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LEGISLATIVE ACTION

Senate

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House

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Senator Bradley moved the following:

1           **Senate Amendment to House Amendment (853337) (with title**  
2 **amendment)**

3  
4           Delete lines 7 - 272

5 and insert:

6 is accompanied by the sale of food within the same order. Such  
7 authorized sale or delivery includes wine-based and liquor-based  
8 beverages prepared by the licensee or its employee and packaged  
9 in a container sealed by the licensee or its employee. This  
10 subparagraph may not be construed to authorize public food  
11 service establishments licensed under this subparagraph to sell



666848

12 a bottle of distilled spirits sealed by a manufacturer. Any sale  
13 or delivery of malt beverages must comply with the container  
14 size, labeling, and filling requirements imposed under s.  
15 563.06. Any delivery of an alcoholic beverage under this  
16 subparagraph must comply with s. 561.57. An alcoholic beverage  
17 drink prepared by the vendor and sold or delivered for  
18 consumption off the premises must be placed in a container  
19 securely sealed by the licensee or its employees with an  
20 unbroken seal that prevents the beverage from being immediately  
21 consumed before removal from the premises. Such alcoholic  
22 beverage also must be placed in a bag or other container that is  
23 secured in such a manner that it is visibly apparent if the  
24 container has been subsequently opened or tampered with, and a  
25 dated receipt for the alcoholic beverage and food must be  
26 provided by the licensee and attached to the bag or container.  
27 If transported in a motor vehicle, an alcoholic beverage that is  
28 not in a container sealed by the manufacturer must be placed in  
29 a locked compartment, a locked trunk, or the area behind the  
30 last upright seat of a motor vehicle. It is a violation of the  
31 prohibition in s. 562.11 to allow any person under the age of 21  
32 to deliver alcoholic beverages on behalf of a vendor. The vendor  
33 or the agent or employee of the vendor must verify the age of  
34 the person making the delivery of the alcoholic beverage before  
35 allowing any person to take possession of an alcoholic beverage  
36 for the purpose of making a delivery on behalf of a vendor under  
37 this section. A food service establishment granted a special  
38 license on or after January 1, 1958, pursuant to general or  
39 special law may not operate as a package store and may not sell  
40 intoxicating beverages under such license after the hours of



666848

41 serving or consumption of food have elapsed. Failure by a  
42 licensee to meet the required percentage of food and  
43 nonalcoholic beverage gross revenues during the covered  
44 operating period shall result in revocation of the license or  
45 denial of the pending license application. A licensee whose  
46 license is revoked or an applicant whose pending application is  
47 denied, or any person required to qualify on the special license  
48 application, is ineligible to have any interest in a subsequent  
49 application for such a license for a period of 120 days after  
50 the date of the final denial or revocation;

51       5. Any caterer, deriving at least 51 percent of its gross  
52 food and beverage revenue from the sale of food and nonalcoholic  
53 beverages at each catered event, licensed by the Division of  
54 Hotels and Restaurants under chapter 509. This subparagraph does  
55 not apply to a culinary education program, as defined in s.  
56 381.0072(2), which is licensed as a public food service  
57 establishment by the Division of Hotels and Restaurants and  
58 provides catering services. Notwithstanding any law to the  
59 contrary, a licensee under this subparagraph shall sell or serve  
60 alcoholic beverages only for consumption on the premises of a  
61 catered event at which the licensee is also providing prepared  
62 food, and shall prominently display its license at any catered  
63 event at which the caterer is selling or serving alcoholic  
64 beverages. A licensee under this subparagraph shall purchase all  
65 alcoholic beverages it sells or serves at a catered event from a  
66 vendor licensed under s. 563.02(1), s. 564.02(1), or licensed  
67 under s. 565.02(1) subject to the limitation imposed in  
68 subsection (1), as appropriate. A licensee under this  
69 subparagraph may not store any alcoholic beverages to be sold or



