A bill to be entitled

An act relating to the Beverage Law; amending s. 561.20, F.S.; authorizing certain food service establishments to sell or deliver certain alcoholic beverages for off-premises consumption under certain circumstances; creating s. 561.575, F.S.; providing requirements for such establishments to sell alcoholic beverages for off-premises consumption; requiring that such alcoholic beverages be transported in a specified manner; requiring vendors to verify the age of a person making a delivery of an alcoholic beverage before such person takes possession of the alcoholic beverage; providing construction; amending s. 316.1936, F.S.; specifying that certain alcoholic beverages sold by such establishments are not open containers for the purposes of the prohibition on possessing open containers of alcoholic beverages in vehicles; providing an effective date.

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

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

561.20 Limitation upon number of licenses issued.—

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

1. Any bona fide hotel, motel, or motor court of not fewer than 80 guest rooms in any county having a population of less
than 50,000 residents, and of not fewer than 100 guest rooms in any county having a population of 50,000 residents or greater; or any bona fide hotel or motel located in a historic structure, as defined in s. 561.01(21), with fewer than 100 guest rooms which derives at least 51 percent of its gross revenue from the rental of hotel or motel rooms, which is licensed as a public lodging establishment by the Division of Hotels and Restaurants; provided, however, that a bona fide hotel or motel with no fewer than 10 and no more than 25 guest rooms which is a historic structure, as defined in s. 561.01(21), in a municipality that on the effective date of this act has a population, according to the University of Florida’s Bureau of Economic and Business Research Estimates of Population for 1998, of no fewer than 25,000 and no more than 35,000 residents and that is within a constitutionally chartered county may be issued a special license. This special license shall allow the sale and consumption of alcoholic beverages only on the licensed premises of the hotel or motel. In addition, the hotel or motel must derive at least 60 percent of its gross revenue from the rental of hotel or motel rooms and the sale of food and nonalcoholic beverages; provided that this subparagraph shall supersede local laws requiring a greater number of hotel rooms;

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

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

4. A food service establishment that has 2,500 square feet of service area, is equipped to serve meals to 150 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 60-day operating period and each 12-month operating period thereafter. A licensee under this subparagraph may sell or deliver alcoholic beverages for off-premises consumption pursuant to s. 561.57. A food service establishment granted a special license on or after January 1, 1958, pursuant to general or special law may not operate as a package store except as provided in s. 561.575 and may not sell intoxicating beverages under such license after the hours of serving or consumption of food have elapsed. Failure by a licensee to meet the required percentage of food and nonalcoholic beverage gross revenues during the covered operating period shall result in revocation of the license or denial of the pending license application. A licensee whose license is revoked or an applicant whose pending application is denied, or any person required to qualify on the special license application, is ineligible to have any interest in a subsequent application for such a license for a period of 120 days after
the date of the final denial or revocation;

5. Any caterer, deriving at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages at each catered event, licensed by the Division of Hotels and Restaurants under chapter 509. This subparagraph does not apply to a culinary education program, as defined in s. 381.0072(2), which is licensed as a public food service establishment by the Division of Hotels and Restaurants and provides catering services. Notwithstanding any law to the contrary, a licensee under this subparagraph shall sell or serve alcoholic beverages only for consumption on the premises of a catered event at which the licensee is also providing prepared food, and shall prominently display its license at any catered event at which the caterer is selling or serving alcoholic beverages. A licensee under this subparagraph shall purchase all alcoholic beverages it sells or serves at a catered event from a vendor licensed under s. 563.02(1), s. 564.02(1), or licensed under s. 565.02(1) subject to the limitation imposed in subsection (1), as appropriate. A licensee under this subparagraph may not store any alcoholic beverages to be sold or served at a catered event. Any alcoholic beverages purchased by a licensee under this subparagraph for a catered event that are not used at that event must remain with the customer; provided that if the vendor accepts unopened alcoholic beverages, the licensee may return such alcoholic beverages to the vendor for a credit or reimbursement. Regardless of the county or counties in which the licensee operates, a licensee under this subparagraph shall pay the annual state license tax set forth in s. 565.02(1)(b). A licensee under this subparagraph must maintain
for a period of 3 years all records and receipts for each
catered event, including all contracts, customers’ names, event
locations, event dates, food purchases and sales, alcoholic
beverage purchases and sales, nonalcoholic beverage purchases
and sales, and any other records required by the department by
rule to demonstrate compliance with the requirements of this
subparagraph. Notwithstanding any law to the contrary, any
vendor licensed under s. 565.02(1) subject to the limitation
imposed in subsection (1), may, without any additional licensure
under this subparagraph, serve or sell alcoholic beverages for
consumption on the premises of a catered event at which prepared
food is provided by a caterer licensed under chapter 509. If a
licensee under this subparagraph also possesses any other
license under the Beverage Law, the license issued under this
subparagraph shall not authorize the holder to conduct
activities on the premises to which the other license or
licenses apply that would otherwise be prohibited by the terms
of that license or the Beverage Law. Nothing in this section
shall permit the licensee to conduct activities that are
otherwise prohibited by the Beverage Law or local law. The
Division of Alcoholic Beverages and Tobacco is hereby authorized
to adopt rules to administer the license created in this
subparagraph, to include rules governing licensure,
recordkeeping, and enforcement. The first $300,000 in fees
collected by the division each fiscal year pursuant to this
subparagraph shall be deposited in the Department of Children
and Families’ Operations and Maintenance Trust Fund to be used
only for alcohol and drug abuse education, treatment, and
prevention programs. The remainder of the fees collected shall
be deposited into the Hotel and Restaurant Trust Fund created pursuant to s. 509.072; or

