

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 1647 City of Orlando, Orange County

SPONSOR(S): Plasencia and others

TIED BILLS: **IDEN./SIM. BILLS:**

FINAL HOUSE FLOOR ACTION: 117 Y's

1 N's

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

HB 1647 passed the House on April 15, 2021, and subsequently passed the Senate on April 29, 2021.

Florida's Beverage Law places a limit on the number of "quota licenses" that the Department of Business and Professional Regulation (DBPR) may issue per county. A quota license allows a business to serve any alcoholic beverage regardless of alcoholic content, including liquor. DBPR is not limited by the Beverage Law on the number of licenses it may issue for businesses that serve only malt beverages and wine.

In excess of the quota limitation, DBPR is authorized to issue a special food service license, which allows a food service establishment to sell any alcoholic beverage, including liquor, under certain circumstances. Under general law, a food service establishment may be issued a Special Food Service License if it has at least 2,500 square feet of service area, is equipped to serve meals to 150 customers simultaneously, and derives at least 51 percent of its gross revenue from the sale of food and non-alcoholic beverages during the first 60-day operating period and each 12-month operating period thereafter.

The bill creates an exception to general law by requiring DBPR to issue special alcoholic beverage licenses to bona fide restaurants in the Orlando Main Street Small Restaurant Incentive Area that are licensed by the Division of Hotels and Restaurants, have at least 1,800 square feet of contiguous space, are equipped to serve meals to at least 80 persons at one time, and derive at least 51 percent of their gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 60-day operating period after licensure, and each 12-month operating period thereafter.

The bill provides that the license will be revoked if the licensee fails to meet the 51 percent food and nonalcoholic beverage gross revenue requirement. A licensee whose license is revoked, an applicant whose pending application for permanent license is denied, or any person required to qualify for the license, may not have any interest in a subsequent special food service establishment license application for a period of 120 days after the date of the final denial or revocation.

According to the Economic Impact Statement, the bill is revenue positive due to the increase in sales tax revenue and licensing revenue.

The bill was approved by the Governor on June 29, 2021, ch. 2021-265, L.O.F., and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Alcoholic Beverage Licensing

The Division of Alcoholic Beverages and Tobacco (DABT) within the Department of Business and Professional Regulation (DBPR) is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of alcoholic beverages under Florida's Beverage Law.¹

The Beverage Law does not limit the number of licenses DABT may issue to businesses who wish to sell malt beverages or wine.² However, the Beverage Law limits the number of licenses that may be issued allowing a business to sell any alcoholic beverage regardless of alcoholic content, including liquor or distilled spirits.³ This license, often referred to as a "quota license," is limited to one license per 7,500 residents per county with a minimum of three licenses per county that has approved the sale of intoxicating liquors.⁴

There are several exceptions to the quota license limitation, and businesses meeting the requirements set out in statute⁵ may be issued a special license by DBPR allowing the business to serve any alcoholic beverages regardless of alcoholic content.

The special food service license is one such license. DBPR may issue a special food service license to a food service establishment having 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.⁶ Before DBPR will issue a special food service license, the business must have a valid food service establishment license issued by the state agency with proper jurisdiction.⁷

Effect of the Bill

The bill creates an exception to s. 561.20(1), F.S., by requiring DBPR to issue special alcoholic beverage licenses to bona fide restaurants in the Orlando Main Street Small Restaurant Incentive Area that are licensed by the Division of Hotels and Restaurants, have at least 1,800 square feet of contiguous space, are equipped to serve meals to at least 80 persons at one time, and derive at least 51 percent of their gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 60-day operating period after licensure, and each 12-month operating period thereafter.

The bill provides that failure of a licensee who is issued a special license to meet the 51 percent food and nonalcoholic beverage gross revenue requirement during the covered operating period will result in revocation of the license or denial of the pending application for a permanent license of a licensee operating with a temporary license. A licensee, applicant, or any person required to qualify on the license application who has his or her license revoked, or pending application for permanent license denied, may not apply for a subsequent license for a period of 120 days after the date of the final denial or revocation.

¹ Chs. 561-565 and 567-568, F.S.

² See ss. 563.02 and 564.02, F.S.

³ S. 561.20(1), F.S. See s. 565.02(1)(a)-(f), F.S.

⁴ S. 561.20(1), F.S.

⁵ S. 561.20(2), F.S.

⁶ S. 561.20(2)(a)4., F.S.

⁷ Rule 61A-3.0141(2), F.A.C.

According to the Economic Impact Statement, the bill is revenue positive due to the increase in sales tax revenue and licensing revenue.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

According to the Economic Impact Statement, the bill is revenue positive due to the increase in sales tax revenue and licensing revenue.

2. Expenditures:

None.

C. ECONOMIC IMPACT STATEMENT FILED? Yes ☒ No ☐

D. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? January 29, 2021

WHERE? *Orlando Sentinel*, a daily newspaper published in Orange County, FL.

E. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?