666848

70 served at a catered event. Any alcoholic beverages purchased by  
71 a licensee under this subparagraph for a catered event that are  
72 not used at that event must remain with the customer; provided  
73 that if the vendor accepts unopened alcoholic beverages, the  
74 licensee may return such alcoholic beverages to the vendor for a  
75 credit or reimbursement. Regardless of the county or counties in  
76 which the licensee operates, a licensee under this subparagraph  
77 shall pay the annual state license tax set forth in s.  
78 565.02(1)(b). A licensee under this subparagraph must maintain  
79 for a period of 3 years all records and receipts for each  
80 catered event, including all contracts, customers' names, event  
81 locations, event dates, food purchases and sales, alcoholic  
82 beverage purchases and sales, nonalcoholic beverage purchases  
83 and sales, and any other records required by the department by  
84 rule to demonstrate compliance with the requirements of this  
85 subparagraph. Notwithstanding any law to the contrary, any  
86 vendor licensed under s. 565.02(1) subject to the limitation  
87 imposed in subsection (1), may, without any additional licensure  
88 under this subparagraph, serve or sell alcoholic beverages for  
89 consumption on the premises of a catered event at which prepared  
90 food is provided by a caterer licensed under chapter 509. If a  
91 licensee under this subparagraph also possesses any other  
92 license under the Beverage Law, the license issued under this  
93 subparagraph may ~~shall~~ not authorize the holder to conduct  
94 activities on the premises to which the other license or  
95 licenses apply that would otherwise be prohibited by the terms  
96 of that license or the Beverage Law. ~~Nothing in~~ This section  
97 does not ~~shall~~ permit the licensee to conduct activities that  
98 are otherwise prohibited by the Beverage Law or local law. The



666848

99 Division of Alcoholic Beverages and Tobacco is hereby authorized  
100 to adopt rules to administer the license created in this  
101 subparagraph, to include rules governing licensure,  
102 recordkeeping, and enforcement. The first \$300,000 in fees  
103 collected by the division each fiscal year pursuant to this  
104 subparagraph shall be deposited in the Department of Children  
105 and Families' Operations and Maintenance Trust Fund to be used  
106 only for alcohol and drug abuse education, treatment, and  
107 prevention programs. The remainder of the fees collected shall  
108 be deposited into the Hotel and Restaurant Trust Fund created  
109 pursuant to s. 509.072; or

110 6. A culinary education program as defined in s.  
111 381.0072(2) which is licensed as a public food service  
112 establishment by the Division of Hotels and Restaurants.

113 a. This special license shall allow the sale and  
114 consumption of alcoholic beverages on the licensed premises of  
115 the culinary education program. The culinary education program  
116 shall specify designated areas in the facility where the  
117 alcoholic beverages may be consumed at the time of application.  
118 Alcoholic beverages sold for consumption on the premises may be  
119 consumed only in areas designated under ~~pursuant to~~ s.  
120 561.01(11) and may not be removed from the designated area. Such  
121 license shall be applicable only in and for designated areas  
122 used by the culinary education program.

123 b. If the culinary education program provides catering  
124 services, this special license shall also allow the sale and  
125 consumption of alcoholic beverages on the premises of a catered  
126 event at which the licensee is also providing prepared food. A  
127 culinary education program that provides catering services is



666848

128 not required to derive at least 51 percent of its gross revenue  
129 from the sale of food and nonalcoholic beverages.

130 Notwithstanding any law to the contrary, a licensee that  
131 provides catering services under this sub-subparagraph shall  
132 prominently display its beverage license at any catered event at  
133 which the caterer is selling or serving alcoholic beverages.  
134 Regardless of the county or counties in which the licensee  
135 operates, a licensee under this sub-subparagraph shall pay the  
136 annual state license tax set forth in s. 565.02(1)(b). A  
137 licensee under this sub-subparagraph must maintain for a period  
138 of 3 years all records required by the department by rule to  
139 demonstrate compliance with the requirements of this sub-  
140 subparagraph.

141 c. If a licensee under this subparagraph also possesses any  
142 other license under the Beverage Law, the license issued under  
143 this subparagraph does not authorize the holder to conduct  
144 activities on the premises to which the other license or  
145 licenses apply that would otherwise be prohibited by the terms  
146 of that license or the Beverage Law. ~~Nothing in This~~  
147 subparagraph does not shall permit the licensee to conduct  
148 activities that are otherwise prohibited by the Beverage Law or  
149 local law. Any culinary education program that holds a license  
150 to sell alcoholic beverages shall comply with the age  
151 requirements set forth in ss. 562.11(4), 562.111(2), and 562.13.

