

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 645 Alcoholic Beverage Permits
SPONSOR(S): Business & Professions Subcommittee; Peters
TIED BILLS: **IDEN./SIM. BILLS:** SB 934

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	13 Y, 0 N, As CS	Brown-Blake	Anstead
2) Government Operations Appropriations Subcommittee			
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

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 (Department), is responsible for the regulation of the alcoholic beverage industry.

The bill permits the Division to issue a vendor's license to operators of railroad transit stations, upon payment of an annual tax of \$2500. The license permits the railroad transit station operator to sell alcoholic beverages within the property of the railroad transit station.

The bill provides that railroad transit stations are not required to comply with s. 562.14(1), F.S., which provides that alcoholic beverages may not be served, or permitted to be served or consumed at any place holding a license between the hours of midnight and 7 a.m.

Additionally, the bill provides that railroad transit stations and the licensed operators of restaurants, shops, or other facilities that are part of, or that serve railroad transit stations are exempt from the penalties for violations from the Beverage Law and municipal or county ordinances as provided for in s. 562.45, F.S.

The bill is expected to have no financial impact on the Department.

The bill has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law. The Division is responsible for the regulation of the alcoholic beverage industry. In general, Florida's Beverage Law provides for a structured three-tiered distribution system consisting of the manufacturer, distributor, and vendor. The manufacturer creates the beverages. The distributor purchases the beverages from the manufacturer and delivers them to the vendor. The vendor makes the ultimate sale to the consumer. In the three-tiered system, alcoholic beverage excise taxes generally are collected at the distribution level based on inventory depletions and the state sales tax is collected at the retail level.

Currently, a special license to serve or sell alcoholic beverages at railroad stations does not exist. However, the Division may issue special airport licenses to restaurants that are a part of, or serve, publicly owned or leased airports. The special airport license permits the general public to purchase alcoholic beverages for consumption within designated areas of the airport terminal in not more than four places or locations in control of the holder of such license. The licenses may not be transferred to a new location, unless the publicly owned or leased airport moves its terminal facilities to a new location. The license further permits the vendor to sell wine and distilled spirits to the airlines in sealed miniature containers and other alcoholic beverages for consumption on the aircraft by the passengers of the plane while the plane is airborne.¹

The term "special airport license" is defined as "a vendor license to sell certain alcoholic beverages only on those airport premises which have been designated in the United States National Airport System Plan, 49 U.S.C. s. 1711, as air carrier airports, commuter airports, and reliever airports."²

The term "airport terminal" is defined as "the airport passenger handling facilities or premises publicly owned or leased by a county, municipality, or public authority at airports which have been designated in the United States National Airport System Plan, 49 U.S.C. s. 1711, as air carrier airports, commuter airports, and reliever airports."³

The Division may also issue vendor permits to any operator of railroads or sleeping cars to sell alcoholic beverages on passenger trains. The license permits the vendor to sell alcoholic beverages in dining, club, parlor, buffet, or observation car operated by the vendor, so long as the car has posted certified copies of the license. The alcoholic beverages must be sold only to passengers in the car for consumption in the car. The licensees must sell liquor in miniature bottles. The annual tax for the license is \$2500 annually.⁴ Passengers are not permitted to take the alcoholic beverages off of the railroad cars into any train station or other public place.

The operators of railroads or sleeping cars are required to keep records and make monthly reports on the 15th of every month, regarding the sale of alcoholic beverages within Florida. The licensees are required to pay excise taxes on alcoholic beverages for which excise taxes have not already been paid.⁵

The Florida Constitution provides that municipalities have "governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided

¹ s. 561.20(2)(d), F.S.

² s. 561.01(12), F.S.

³ s. 561.01(13), F.S.

⁴ s. 565.02(2), F.S.

⁵ s. 565.02(3)(b), F.S.

by law.”⁶ Additionally, the Florida Constitution provides that the local option on the legality or prohibition of the sale of intoxicating liquors, wines or beers shall be preserved to each county.⁷ Finally, “the board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.”⁸ Therefore, cities and counties are permitted to draft ordinances regarding the legality and prohibition of alcoholic beverages.

Effect of the Bill

The bill permits the Division to issue a vendor’s license to operators of railroad transit stations. The bill defines the term “railroad transit station” to mean:

[A] platform or terminal facility where passenger trains operating upon a guided rail system according to a fixed schedule between two or more cities regularly stop to load and unload passengers or goods and includes any passenger waiting lounge or dining, retail, entertainment, or recreational facilities within the premises owned or leased by the railroad operator or owner.

The bill provides that the railroad transit station operator must pay an annual tax of \$2500. Such license would be good throughout the state and permits the railroad transit station operator to sell alcoholic beverages within the property of the railroad transit station.

The railroad transit station operator is not required to sell alcoholic beverages in miniature bottles, but the bill does not alter the requirements on railroads or sleeping cars.

Additionally, the bill permits additional licenses to be issued to operators of restaurants, shops, or other facilities that are part of, or that serve, railroad transit stations.

The bill provides that railroad transit stations are not required to comply with s. 562.14(1), F.S., which provides that alcoholic beverages may not be served, or permitted to be served or consumed at any place holding a license between the hours of midnight and 7 a.m.

B. SECTION DIRECTORY:

Section 1 amends s. 218.32, F.S., requiring local governmental entities to include revenues derived from the use of temporary alcoholic beverages permits in annual fiscal reports.

Section 2 amends s. 561.01, F.S., defining term “railroad transit station.”

Section 3 amends s. 561.422, F.S., authorizing the Division to issue temporary permits to municipalities and counties to sell alcoholic beverages at events.

Section 4 amends s. 562.14, F.S., exempting railroad transit stations from provisions regulating the time during which alcoholic beverages may be sold.

Section 5 amends s. 565.02, F.S., authorizing railroad transit stations to obtain licenses to sell alcoholic beverages and providing requirements.

Section 6 provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

⁶ Fla. Const., art. VIII, s. 2.

⁷ Fla. Const., art VIII, s. 5.

⁸ Fla. Const., art. VIII, s. 1.

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Department indicates the number of railroad transit stations is unknown. However, each railroad transit station will be required to pay \$2500 annually for licensure, therefore, the Department anticipates an indeterminate increase in revenues.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

There would be an indeterminate increase in revenues because 24% and 38% of alcoholic beverage license fees are redistributed to counties and municipalities, respectively.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Railroad transit stations would be permitted to obtain licensure to sell alcoholic beverages, which would increase the stations' revenues. Competitive vendors in the area may lose revenues due to competition.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Division would have to adopt rules addressing violations related to the amendments.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 26, 2016, the Business & Professions Subcommittee considered and adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Remove the exemption from s. 562.45, F.S., for railroad transit stations, and operators of restaurants, shops, or other facilities that are part of, or that serve, railroad transit stations, thus providing such establishments are not exempt from county and municipal ordinances or penalties for violations of the Beverage Law.

- Remove the provision permitting the Division to issue a temporary permit authorizing a municipality or county to sell alcoholic beverages for consumption on the premises of an event only, for a period not to exceed three days, if the municipality or county files an application, a local building and zoning permit, and a fee of \$25 per permit.
- Remove the provision requiring the local governmental entities to include all revenues derived from the sale of alcoholic beverages pursuant to the temporary permit in the financial report submitted to the Department of Financial Services.

This staff analysis is drafted to reflect the committee substitute.