

By the Committees on Appropriations; and Regulated Industries;  
and Senator Perry

576-04145-17

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1                                   A bill to be entitled  
2       An act relating to alcoholic beverages; amending s.  
3       561.11, F.S.; authorizing the Division of Alcoholic  
4       Beverages and Tobacco of the Department of Business  
5       and Professional Regulation to appoint division  
6       personnel; requiring specified personnel to have  
7       Selected Exempt Service status; amending s. 561.17,  
8       F.S.; revising the entities that may issue a  
9       certificate indicating an alcoholic beverage license  
10      applicant's place of business meets all of the  
11      sanitary requirements of the state; amending s.  
12      561.20, F.S.; revising who may be issued a special  
13      license in counties otherwise subject to limits on the  
14      number of licenses issued; revising the requirements  
15      for retaining certain business records; amending s.  
16      561.331, F.S.; requiring certain temporary beverage  
17      licenses to be issued by the district supervisor of a  
18      district without assessing additional fees or taxes;  
19      amending s. 564.01, F.S.; redefining the term "wine";  
20      repealing s. 564.05, F.S., relating to limitations on  
21      the size of individual wine containers; amending s.  
22      564.055, F.S.; authorizing the packaging, filling,  
23      refilling, or sale, of cider in growlers; amending s.  
24      564.09, F.S.; revising provisions authorizing a  
25      restaurant to allow a patron to remove a resealed wine  
26      container from a restaurant for off-premises  
27      consumption; amending s. 565.03, F.S.; specifying the  
28      state license tax for craft distilleries; providing an  
29      effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 561.11, Florida Statutes, is amended to read:

561.11 Power and authority of division.—

(2) The division shall have full power and authority to provide for the continuous training, appointment, and upgrading of all division personnel in their respective positions with the division. Notwithstanding any other law, chiefs, assistant chiefs, regional managers, including majors, and district or office managers, including captains, shall have Selected Exempt Service status in the state personnel designation. ~~The This~~ training shall include the attendance of division personnel at workshops, seminars, or special schools established by the division or other organizations when attendance at such educational programs shall in the opinion of the division be deemed appropriate to the particular position that ~~which~~ the employee holds.

Section 2. Subsection (2) of section 561.17, Florida Statutes, is amended to read:

561.17 License and registration applications; approved person.—

(2) All applications for alcoholic beverage licenses for consumption on the premises shall be accompanied by a certificate of the Division of Hotels and Restaurants of the Department of Business and Professional Regulation or the Department of Agriculture and Consumer Services or the Department of Health or the Agency for Health Care

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59 Administration or the county health department that the place of  
60 business wherein the business is to be conducted meets all of  
61 the sanitary requirements of the state.

62 Section 3. Paragraph (a) of subsection (2) of section  
63 561.20, Florida Statutes, is amended to read:

64 561.20 Limitation upon number of licenses issued.—

65 (2) (a) The limitation of the number of licenses as provided  
66 in this section does not prohibit the issuance of a special  
67 license to:

68 1. Any bona fide hotel, motel, or motor court of not fewer  
69 than 80 guest rooms in any county having a population of less  
70 than 50,000 residents, and of not fewer than 100 guest rooms in  
71 any county having a population of 50,000 residents or greater;  
72 or any bona fide hotel or motel located in a historic structure,  
73 as defined in s. 561.01(21), with fewer than 100 guest rooms  
74 which derives at least 51 percent of its gross revenue from the  
75 rental of hotel or motel rooms, which is licensed as a public  
76 lodging establishment by the Division of Hotels and Restaurants;  
77 provided, however, that a bona fide hotel or motel with no fewer  
78 than 10 and no more than 25 guest rooms which is a historic  
79 structure, as defined in s. 561.01(21), in a municipality that  
80 on the effective date of this act has a population, according to  
81 the University of Florida's Bureau of Economic and Business  
82 Research Estimates of Population for 1998, of no fewer than  
83 25,000 and no more than 35,000 residents and that is within a  
84 constitutionally chartered county may be issued a special  
85 license. This special license shall allow the sale and  
86 consumption of alcoholic beverages only on the licensed premises  
87 of the hotel or motel. In addition, the hotel or motel must

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88 derive at least 60 percent of its gross revenue from the rental  
89 of hotel or motel rooms and the sale of food and nonalcoholic  
90 beverages; provided that ~~the provisions of~~ this subparagraph  
91 shall supersede local laws requiring a greater number of hotel  
92 rooms;

