

By Senator Mayfield

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A bill to be entitled

An act relating to deductions for certain losses of alcoholic beverages; creating s. 561.1215, F.S.; authorizing deductions against excise taxes for alcoholic beverages if they are unsalable; authorizing a distributor of vinous, spirituous, or malted beverages to make an excise tax deduction in its monthly tax report for alcoholic beverages that have become unsalable through warehouse breakage, spoliation, evaporation, or expiration or that have become unfit for human consumption; specifying the percentage a distributor may deduct for such alcoholic beverages; requiring that breakage or spoliation be documented by an employee of the Division of Alcoholic Beverages and Tobacco or other authorized person; requiring that the method of breakage for malt beverages be elected annually; providing that the method is effective for a specified timeframe; providing an exception; requiring distributors that distribute more than one type of alcoholic beverage to deduct their gross taxes for products according to those specified for vinous, spirituous, or malt beverages; excluding extraordinary losses of vinous, spirituous, or malt beverages from such deductions; defining the term "extraordinary loss"; requiring a distributor to immediately notify the division when an extraordinary loss occurs; authorizing a distributor to deduct the actual gallonage of the extraordinary loss; requiring such distributors to show proof of the

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extraordinary loss before recovering or crediting any excise tax due to the unsalable alcoholic beverages; specifying the manner in which a distributor may show such proof; requiring a distributor to show proof of the destruction, dumping, or recycling of the alcoholic beverages involved in the extraordinary loss; specifying the manner in which to show such proof; requiring the division to inspect any remaining undamaged invoiced inventory intended to be distributed upon being notified by the distributor; requiring a distributor reporting an extraordinary loss to furnish proof that the excise tax has not been recovered from any other source; requiring the distributor to provide the division with copies of all insurance claims and receipts of payment upon request; requiring distributors to record certain information on forms prescribed by the division; requiring the division to retain such forms for a specified timeframe; authorizing the division to adopt rules; providing an effective date.

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

Section 1. Section 561.1215, Florida Statutes, is created to read:

561.1215 Deductions for breakage, spoliation, evaporation, expiration, and extraordinary losses.-

(1)(a) Deductions against any excise tax due under s. 563.05, s. 564.06, or s. 565.12 are allowed for unsalable

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alcoholic beverages. Distributors of vinous, spirituous, or malted beverages may make an excise tax deduction to their monthly tax report for alcoholic beverages that have become unsalable through warehouse breakage, spoliation, evaporation, or expiration or that have become unfit for human consumption in an amount equal to the following:

1. For vinous sales, 0.49 percent of gross tax.
2. For spirituous beverage sales, 0.15 percent of gross tax.
3. For malt beverage sales, 0.20 percent of gross tax or the actual breakage or spoliation.

(b) Such breakage or spoliation must be documented by an employee of the division or other authorized person.

(c) The method of determining breakage for malt beverages, either percentage or actual gallonage, must be elected annually and will be effective for 1 calendar year unless the license is transferred or 100 percent of the stock is sold to a new owner.

(d) Distributors that distribute more than one type of alcoholic beverage shall deduct the gross taxes for their products as prescribed in this subsection for vinous, spirituous, or malt beverages.

(2)(a) Extraordinary losses of vinous, spirituous, or malt beverages are excluded from the deductions in subsection (1). For purposes of this section, the term "extraordinary loss" means an unusual loss resulting from acts of God or nature which are not expected to recur; accidents that occur during interstate or intrastate shipment from manufacturer to distributor, from distributor to distributor, or from distributor to retailer; or products being recalled by a

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88 manufacturer and destroyed by a distributor. The term does not
89 include a loss from evaporation, breakage, or spoliation
90 incurred on the licensed premises in the normal course of
91 business which exceeds the standard deductions prescribed in
92 subsection (1).

93 (b) A distributor shall immediately notify the division
94 when an extraordinary loss occurs. A distributor may deduct the
95 actual gallonage of the extraordinary loss. The distributor
96 shall show proof of the extraordinary loss before recovering or
97 crediting any excise tax due to the unsalable alcoholic
98 beverages by:

99 1. Providing a copy of a traffic accident investigation
100 report or an incident report from the investigating agency when
101 the loss occurs in transit;

102 2. Having the extraordinary loss witnessed or documented by
103 an authorized division employee when the extraordinary loss
104 occurs on the premises of the distributor; or

105 3. Clearly and objectively establishing the extraordinary
106 loss through appropriate documentation as determined by the
107 division.

108 (c) The distributor shall show proof of the destruction,
109 dumping, or recycling of the alcoholic beverages involved in the
110 extraordinary loss by providing a statement to the division from
111 the distributor, or the distributor's authorized employee or
112 agent, evidencing such destruction, dumping, or recycling. The
113 statement must include a description of the location of the
114 extraordinary loss; the alcoholic beverages, by gallonage and
115 tax category, which have been destroyed, dumped, or recycled;
116 and the location of the site where the alcoholic beverages were

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117 destroyed, dumped, or recycled.

118 (3)(a) Upon notification by a distributor, the division
119 shall inspect any remaining undamaged invoiced inventory
120 intended to be distributed.

121 (b)1. A distributor reporting extraordinary losses must
122 furnish proof that the excise tax has not been recovered from
123 any other source. The distributor shall provide the division
124 with copies of all insurance claims and receipts of payment upon
125 request by the division.

126 2. The distributor shall record on forms prescribed by the
127 division the actual gallonage of breakage, spoliation, or
128 evaporation of alcoholic beverages and the date of product
129 destruction, quantity destroyed by tax classification, and a
130 statement signed by the distributor, or the distributor's
131 authorized employee or agent, that the product was destroyed.

132 3. The division shall retain all completed forms for 3
133 years.

134 (4) The division may adopt rules and forms to implement
135 this section.

136 Section 2. This act shall take effect upon becoming a law.