufacturer may be
57 sold as authorized by the manufacturer's vendor license,
58 provided that malt beverages sold for consumption off the
59 licensed premises shall be obtained from a licensed distributor
60 and sold to the consumer in their original sealed containers.
61 This paragraph does not prohibit the sale of other alcoholic
62 beverages for on-premises or off-premises consumption, as
63 authorized under the manufacturer's vendor license, provided
64 that such beverages are obtained from a licensed distributor.

65 (b) Notwithstanding s. 561.57(1), the delivery of a growler
66 off a licensed premises, whether by common or premises carrier
67 or by an operator of a privately owned motor vehicle or other
68 conveyance, is prohibited. In addition, a consumer or other



563586

69 person may not arrange for the delivery of any growler off the
70 licensed premises to the consumer, whether by common or premises
71 carrier or by an operator of a privately owned motor vehicle or
72 other conveyance. However, this paragraph does not prohibit a
73 consumer from taking the growler purchased by the consumer under
74 this subsection from the licensed premises to another location
75 by a privately owned motor vehicle or other conveyance.

76 (c) A manufacturer licensed as a vendor is responsible for
77 applicable reports pursuant to ss. 561.50 and 561.55 with
78 respect to the amount of malt beverages sold or given to
79 consumers on the licensed premises each month and must pay the
80 applicable excise taxes to the division by the 10th day of each
81 month for the previous month.

82 (d) This subsection does not preclude a licensed
83 manufacturer of malt beverages from also holding a permanent
84 food service license at the licensed premises.

85 (e) This subsection is a limited exception to ss. 561.42
86 and 561.22. Except as specifically provided in this subsection
87 to permit a manufacturer of malt beverages to also be licensed
88 as a vendor, a manufacturer of malt beverages is subject to the
89 restrictions in ss. 561.42 and 561.22.

90 Section 3. Section 561.37, Florida Statutes, is amended to
91 read:

92 561.37 Bond for payment of taxes.—Each manufacturer and
93 each distributor shall file with the division a surety bond
94 acceptable to the division in the sum of \$25,000 as surety for
95 the payment of all taxes, provided, however, that when in the
96 discretion of the division the amount of business done by the
97 manufacturer or distributor is of such volume that a bond of



563586

98 less than \$25,000 will be adequate to secure the payment of all
99 taxes assessed or authorized by the Beverage Law, the division
100 may accept a bond in a lesser sum than \$25,000, but in no event
101 shall it accept a bond of less than \$10,000, and it may at any
102 time in its discretion require any bond in an amount less than
103 \$25,000 to be increased so as not to exceed \$25,000; provided,
104 however, that the amount of bond required for a brewer shall be
105 \$5,000 ~~\$20,000~~, except that where, in the discretion of the
106 division, the amount of business done by the brewer is of such
107 volume that a bond of less than \$5,000 ~~\$20,000~~ will be adequate
108 to secure the payment of all taxes assessed or authorized by the
109 Beverage Law, the division may accept a bond in a lesser sum
110 than \$5,000 ~~\$20,000~~, but in no event shall it accept a bond of
111 less than \$2,500 ~~\$10,000~~, and it may at any time in its
112 discretion require any bond in an amount less than \$5,000
113 ~~\$20,000~~ to be increased so as not to exceed \$5,000 ~~\$20,000~~;
114 provided further that the amount of the bond required for a wine
115 or wine and cordial manufacturer shall be \$5,000, except that,
116 in the case of a manufacturer engaged solely in the experimental
117 manufacture of wines and cordials from Florida products, where
118 in the discretion of the division the amount of business done by
119 such manufacturer is of such volume that a bond of less than
120 \$5,000 will be adequate to secure the payment of all taxes
121 assessed or authorized by the Beverage Law, the division may
122 accept a bond in a lesser sum than \$5,000, but in no event shall
123 it accept a bond of less than \$1,000 and it may at any time in
124 its discretion require a bond in an amount less than \$5,000 to
125 be increased so as not to exceed \$5,000; provided, further, that
126 the amount of bond required for a distributor who sells only



563586

127 beverages containing not more than 4.007 percent of alcohol by
128 volume, in counties where the sale of intoxicating liquors,
129 wines, and beers is prohibited, and to distributors who sell
130 only beverages containing not more than 17.259 percent of
131 alcohol by volume and wines regardless of alcoholic content, in
132 counties where the sale of intoxicating liquors, wines, and
133 beers is permitted, shall file with the division a surety bond
134 acceptable to the division in the sum of \$25,000, as surety for
135 the payment of all taxes; provided, however, that where in the
136 discretion of the division the amount of business done by such
137 distributor is of such volume that a bond of less than \$25,000
138 will be adequate to secure the payment of all taxes assessed or
139 authorized by the Beverage Law the division may accept a bond in
140 a less sum than \$25,000 but in no event shall it accept a bond
141 less than \$1,000 and it may at any time in its discretion
142 require any bond in an amount less than \$25,000 to be increased
143 so as not to exceed \$25,000; provided, further, that the amount
144 of bond required for a distributor in a county having a
145 population of 15,000 or less who procures a license by which his
146 or her sales are restricted to distributors and vendors who have
147 obtained licenses in the same county, shall be \$5,000.