93 2. Any condominium accommodation of which no fewer than 100  
94 condominium units are wholly rentable to transients and which is  
95 licensed under ~~the provisions of~~ chapter 509, except that the  
96 license shall be issued only to the person or corporation which  
97 operates the hotel or motel operation and not to the association  
98 of condominium owners;

99 3. Any condominium accommodation of which no fewer than 50  
100 condominium units are wholly rentable to transients, which is  
101 licensed under ~~the provisions of~~ chapter 509, and which is  
102 located in any county having home rule under s. 10 or s. 11,  
103 Art. VIII of the State Constitution of 1885, as amended, and  
104 incorporated by reference in s. 6(e), Art. VIII of the State  
105 Constitution, except that the license shall be issued only to  
106 the person or corporation that ~~which~~ operates the hotel or motel  
107 operation and not to the association of condominium owners;

108 4. A food service establishment that has 2,500 square feet  
109 of service area, is equipped to serve meals to 150 persons at  
110 one time, and derives at least 51 percent of its gross food and  
111 beverage revenue from the sale of food and nonalcoholic  
112 beverages during the first 60-day operating period and each 12-  
113 month operating period thereafter. A food service establishment  
114 granted a special license on or after January 1, 1958, pursuant  
115 to general or special law may not operate as a package store and  
116 may not sell intoxicating beverages under such license after the

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117 hours of serving or consumption of food have elapsed. Failure by  
118 a licensee to meet the required percentage of food and  
119 nonalcoholic beverage gross revenues during the covered  
120 operating period shall result in revocation of the license or  
121 denial of the pending license application. A licensee whose  
122 license is revoked or an applicant whose pending application is  
123 denied, or any person required to qualify on the special license  
124 application, is ineligible to have any interest in a subsequent  
125 application for such a license for a period of 120 days after  
126 the date of the final denial or revocation;

127         5. Any caterer, deriving at least 51 percent of its gross  
128 food and beverage revenue from the sale of food and nonalcoholic  
129 beverages, licensed by the Division of Hotels and Restaurants  
130 under chapter 509. This subparagraph does not apply to a  
131 culinary education program, as defined in s. 381.0072(2), which  
132 is licensed as a public food service establishment by the  
133 Division of Hotels and Restaurants and provides catering  
134 services. Notwithstanding any other ~~provision of~~ law to the  
135 contrary, a licensee under this subparagraph shall sell or serve  
136 alcoholic beverages only for consumption on the premises of a  
137 catered event at which the licensee is also providing prepared  
138 food, and shall prominently display its license at any catered  
139 event at which the caterer is selling or serving alcoholic  
140 beverages. The caterer must ensure that each catered event meets  
141 the 51 percent food and nonalcoholic beverage requirement. A  
142 licensee under this subparagraph shall purchase all alcoholic  
143 beverages it sells or serves at a catered event from a vendor  
144 licensed under s. 563.02(1), s. 564.02(1), or licensed under s.  
145 565.02(1) subject to the limitation imposed in subsection (1),

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146 as appropriate. A licensee under this subparagraph may not store  
147 any alcoholic beverages to be sold or served at a catered event.  
148 Any alcoholic beverages purchased by a licensee under this  
149 subparagraph for a catered event that are not used at that event  
150 must remain with the customer; provided that if the vendor  
151 accepts unopened alcoholic beverages, the licensee may return  
152 such alcoholic beverages to the vendor for a credit or  
153 reimbursement. Regardless of the county or counties in which the  
154 licensee operates, a licensee under this subparagraph shall pay  
155 the annual state license tax set forth in s. 565.02(1)(b). A  
156 licensee under this subparagraph must maintain for a period of 3  
157 years all records and receipts for each catered event, including  
158 all contracts, customers' names, locations, dates, food  
159 purchases and sales, alcoholic beverage purchases and sales,  
160 nonalcoholic beverage purchases and sales, and any other records  
161 required by the department by rule to demonstrate compliance  
162 with the requirements of this subparagraph,~~including licensed~~  
163 ~~vendor receipts for the purchase of alcoholic beverages and~~  
164 ~~records identifying each customer and the location and date of~~  
165 ~~each catered event.~~ Notwithstanding any ~~provision of law to the~~  
166 ~~contrary,~~ any vendor licensed under s. 565.02(1) subject to the  
167 limitation imposed in subsection (1), may, without any  
168 additional licensure under this subparagraph, serve or sell  
169 alcoholic beverages for consumption on the premises of a catered  
170 event at which prepared food is provided by a caterer licensed  
171 under chapter 509. If a licensee under this subparagraph also  
172 possesses any other license under the Beverage Law, the license  
173 issued under this subparagraph shall not authorize the holder to  
174 conduct activities on the premises to which the other license or

