

By the Committee on Regulated Industries; and Senator Bradley

580-02162-21

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1                   A bill to be entitled  
2       An act relating to the Beverage Law; amending s.  
3       561.20, F.S.; authorizing certain food service  
4       establishments to sell or deliver certain alcoholic  
5       beverages for off-premises consumption under certain  
6       circumstances; creating s. 561.575, F.S.; providing  
7       requirements for such establishments to sell alcoholic  
8       beverages for off-premises consumption; requiring that  
9       such alcoholic beverages be transported in a specified  
10      manner; providing construction; amending s. 316.1936,  
11      F.S.; specifying that certain alcoholic beverages sold  
12      by such establishments are not open containers for the  
13      purposes of the prohibition on possessing open  
14      containers of alcoholic beverages in vehicles;  
15      providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19       Section 1. Paragraph (a) of subsection (2) of section  
20      561.20, Florida Statutes, is amended to read:

21       561.20 Limitation upon number of licenses issued.—

22       (2) (a) The limitation of the number of licenses as provided  
23      in this section does not prohibit the issuance of a special  
24      license to:

25       1. Any bona fide hotel, motel, or motor court of not fewer  
26      than 80 guest rooms in any county having a population of less  
27      than 50,000 residents, and of not fewer than 100 guest rooms in  
28      any county having a population of 50,000 residents or greater;  
29      or any bona fide hotel or motel located in a historic structure,

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30 as defined in s. 561.01(21), with fewer than 100 guest rooms  
31 which derives at least 51 percent of its gross revenue from the  
32 rental of hotel or motel rooms, which is licensed as a public  
33 lodging establishment by the Division of Hotels and Restaurants;  
34 provided, however, that a bona fide hotel or motel with no fewer  
35 than 10 and no more than 25 guest rooms which is a historic  
36 structure, as defined in s. 561.01(21), in a municipality that  
37 on the effective date of this act has a population, according to  
38 the University of Florida's Bureau of Economic and Business  
39 Research Estimates of Population for 1998, of no fewer than  
40 25,000 and no more than 35,000 residents and that is within a  
41 constitutionally chartered county may be issued a special  
42 license. This special license shall allow the sale and  
43 consumption of alcoholic beverages only on the licensed premises  
44 of the hotel or motel. In addition, the hotel or motel must  
45 derive at least 60 percent of its gross revenue from the rental  
46 of hotel or motel rooms and the sale of food and nonalcoholic  
47 beverages; provided that this subparagraph shall supersede local  
48 laws requiring a greater number of hotel rooms;

49       2. Any condominium accommodation of which no fewer than 100  
50 condominium units are wholly rentable to transients and which is  
51 licensed under chapter 509, except that the license shall be  
52 issued only to the person or corporation that operates the hotel  
53 or motel operation and not to the association of condominium  
54 owners;

55       3. Any condominium accommodation of which no fewer than 50  
56 condominium units are wholly rentable to transients, which is  
57 licensed under chapter 509, and which is located in any county  
58 having home rule under s. 10 or s. 11, Art. VIII of the State

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59 Constitution of 1885, as amended, and incorporated by reference  
60 in s. 6(e), Art. VIII of the State Constitution, except that the  
61 license shall be issued only to the person or corporation that  
62 operates the hotel or motel operation and not to the association  
63 of condominium owners;

64 4. A food service establishment that has 2,500 square feet  
65 of service area, is equipped to serve meals to 150 persons at  
66 one time, and derives at least 51 percent of its gross food and  
67 beverage revenue from the sale of food and nonalcoholic  
68 beverages during the first 60-day operating period and each 12-  
69 month operating period thereafter. A licensee under this  
70 subparagraph may sell or deliver alcoholic beverages for off-  
71 premises consumption pursuant to s. 561.575. A food service  
72 establishment granted a special license on or after January 1,  
73 1958, pursuant to general or special law may not operate as a  
74 package store except as provided in s. 561.575 and may not sell  
75 intoxicating beverages under such license after the hours of  
76 serving or consumption of food have elapsed. Failure by a  
77 licensee to meet the required percentage of food and  
78 nonalcoholic beverage gross revenues during the covered  
79 operating period shall result in revocation of the license or  
80 denial of the pending license application. A licensee whose  
81 license is revoked or an applicant whose pending application is  
82 denied, or any person required to qualify on the special license  
83 application, is ineligible to have any interest in a subsequent  
84 application for such a license for a period of 120 days after  
85 the date of the final denial or revocation;

86 5. Any caterer, deriving at least 51 percent of its gross  
87 food and beverage revenue from the sale of food and nonalcoholic