148 Section 4. Subsection (1) of section 561.5101, Florida
149 Statutes, is amended to read:

150 561.5101 Come-to-rest requirement; exceptions; penalties.-

151 (1) For purposes of inspection and tax-revenue control, all
152 malt beverages, except those manufactured and sold pursuant to
153 s. 561.221(2) or (3) ~~s. 561.221(3)~~, must come to rest at the
154 licensed premises of an alcoholic beverage wholesaler in this
155 state before being sold to a vendor by the wholesaler. The



563586

156 prohibition contained in this subsection does not apply to the
157 shipment of malt beverages commonly known as private labels. The
158 prohibition contained in this subsection does ~~shall~~ not prevent
159 a manufacturer from shipping malt beverages for storage at a
160 bonded warehouse facility if, ~~provided that~~ such malt beverages
161 are distributed as provided in this subsection or to an out-of-
162 state entity.

163 Section 5. Subsections (1) and (3) of section 562.34,
164 Florida Statutes, are amended to read:

165 562.34 Containers; seizure and forfeiture.-

166 (1) A ~~It shall be unlawful for any person~~ may not ~~to~~ have
167 in her or his possession, custody, or control any cans, jugs,
168 jars, bottles, vessels, or any other type of containers that
169 ~~which~~ are being used, are intended to be used, or are known by
170 the possessor to have been used to bottle or package alcoholic
171 beverages. ~~;~~ ~~however,~~ This subsection does ~~provision shall~~ not
172 apply to a ~~any~~ person properly licensed to bottle or package
173 such alcoholic beverages, a ~~or to any~~ person intending to
174 dispose of such containers to a person, firm, or corporation
175 properly licensed to bottle or package such alcoholic beverages,
176 or a person that has in her or his possession a growler.

177 (3) A ~~It shall be unlawful for any person~~ may not ~~to~~
178 transport any cans, jugs, jars, bottles, vessels, or any other
179 type of containers intended to be used to bottle or package
180 alcoholic beverages. ~~;~~ ~~however,~~ This subsection does ~~section~~
181 ~~shall~~ not apply to a ~~any~~ firm or corporation holding a license
182 to manufacture or distribute such alcoholic beverages, a ~~and~~
183 ~~shall not apply to any person transporting such containers to a~~
184 any person, firm, or corporation holding a license to



563586

185 manufacture or distribute such alcoholic beverages, or a person
186 transporting a growler.

187 Section 6. Subsection (14) of section 563.022, Florida
188 Statutes, is reenacted and amended to read:

189 563.022 Relations between beer distributors and
190 manufacturers.—

191 (14) MANUFACTURER; PROHIBITED INTERESTS.—

192 (a) This subsection applies to:

193 1. A manufacturer;

194 2. An ~~Any~~ officer, director, agent, or employee of a
195 manufacturer; or

196 3. An affiliate of a ~~any~~ manufacturer, regardless of
197 whether the affiliation is corporate or by management,
198 direction, or control.

199 (b) Except as provided in paragraph (c), an ~~no~~ entity or
200 person specified in paragraph (a) may not have an interest in
201 the license, business, assets, or corporate stock of a licensed
202 distributor and may not ~~nor shall such entity~~ sell directly to a
203 ~~any~~ vendor in this state other than a vendor ~~to vendors who are~~
204 licensed pursuant to s. 561.221(2).

205 (c) An ~~Any~~ entity or person specified ~~described~~ in
206 paragraph (a) may financially assist a proposed distributor in
207 acquiring ownership of the distributorship through participation
208 in a limited partnership arrangement in which the entity or
209 person specified ~~described~~ in paragraph (a) is a limited partner
210 and the proposed distributor seeking to acquire ownership of the
211 distributorship is the general partner. Such a limited
212 partnership arrangement ~~arrangements~~ may exist for up to ~~no~~
213 ~~longer than~~ 8 years from its ~~their~~ creation and may ~~shall~~ not be



563586

214 extended or renewed by means of a transfer of full ownership to
215 an entity or person specified ~~described~~ in paragraph (a)
216 followed by the creation of a new limited partnership or by any
217 other means. In any such arrangement for financial assistance,
218 the federal basic permit and distributor's license issued by the
219 division shall be issued in the name of the distributor and not
220 in the name of an entity or person specified ~~described~~ in
221 paragraph (a). If, after the creation of a limited partnership
222 pursuant to this paragraph, an entity or person specified
223 ~~described~~ in paragraph (a) acquires title to the distributorship
224 that ~~which~~ was the subject of the limited partnership, the
225 entity or person specified ~~described~~ in paragraph (a) shall
226 divest itself of the distributorship within 180 days, and the
227 distributorship shall be ineligible for limited partnership
228 financing for 20 years thereafter. An ~~No~~ entity or person
229 specified ~~described~~ in paragraph (a) may not ~~shall~~ enter into a
230 limited partnership arrangement with a licensed distributor
231 whose distributorship existed and was operated before ~~prior to~~
232 the creation of such limited partnership arrangement.