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175 licenses apply that would otherwise be prohibited by the terms  
176 of that license or the Beverage Law. Nothing in this section  
177 shall permit the licensee to conduct activities that are  
178 otherwise prohibited by the Beverage Law or local law. The  
179 Division of Alcoholic Beverages and Tobacco is hereby authorized  
180 to adopt rules to administer the license created in this  
181 subparagraph, to include rules governing licensure,  
182 recordkeeping, and enforcement. The first \$300,000 in fees  
183 collected by the division each fiscal year pursuant to this  
184 subparagraph shall be deposited in the Department of Children  
185 and Families' Operations and Maintenance Trust Fund to be used  
186 only for alcohol and drug abuse education, treatment, and  
187 prevention programs. The remainder of the fees collected shall  
188 be deposited into the Hotel and Restaurant Trust Fund created  
189 pursuant to s. 509.072; or

190 6. A culinary education program as defined in s.  
191 381.0072(2) which is licensed as a public food service  
192 establishment by the Division of Hotels and Restaurants.

193 a. This special license shall allow the sale and  
194 consumption of alcoholic beverages on the licensed premises of  
195 the culinary education program. The culinary education program  
196 shall specify designated areas in the facility where the  
197 alcoholic beverages may be consumed at the time of application.  
198 Alcoholic beverages sold for consumption on the premises may be  
199 consumed only in areas designated pursuant to s. 561.01(11) and  
200 may not be removed from the designated area. Such license shall  
201 be applicable only in and for designated areas used by the  
202 culinary education program.

203 b. If the culinary education program provides catering

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204 services, this special license shall also allow the sale and  
205 consumption of alcoholic beverages on the premises of a catered  
206 event at which the licensee is also providing prepared food. A  
207 culinary education program that provides catering services is  
208 not required to derive at least 51 percent of its gross revenue  
209 from the sale of food and nonalcoholic beverages.  
210 Notwithstanding any other provision of law to the contrary, a  
211 licensee that provides catering services under this sub-  
212 subparagraph shall prominently display its beverage license at  
213 any catered event at which the caterer is selling or serving  
214 alcoholic beverages. Regardless of the county or counties in  
215 which the licensee operates, a licensee under this sub-  
216 subparagraph shall pay the annual state license tax set forth in  
217 s. 565.02(1)(b). A licensee under this sub-subparagraph must  
218 maintain for a period of 3 years all records required by the  
219 department by rule to demonstrate compliance with the  
220 requirements of this sub-subparagraph.

221 c. If a licensee under this subparagraph also possesses any  
222 other license under the Beverage Law, the license issued under  
223 this subparagraph does not authorize the holder to conduct  
224 activities on the premises to which the other license or  
225 licenses apply that would otherwise be prohibited by the terms  
226 of that license or the Beverage Law. Nothing in this  
227 subparagraph shall permit the licensee to conduct activities  
228 that are otherwise prohibited by the Beverage Law or local law.  
229 Any culinary education program that holds a license to sell  
230 alcoholic beverages shall comply with the age requirements set  
231 forth in ss. 562.11(4), 562.111(2), and 562.13.

232 d. The Division of Alcoholic Beverages and Tobacco may



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233 adopt rules to administer the license created in this  
234 subparagraph, to include rules governing licensure,  
235 recordkeeping, and enforcement.

236 e. A license issued pursuant to this subparagraph does not  
237 permit the licensee to sell alcoholic beverages by the package  
238 for off-premises consumption.