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88 beverages at each catered event, licensed by the Division of  
89 Hotels and Restaurants under chapter 509. This subparagraph does  
90 not apply to a culinary education program, as defined in s.  
91 381.0072(2), which is licensed as a public food service  
92 establishment by the Division of Hotels and Restaurants and  
93 provides catering services. Notwithstanding any law to the  
94 contrary, a licensee under this subparagraph shall sell or serve  
95 alcoholic beverages only for consumption on the premises of a  
96 catered event at which the licensee is also providing prepared  
97 food, and shall prominently display its license at any catered  
98 event at which the caterer is selling or serving alcoholic  
99 beverages. A licensee under this subparagraph shall purchase all  
100 alcoholic beverages it sells or serves at a catered event from a  
101 vendor licensed under s. 563.02(1), s. 564.02(1), or licensed  
102 under s. 565.02(1) subject to the limitation imposed in  
103 subsection (1), as appropriate. A licensee under this  
104 subparagraph may not store any alcoholic beverages to be sold or  
105 served at a catered event. Any alcoholic beverages purchased by  
106 a licensee under this subparagraph for a catered event that are  
107 not used at that event must remain with the customer; provided  
108 that if the vendor accepts unopened alcoholic beverages, the  
109 licensee may return such alcoholic beverages to the vendor for a  
110 credit or reimbursement. Regardless of the county or counties in  
111 which the licensee operates, a licensee under this subparagraph  
112 shall pay the annual state license tax set forth in s.  
113 565.02(1)(b). A licensee under this subparagraph must maintain  
114 for a period of 3 years all records and receipts for each  
115 catered event, including all contracts, customers' names, event  
116 locations, event dates, food purchases and sales, alcoholic

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117 beverage purchases and sales, nonalcoholic beverage purchases  
118 and sales, and any other records required by the department by  
119 rule to demonstrate compliance with the requirements of this  
120 subparagraph. Notwithstanding any law to the contrary, any  
121 vendor licensed under s. 565.02(1) subject to the limitation  
122 imposed in subsection (1), may, without any additional licensure  
123 under this subparagraph, serve or sell alcoholic beverages for  
124 consumption on the premises of a catered event at which prepared  
125 food is provided by a caterer licensed under chapter 509. If a  
126 licensee under this subparagraph also possesses any other  
127 license under the Beverage Law, the license issued under this  
128 subparagraph shall not authorize the holder to conduct  
129 activities on the premises to which the other license or  
130 licenses apply that would otherwise be prohibited by the terms  
131 of that license or the Beverage Law. Nothing in this section  
132 shall permit the licensee to conduct activities that are  
133 otherwise prohibited by the Beverage Law or local law. The  
134 Division of Alcoholic Beverages and Tobacco is hereby authorized  
135 to adopt rules to administer the license created in this  
136 subparagraph, to include rules governing licensure,  
137 recordkeeping, and enforcement. The first \$300,000 in fees  
138 collected by the division each fiscal year pursuant to this  
139 subparagraph shall be deposited in the Department of Children  
140 and Families' Operations and Maintenance Trust Fund to be used  
141 only for alcohol and drug abuse education, treatment, and  
142 prevention programs. The remainder of the fees collected shall  
143 be deposited into the Hotel and Restaurant Trust Fund created  
144 pursuant to s. 509.072; or

145 6. A culinary education program as defined in s.

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146 381.0072(2) which is licensed as a public food service  
147 establishment by the Division of Hotels and Restaurants.

148 a. This special license shall allow the sale and  
149 consumption of alcoholic beverages on the licensed premises of  
150 the culinary education program. The culinary education program  
151 shall specify designated areas in the facility where the  
152 alcoholic beverages may be consumed at the time of application.  
153 Alcoholic beverages sold for consumption on the premises may be  
154 consumed only in areas designated pursuant to s. 561.01(11) and  
155 may not be removed from the designated area. Such license shall  
156 be applicable only in and for designated areas used by the  
157 culinary education program.

158 b. If the culinary education program provides catering  
159 services, this special license shall also allow the sale and  
160 consumption of alcoholic beverages on the premises of a catered  
161 event at which the licensee is also providing prepared food. A  
162 culinary education program that provides catering services is  
163 not required to derive at least 51 percent of its gross revenue  
164 from the sale of food and nonalcoholic beverages.  
165 Notwithstanding any law to the contrary, a licensee that  
166 provides catering services under this sub-subparagraph shall  
167 prominently display its beverage license at any catered event at  
168 which the caterer is selling or serving alcoholic beverages.  
169 Regardless of the county or counties in which the licensee  
170 operates, a licensee under this sub-subparagraph shall pay the  
171 annual state license tax set forth in s. 565.02(1)(b). A  
172 licensee under this sub-subparagraph must maintain for a period  
173 of 3 years all records required by the department by rule to  
174 demonstrate compliance with the requirements of this sub-

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175 subparagraph.

176 c. If a licensee under this subparagraph also possesses any  
177 other license under the Beverage Law, the license issued under  
178 this subparagraph does not authorize the holder to conduct  
179 activities on the premises to which the other license or  
180 licenses apply that would otherwise be prohibited by the terms  
181 of that license or the Beverage Law. Nothing in this  
182 subparagraph shall permit the licensee to conduct activities  
183 that are otherwise prohibited by the Beverage Law or local law.  
184 Any culinary education program that holds a license to sell  
185 alcoholic beverages shall comply with the age requirements set  
186 forth in ss. 562.11(4), 562.111(2), and 562.13.