152 d. The Division of Alcoholic Beverages and Tobacco may  
153 adopt rules to administer the license created in this  
154 subparagraph, to include rules governing licensure,  
155 recordkeeping, and enforcement.

156 e. A license issued pursuant to this subparagraph does not



666848

157 permit the licensee to sell alcoholic beverages by the package  
158 for off-premises consumption.

159

160 However, any license heretofore issued to any such hotel, motel,  
161 motor court, or restaurant or hereafter issued to any such  
162 hotel, motel, or motor court, including a condominium  
163 accommodation, under the general law may ~~shall~~ not be moved to a  
164 new location, such license being valid only on the premises of  
165 such hotel, motel, motor court, or restaurant. Licenses issued  
166 to hotels, motels, motor courts, or restaurants under the  
167 general law and held by such hotels, motels, motor courts, or  
168 restaurants on May 24, 1947, shall be counted in the quota  
169 limitation contained in subsection (1). Any license issued for  
170 any hotel, motel, or motor court under this law shall be issued  
171 only to the owner of the hotel, motel, or motor court or, in the  
172 event the hotel, motel, or motor court is leased, to the lessee  
173 of the hotel, motel, or motor court; and the license shall  
174 remain in the name of the owner or lessee so long as the license  
175 is in existence. Any special license now in existence heretofore  
176 issued under this law cannot be renewed except in the name of  
177 the owner of the hotel, motel, motor court, or restaurant or, in  
178 the event the hotel, motel, motor court, or restaurant is  
179 leased, in the name of the lessee of the hotel, motel, motor  
180 court, or restaurant in which the license is located and must  
181 remain in the name of the owner or lessee so long as the license  
182 is in existence. Any license issued under this section shall be  
183 marked "Special," and nothing herein provided shall limit,  
184 restrict, or prevent the issuance of a special license for any  
185 restaurant or motel which shall hereafter meet the requirements



666848

186 of the law existing immediately before ~~prior to~~ the effective  
187 date of this act, if construction of such restaurant has  
188 commenced before ~~prior to~~ the effective date of this act and is  
189 completed within 30 days thereafter, or if an application is on  
190 file for such special license at the time this act takes effect;  
191 and any such licenses issued under this proviso may be annually  
192 renewed as now provided by law. Nothing herein prevents an  
193 application for transfer of a license to a bona fide purchaser  
194 of any hotel, motel, motor court, or restaurant by the purchaser  
195 of such facility or the transfer of such license pursuant to  
196 law.

197 Section 2. Section 564.09, Florida Statutes, is amended to  
198 read:

199 564.09 Restaurants; off-premises consumption of wine.—  
200 Notwithstanding any other provision of law, a restaurant  
201 licensed to sell wine on the premises may permit a patron to  
202 remove one unsealed bottle of wine for consumption off the  
203 premises if the patron has purchased a ~~full-course~~ meal  
204 ~~consisting of a salad or vegetable, entree, a beverage, and~~  
205 ~~bread~~ and consumed a portion of the bottle of wine ~~with such~~  
206 ~~meal~~ on the restaurant premises. A partially consumed bottle of  
207 wine that is to be removed from the premises must be securely  
208 resealed by the licensee or its employees before removal from  
209 the premises. The partially consumed bottle of wine shall be  
210 placed in a bag or other container that is secured in such a  
211 manner that it is visibly apparent if the container has been  
212 subsequently opened or tampered with, and a dated receipt for  
213 the bottle of wine and ~~full-course~~ meal shall be provided by the  
214 licensee and attached to the container. If transported in a





666848

215 motor vehicle, the container with the resealed bottle of wine  
216 must be placed in a locked glove compartment, a locked trunk, or  
217 the area behind the last upright seat of a motor vehicle that is  
218 not equipped with a trunk.