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240 However, any license heretofore issued to any such hotel, motel,  
241 motor court, or restaurant or hereafter issued to any such  
242 hotel, motel, or motor court, including a condominium  
243 accommodation, under the general law shall not be moved to a new  
244 location, such license being valid only on the premises of such  
245 hotel, motel, motor court, or restaurant. Licenses issued to  
246 hotels, motels, motor courts, or restaurants under the general  
247 law and held by such hotels, motels, motor courts, or  
248 restaurants on May 24, 1947, shall be counted in the quota  
249 limitation contained in subsection (1). Any license issued for  
250 any hotel, motel, or motor court under ~~the provisions of this~~  
251 law shall be issued only to the owner of the hotel, motel, or  
252 motor court or, in the event the hotel, motel, or motor court is  
253 leased, to the lessee of the hotel, motel, or motor court; and  
254 the license shall remain in the name of the owner or lessee so  
255 long as the license is in existence. Any special license now in  
256 existence heretofore issued under ~~the provisions of this law~~  
257 cannot be renewed except in the name of the owner of the hotel,  
258 motel, motor court, or restaurant or, in the event the hotel,  
259 motel, motor court, or restaurant is leased, in the name of the  
260 lessee of the hotel, motel, motor court, or restaurant in which  
261 the license is located and must remain in the name of the owner

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262 or lessee so long as the license is in existence. Any license  
263 issued under this section shall be marked "Special," and nothing  
264 herein provided shall limit, restrict, or prevent the issuance  
265 of a special license for any restaurant or motel which shall  
266 hereafter meet the requirements of the law existing immediately  
267 prior to the effective date of this act, if construction of such  
268 restaurant has commenced prior to the effective date of this act  
269 and is completed within 30 days thereafter, or if an application  
270 is on file for such special license at the time this act takes  
271 effect; and any such licenses issued under this proviso may be  
272 annually renewed as now provided by law. Nothing herein prevents  
273 an application for transfer of a license to a bona fide  
274 purchaser of any hotel, motel, motor court, or restaurant by the  
275 purchaser of such facility or the transfer of such license  
276 pursuant to law.

277 Section 4. Subsections (1) and (3) of section 561.331,  
278 Florida Statutes, are amended to read:

279 561.331 Temporary license upon application for transfer,  
280 change of location, or change of type or series.—

281 (1) Upon the filing of a properly completed application for  
282 transfer pursuant to s. 561.32, which application does not on  
283 its face disclose any reason for denying an alcoholic beverage  
284 license, by any purchaser of a business that ~~which~~ possesses a  
285 beverage license of any type or series, the purchaser of such  
286 business and the applicant for transfer are entitled as a matter  
287 of right to receive a temporary beverage license of the same  
288 type and series as that held by the seller of such business. The  
289 temporary license will be valid for all purposes under the  
290 Beverage Law until the application is denied or until 14 days

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291 after the application is approved. Such temporary beverage  
292 license shall be issued by the district supervisor of the  
293 district in which the application for transfer is made without  
294 the assessment of any additional fee or tax ~~upon the payment of~~  
295 ~~a fee of \$100~~. A purchaser operating under ~~the provisions of~~  
296 this subsection is subject to the same rights, privileges,  
297 duties, and limitations of a beverage licensee as are provided  
298 by law, except that purchases of alcoholic beverages during the  
299 term of such temporary license shall be for cash only. However,  
300 such cash-only restriction does not apply if the entity holding  
301 a temporary license pursuant to this section purchases alcoholic  
302 beverages as part of a single-transaction cooperative purchase  
303 placed by a pool buying agent or if such entity is also the  
304 holder of a state beverage license authorizing the purchase of  
305 the same type of alcoholic beverages as authorized under the  
306 temporary license.

307 (3) Upon the filing of a properly completed application to  
308 change the type or series of a beverage license by any qualified  
309 licensee having a beverage license of any type or series, which  
310 application does not on its face disclose any reason for denying  
311 an alcoholic beverage license, the licensee is entitled as a  
312 matter of right to receive a temporary beverage license of the  
313 type or series applied for, which temporary license is valid for  
314 all purposes under the Beverage Law until the application is  
315 denied or until 14 days after the application is approved. Such  
316 temporary license shall be issued by the district supervisor of  
317 the district in which the application for change of type or  
318 series is made without the assessment of any additional fee or  
319 tax. If the department issues a notice of intent to deny the

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320 license application for failure of the applicant to disclose the  
321 information required by s. 561.15(2) or (4), the temporary  
322 license for transfer, change of location, or change of type of  
323 series expires and shall not be extended during any proceeding  
324 for administrative or judicial review pursuant to chapter 120.  
325 ~~If the fee for the type or series or license applied for is~~  
326 ~~greater than the fee for the license then held by the applicant,~~  
327 ~~the applicant for such temporary license must pay a fee in the~~  
328 ~~amount of \$100 or one fourth of the difference between the fees,~~  
329 ~~whichever amount is greater. A fee is not required for an~~  
330 ~~application for a temporary license of a type or series for~~  
331 ~~which the fee is the same as or less than the fee for the~~  
332 ~~license then held by the applicant. The holder of a temporary~~  
333 license under this subsection is subject to the same rights,  
334 privileges, duties, and limitations of a beverage licensee as  
335 are provided by law.