187 d. The Division of Alcoholic Beverages and Tobacco may  
188 adopt rules to administer the license created in this  
189 subparagraph, to include rules governing licensure,  
190 recordkeeping, and enforcement.

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

194

195 However, any license heretofore issued to any such hotel, motel,  
196 motor court, or restaurant or hereafter issued to any such  
197 hotel, motel, or motor court, including a condominium  
198 accommodation, under the general law shall not be moved to a new  
199 location, such license being valid only on the premises of such  
200 hotel, motel, motor court, or restaurant. Licenses issued to  
201 hotels, motels, motor courts, or restaurants under the general  
202 law and held by such hotels, motels, motor courts, or  
203 restaurants on May 24, 1947, shall be counted in the quota

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204 limitation contained in subsection (1). Any license issued for  
205 any hotel, motel, or motor court under this law shall be issued  
206 only to the owner of the hotel, motel, or motor court or, in the  
207 event the hotel, motel, or motor court is leased, to the lessee  
208 of the hotel, motel, or motor court; and the license shall  
209 remain in the name of the owner or lessee so long as the license  
210 is in existence. Any special license now in existence heretofore  
211 issued under this law cannot be renewed except in the name of  
212 the owner of the hotel, motel, motor court, or restaurant or, in  
213 the event the hotel, motel, motor court, or restaurant is  
214 leased, in the name of the lessee of the hotel, motel, motor  
215 court, or restaurant in which the license is located and must  
216 remain in the name of the owner or lessee so long as the license  
217 is in existence. Any license issued under this section shall be  
218 marked "Special," and nothing herein provided shall limit,  
219 restrict, or prevent the issuance of a special license for any  
220 restaurant or motel which shall hereafter meet the requirements  
221 of the law existing immediately prior to the effective date of  
222 this act, if construction of such restaurant has commenced prior  
223 to the effective date of this act and is completed within 30  
224 days thereafter, or if an application is on file for such  
225 special license at the time this act takes effect; and any such  
226 licenses issued under this proviso may be annually renewed as  
227 now provided by law. Nothing herein prevents an application for  
228 transfer of a license to a bona fide purchaser of any hotel,  
229 motel, motor court, or restaurant by the purchaser of such  
230 facility or the transfer of such license pursuant to law.

231 Section 2. Section 561.575, Florida Statutes, is created to  
232 read:



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233 561.575 Food service establishments; off-premises  
234 consumption of alcoholic beverages.-

235 (1) Notwithstanding any other law, a public food service  
236 establishment licensed under s. 561.20(2)(a)4. may sell  
237 manufacturer-sealed containers of wine, containers of malt  
238 beverages, or any alcoholic beverage drink prepared by the  
239 vendor, including any wine-based and liquor-based drinks, sold  
240 in containers sealed by the licensee or its employees for  
241 consumption off of the licensed premises if accompanied by the  
242 sale of food within the same order. The container for any  
243 alcoholic beverage sold or delivered for consumption off the  
244 premises pursuant to this section may not exceed 32 ounces. An  
245 alcoholic beverage drink prepared by the vendor and sold or  
246 delivered for consumption off the premises must be securely  
247 sealed by the licensee or its employees with an unbroken seal  
248 that prevents the beverage from being immediately consumed  
249 before removal from the premises. Such alcoholic beverage also  
250 must be placed in a bag or other container that is secured in  
251 such a manner that it is visibly apparent if the container has  
252 been subsequently opened or tampered with, and a dated receipt  
253 for the alcoholic beverage and meal must be provided by the  
254 licensee and attached to the sealed container. If transported in  
255 a motor vehicle, an alcoholic beverage that is not in a  
256 container sealed by the manufacturer must be placed in a locked  
257 compartment, a locked trunk, or the area behind the last upright  
258 seat of a motor vehicle.

259 (2) Any sale or delivery of a malt beverage under this  
260 section must comply with the container size, labeling, and  
261 filling requirements under s. 563.06, except that such container

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262 may not exceed 32 ounces.

263 (3) Any delivery of an alcoholic beverage under this  
264 section must comply with s. 561.57.

265 (4) This section may not be construed to authorize public  
266 food service establishments licensed under s. 561.20(2)(a)4. to  
267 sell as package manufacturer-sealed containers of distilled  
268 spirits.

269 Section 3. Subsection (9) of section 316.1936, Florida  
270 Statutes, is amended to read:

271 316.1936 Possession of open containers of alcoholic  
272 beverages in vehicles prohibited; penalties.—

273 (9) A bottle of wine that has been resealed and is  
274 transported pursuant to s. 564.09 or an alcoholic beverage that  
275 has been sealed by a licensee or the employee of a licensee and  
276 is transported pursuant to s. 561.575 is not an open container  
277 under ~~the provisions of~~ this section.

278 Section 4. This act shall take effect July 1, 2021.