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

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

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

paragraph.

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

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

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

However, any license heretofore issued to any such hotel, motel, motor court, or restaurant or hereafter issued to any such hotel, motel, or motor court, including a condominium accommodation, under the general law shall not be moved to a new location, such license being valid only on the premises of such hotel, motel, motor court, or restaurant. Licenses issued to
hotels, motels, motor courts, or restaurants under the general law and held by such hotels, motels, motor courts, or restaurants on May 24, 1947, shall be counted in the quota limitation contained in subsection (1). Any license issued for any hotel, motel, or motor court under this law shall be issued only to the owner of the hotel, motel, or motor court or, in the event the hotel, motel, or motor court is leased, to the lessee of the hotel, motel, or motor court; and the license shall remain in the name of the owner or lessee so long as the license is in existence. Any special license now in existence heretofore issued under this law cannot be renewed except in the name of the owner of the hotel, motel, motor court, or restaurant or, in the event the hotel, motel, motor court, or restaurant is leased, in the name of the lessee of the hotel, motel, motor court, or restaurant in which the license is located and must remain in the name of the owner or lessee so long as the license is in existence. Any license issued under this section shall be marked “Special,” and nothing herein provided shall limit, restrict, or prevent the issuance of a special license for any restaurant or motel which shall hereafter meet the requirements of the law existing immediately prior to the effective date of this act, if construction of such restaurant has commenced prior to the effective date of this act and is completed within 30 days thereafter, or if an application is on file for such special license at the time this act takes effect; and any such licenses issued under this proviso may be annually renewed as now provided by law. Nothing herein prevents an application for transfer of a license to a bona fide purchaser of any hotel, motel, motor court, or restaurant by the purchaser of such
facility or the transfer of such license pursuant to law.

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

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

(1) Notwithstanding any other law, a public food service establishment licensed under s. 561.20(2)(a)4. may sell manufacturer-sealed containers of wine, containers of malt beverages, or any alcoholic beverage drink prepared by the vendor, including any wine-based and liquor-based drinks, sold in containers sealed by the licensee or its employees for consumption off of the licensed premises if accompanied by the sale of food within the same order. The container for any alcoholic beverage sold or delivered for consumption off the premises pursuant to this section may not exceed 32 ounces. An alcoholic beverage drink prepared by the vendor and sold or delivered for consumption off the premises must be securely sealed by the licensee or its employees with an unbroken seal that prevents the beverage from being immediately consumed before removal from the premises. Such alcoholic beverage also must be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the alcoholic beverage and meal must be provided by the licensee and attached to the sealed container. If transported in a motor vehicle, an alcoholic beverage that is not in a container sealed by the manufacturer must be placed in a locked compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle.
(2) Any sale or delivery of a malt beverage under this section must comply with the container size, labeling, and filling requirements under s. 563.06, except that such container may not exceed 32 ounces.

(3) Any delivery of an alcoholic beverage under this section must comply with s. 561.57. It is a violation of the prohibition in s. 562.11 to allow any person under the age of 21 to deliver alcoholic beverages on behalf of a vendor. Before allowing any person to take possession of an alcoholic beverage for the purpose of making a delivery on behalf of a vendor under this section, the vendor or the agent or employee of the vendor must verify the age of the person making the delivery of the alcoholic beverage.

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

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

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

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

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