336 Section 5. Subsection (1) of section 564.01, Florida  
337 Statutes, is amended to read:

338 564.01 Definitions.—

339 (1) "Wine" means all beverages made from fresh fruits,  
340 berries, or grapes, either by natural fermentation or by natural  
341 fermentation with brandy added, in the manner required by the  
342 laws and regulations of the United States, and includes all  
343 sparkling wines, champagnes, combination of the aforesaid  
344 beverages, sake, vermouths, and like products. Sugar, flavors,  
345 and coloring materials may be added to wine to make it conform  
346 to the consumer's taste, except that the ultimate flavor or the  
347 color of the product may not be altered to imitate a beverage  
348 other than wine or to change the character of the wine.

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349 Section 6. Section 564.05, Florida Statutes, is repealed.

350 Section 7. Section 564.055, Florida Statutes, is amended to  
351 read:

352 564.055 Cider containers.—Notwithstanding any other law to  
353 the contrary, cider, as defined in s. 564.06(4), may be sold by  
354 vendors at retail in any size individual container containing no  
355 more than 32 ounces of cider; however, this section does not  
356 prohibit cider from being packaged and sold in bulk, in kegs or  
357 barrels, or in any individual container that contains 1 gallon  
358 or more of cider, regardless of container type. In addition,  
359 cider may be packaged, filled, refilled, or sold in 32 ounce, 64  
360 ounce, and 1 gallon growlers in the same manner and under the  
361 same restrictions as authorized for malt beverages pursuant to  
362 s. 563.06(7).

363 Section 8. Section 564.09, Florida Statutes, is amended to  
364 read:

365 564.09 Restaurants; off-premises consumption of wine.—  
366 Notwithstanding any other provision of law, a restaurant  
367 licensed to sell wine on the premises may permit a patron to  
368 remove one unsealed bottle of wine for consumption off the  
369 premises if the patron has purchased a ~~full-course~~ meal  
370 ~~consisting of a salad or vegetable, entree, a beverage, and~~  
371 ~~bread~~ and consumed a portion of the bottle of wine ~~with such~~  
372 ~~meal~~ on the restaurant premises. A partially consumed bottle of  
373 wine that is to be removed from the premises must be securely  
374 resealed by the licensee or its employees before removal from  
375 the premises. The partially consumed bottle of wine shall be  
376 placed in a bag or other container that is secured in such a  
377 manner that it is visibly apparent if the container has been

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378 subsequently opened or tampered with, and a dated receipt for  
379 the bottle of wine and ~~full-course~~ meal shall be provided by the  
380 licensee and attached to the container. If transported in a  
381 motor vehicle, the container with the resealed bottle of wine  
382 must be placed in a locked glove compartment, a locked trunk, or  
383 the area behind the last upright seat of a motor vehicle that is  
384 not equipped with a trunk.

385 Section 9. Paragraph (a) of subsection (2) of section  
386 565.03, Florida Statutes, is amended to read:

387 565.03 License fees; manufacturers, distributors, brokers,  
388 sales agents, and importers of alcoholic beverages; vendor  
389 licenses and fees; craft distilleries.—

390 (2) (a) A distillery authorized to do business under the  
391 Beverage Law shall pay an annual state license tax for each  
392 plant or branch operating in the state, as follows:

393 1. If engaged in the business of manufacturing distilled  
394 spirits, not including craft distilleries, a state license tax  
395 of \$4,000.

396 2. If engaged in the business of manufacturing distilled  
397 spirits as a craft distillery, a state license tax of \$1,000.

398 ~~3.2.~~ If engaged in the business of rectifying and blending  
399 spirituous liquors and nothing else, a state license tax of  
400 \$4,000.

401 Section 10. This act shall take effect July 1, 2017.