233 (d) ~~Nothing in~~ The Beverage Law does not ~~shall be construed~~
234 ~~to~~ prohibit a manufacturer from shipping products to or between
235 its breweries without a distributor's license.

236 (e) Notwithstanding ~~the provisions of~~ paragraph (b), an ~~any~~
237 entity or person specified ~~named~~ in paragraph (a) may have an
238 interest in the license, business, assets, or corporate stock of
239 a licensed distributor for a maximum of 180 consecutive days as
240 the result of a judgment of foreclosure against the distributor
241 or for 180 consecutive days after acquiring title pursuant to
242 the written request of the licensed distributor. Under either of



563586

243 these circumstances, manufacturer ownership of an interest in
244 the license, business, assets, or corporate stock of a licensed
245 distributor may ~~shall~~ only be for 180 days and only for the
246 purpose of facilitating an orderly transfer of the
247 distributorship to an owner not affiliated with a manufacturer.

248 (f) Notwithstanding ~~the provisions of~~ paragraph (b), an ~~any~~
249 entity or person specified ~~named~~ in paragraph (a) may have a
250 security interest in the inventory or property of its licensed
251 distributors to secure payment for that ~~said~~ inventory or other
252 loans for other purposes.

253 Section 7. Subsection (6) of section 563.06, Florida
254 Statutes, is amended to read:

255 563.06 Malt beverages; imprint on individual container;
256 size of containers; growlers; exemptions.-

257 (6) All malt beverages packaged in individual containers
258 sold or offered for sale by vendors at retail in this state,
259 except for malt beverages sold in growlers pursuant to section
260 563.061, must ~~shall~~ be in individual containers containing no
261 more than 32 ounces of such malt beverages. ~~; provided, however,~~
262 ~~that nothing contained in~~

263 Section 8. Section 563.061, Florida Statutes, is created to
264 read:

265 563.061 Malt beverages; filling and refilling of growlers.-

266 (1) The filling or refilling of a growler is limited to:

267 (a) A manufacturer of malt beverages who holds a valid
268 vendor's license pursuant to s. 561.221(2) if the growler is
269 filled or refilled with malt beverages manufactured on the
270 licensed premises for sale for off-premises consumption to
271 consumers in a face-to-face transaction on the licensed



563586

272 premises; or

273 (b) A vendor holding a quota license under ss. 561.20(1)
274 and 565.02(1)(a) with malt beverages authorized under that
275 license for sale for off-premises consumption to consumers in a
276 face-to-face transaction on the licensed premises;

277 (2) The growler must have an unbroken seal, or its contents
278 must be incapable of being immediately consumed.

279 (3) The growler must be clearly labeled as containing an
280 alcoholic beverage and provide the name of the manufacturer, the
281 brand, the volume, the percentage of alcohol by volume, and the
282 required federal health warning notice for alcoholic beverages.

283 If a growler being refilled has an existing label or other
284 identifying mark of a manufacturer or brand from a prior filling
285 or refilling, that label must be covered sufficiently to
286 indicate the manufacturer and brand of the malt beverage being
287 placed in the container at that refilling.

288 (4) The growler must be clean before being filled or
289 refilled.

290 (5) A licensee authorized to fill and refill growlers may
291 not use growlers for purposes of distribution or sale outside
292 the manufacturer's or vendor's licensed premises, except as
293 authorized under this subsection and s. 561.221(2).

294 Section 9. If any provision of this act or its application
295 to any person or circumstance is held invalid, the invalidity
296 does not affect other provisions or applications of the act
297 which can be given effect without the invalid provision or
298 application, and to this end the provisions of this act are
299 severable.

300 Section 10. This act shall take effect July 1, 2014.



563586

301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to malt beverages; amending s. 561.01, F.S.; defining the term "growler"; amending s. 561.221, F.S.; clarifying three-tier system exceptions and application with respect to the manufacture, distribution, and sale of malt beverages; revising requirements for licensure and operation of manufacturers and vendors; providing legislative intent; amending s. 561.37, F.S., to revise bond requirements for brewers; amending s. 561.5101, F.S.; adding an exception to the come-to-rest requirement; amending s. 562.34, F.S.; authorizing the possession and transportation of a growler; reenacting s. 563.022(14), F.S., relating to prohibited interests between a manufacturer and a distributor of malt beverages, to incorporate the amendments made to s. 561.221, F.S., in a reference thereto; amending s. 563.06, F.S.; revising provisions relating to the sale of malt beverages at retail in containers of specified sizes, to conform to changes made by the act; creating s. 563.061, F.S.; providing requirements for and limitations on the filling, refilling, and sale or distribution of growlers; providing penalties; providing severability; providing an effective date.