219 Section 3. Subsection (1) of section 565.045, Florida  
220 Statutes, is amended to read:

221 565.045 Regulations for consumption on premises; penalty;  
222 exemptions.—

223 (1) Vendors licensed under s. 565.02(1)(b)-(f):

224 (a) Shall provide seats for the use of their customers;

225 (b) ~~Such vendors~~ May sell or deliver alcoholic beverages  
226 by the drink or in sealed containers for consumption on or off  
227 the premises where sold; and

228 (c) May sell or deliver alcoholic beverages prepared by the  
229 licensee for off-premises consumption if the alcoholic beverage  
230 is in a container sealed by the licensee. All sales or  
231 deliveries of alcoholic beverages made pursuant to this  
232 paragraph must satisfy the following requirements:

233 1. The vendor must be licensed as a public food service  
234 establishment under chapter 509;

235 2. The sale or delivery must be accompanied by the sale of  
236 food within the same order;

237 3. The charge for the sale of food and nonalcoholic  
238 beverages must be at least 40 percent of the total charge for  
239 the order, excluding the charge for any manufacturer-sealed  
240 containers of alcoholic beverages included in the order; and

241 4. Sales and deliveries of the alcoholic beverages may not  
242 occur after the vendor ceases preparing food on the licensed  
243 premises for the day or after midnight, whichever is earlier.



666848

244  
245 The requirement in subparagraph 3. does not apply to vendors  
246 licensed under s. 561.20(2)(a)4.

247 (d) An alcoholic beverage drink prepared by the vendor and  
248 sold or delivered for consumption off the premises under  
249 paragraph (c) must be placed in a container securely sealed by  
250 the licensee or its employees with an unbroken seal that  
251 prevents the beverage from being immediately consumed before  
252 removal from the premises. Such alcoholic beverage also must be  
253 placed in a bag or other container that is secured in such a  
254 manner that it is visibly apparent if the container has been  
255 subsequently opened or tampered with, and a dated receipt for  
256 the alcoholic beverage and food must be provided by the licensee  
257 and attached to the bag or container. If transported in a motor  
258 vehicle, an alcoholic beverage that is not in a container sealed  
259 by the manufacturer must be placed in a locked compartment, a  
260 locked trunk, or the area behind the last upright seat of a  
261 motor vehicle.

262 (e) Any delivery of an alcoholic beverage under this  
263 section must comply with s. 561.57. It is a violation of the  
264 prohibition in s. 562.11 to allow any person under the age of 21  
265 to deliver alcoholic beverages on behalf of a vendor. The vendor  
266 or the agent or employee of the vendor must verify the age of  
267 the person making the delivery of the alcoholic beverage before  
268 allowing any person to take possession of an alcoholic beverage  
269 for the purpose of making a delivery on behalf of a vendor under  
270 this section.

271 Section 4. Subsection (9) of section 316.1936, Florida  
272 Statutes, is amended to read:



666848

273 316.1936 Possession of open containers of alcoholic  
274 beverages in vehicles prohibited; penalties.-

275 (9) An alcoholic beverage that has been sealed by a  
276 licensee or the employee of a licensee and is transported  
277 pursuant to s. 564.09, s. 561.20(2)(a)4., or s. 565.045(1) A  
278 ~~bottle of wine that has been resealed and is transported~~  
279 ~~pursuant to s. 564.09~~ is not an open container under ~~the~~  
280 ~~provisions of~~ this section.

281  
282 ===== T I T L E A M E N D M E N T =====

283 And the title is amended as follows:

284 Delete lines 277 - 298

285 and insert:

286 circumstances; providing requirements for such  
287 deliveries; requiring a vendor or the agent or  
288 employee of the vendor to verify the age of the person  
289 making the delivery; amending s. 564.09, F.S.;

290 revising provisions that authorize a restaurant to  
291 allow patrons to remove partially consumed bottles of  
292 wine from a restaurant for off-premises consumption;

293 amending s. 565.045, F.S.; revising requirements for  
294 the sale of alcoholic beverages by certain vendors;

295 authorizing certain vendors to deliver specified  
296 alcoholic beverages under certain circumstances;

297 providing requirements for such deliveries;

298 prohibiting any person under the age of 21 from  
299 delivering alcoholic beverages on behalf of a vendor;

300 requiring a vendor or the agent or employee of the  
301 vendor to verify the age of the person making the



666848

302 delivery; amending s. 316.1936, F.S.; specifying that  
303 certain alcoholic beverages are not open containers  
304 for the purposes of the prohibition on possessing open  
305 containers of alcoholic beverages in vehicles;  
306 providing an effective date.