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# **Business & Professional Regulation Subcommittee**

**Tuesday, February 11, 2014  
1:00 PM  
12 HOB**

## **MEETING PACKET**

REVISED

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Business & Professional Regulation Subcommittee

**Start Date and Time:** Tuesday, February 11, 2014 01:00 pm  
**End Date and Time:** Tuesday, February 11, 2014 03:00 pm  
**Location:** 12 HOB  
**Duration:** 2.00 hrs

**Consideration of the following bill(s):**

HB 283 Malt Beverages by Artiles, Young  
HB 387 Malt Beverages by Passidomo

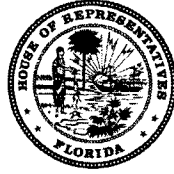
**Consideration of the following proposed committee bill(s):**

PCB BPRS 14-02 -- Craft Brewers

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Monday, February 10, 2014.

By request of the Chair, all Business & Professional Regulation Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, February 10, 2014.

**NOTICE FINALIZED on 02/04/2014 16:01 by Ellinor.Martha**



# The Florida House of Representatives

Regulatory Affairs Committee

Business & Professional Regulation Subcommittee

Will Weatherford  
Speaker

Debbie Mayfield  
Chair

## AGENDA

February 11, 2014  
12 House Office Building  
1:00 PM – 3:00 PM

- I. Call to Order & Roll Call
- II. Welcoming Remarks
- III. HB 283 by *Reps. Artiles and Young*  
Malt Beverages
- IV. HB 387 by *Rep. Passidomo*  
Malt Beverages
- V. PCB BPRS 14-02 by *Business & Professional Regulation Subcommittee*  
Craft Brewers
- VI. Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 283 Malt Beverages  
**SPONSOR(S):** Artiles and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 406

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professional Regulation Subcommittee		Brown-Blake KLB	Luczynski nj
2) Regulatory Affairs Committee			

### SUMMARY ANALYSIS

Florida's alcoholic beverage law provides for a structured three-tiered distribution system: manufacturer, distributor, and vendor. The Division of Alcoholic Beverages and Tobacco in the Department of Business and Professional Regulation is responsible for enforcing the provisions of the Beverage Law.

Current law permits manufacturers to package malt beverages that are offered for sale by vendors in individual containers containing no more than 32 ounces. However, malt beverages may be packaged in bulk or in kegs or in barrels or in any individual container containing one gallon or more of malt beverages regardless of individual container type.

The bill permits manufacturers to package malt beverages in individual containers of any size. Furthermore, the bill requires that containers include information specifying the manufacturer and brand of the malt beverage it contains, and that it must have an unbroken seal or be incapable of being immediately consumed.

Additionally, current law prohibits manufacturers or distributors from conducting tastings of malt beverages at a vendor's premises and prohibits a licensed manufacturer or distributor from assisting any vendor by any gifts or loans of money or property of any description or by the giving of any rebates of any kind whatsoever. A vendor is not prohibited from conducting tastings on its licensed premises of malt beverages it has purchased.

The bill authorizes manufacturers, distributors, and vendors to conduct malt beverages tastings upon a vendor's licensed premises, subject to the following requirements:

- The malt beverage tasting must be limited to a vendor's premises authorized to sell alcoholic beverages by package or for consumption on the premises.
- The malt beverage tasting must be limited to patrons 21 years of age or older.

The bill is expected to have a minimal impact on the Department of Business and Professional Regulation which can be absorbed with existing resources. The bill is expected to have no impact on local government.

The bill is effective upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

###### Alcoholic Beverages Regulation Generally

The Division of Alcoholic Beverages and Tobacco (Division) in the Department of Business and Professional Regulation (Department) is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of alcoholic beverages. Florida's alcoholic beverage law provides for a structured three-tiered distribution system: manufacturer, distributor, and vendor. The vendor makes the ultimate sale to the consumer. Generally, alcoholic beverage excise taxes are collected at the wholesale level based on inventory depletions and the state "sales tax" is collected at the retail level.

Activities between the license groups are extensively regulated and constitute the basis for Florida's "Tied House Evil" law. Among those restrictions, s. 561.42, F.S., prohibits a manufacturer or distributor from having any financial interest, directly or indirectly, in the establishment or business of a licensed vendor. Many restrictions apply to business and market activities between the three tiers.

###### Container Sizes

###### *Standard Containers*

Currently, s. 563.06(6), F.S., requires that all malt beverages that are offered for sale by vendors be packaged in individual containers containing no more than 32 ounces. However, malt beverages may be packaged in bulk or in kegs or in barrels or in any individual container containing one gallon or more of malt beverages regardless of individual container type. The industry developed bottles, cans, kegs, half kegs, and other containers based on industry standard sizes, which meet the statutory requirements. Distributors have created a distribution system both state and nationwide with the capacity to transport industry standard sized containers.<sup>1</sup>

###### *Growlers*

Some states permit vendors to sell malt beverages in containers known as growlers, which typically are reusable containers of between 32 ounces and two liters that the consumer can take to a vendor for a vendor to fill with malt beverage for consumption off the licensed premises.<sup>2</sup> The standard size for a growler is 64 ounces.<sup>3</sup> Florida malt beverage law does not specifically address growlers. Florida malt beverage law does not permit the use of a 64 ounce containers or any other container size between 32 ounces and one gallon. As a result, growlers are prohibited in any sizes other than 32 ounces or less, and one gallon.

###### Tied House Evil Gifts and Tastings

Manufacturers and distributors are prohibited from providing malt beverages for tastings at a vendor's licensed premises, as it would be a violation of the Tied-House Evil provisions of the Beverage Law.

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<sup>1</sup> Testimony of industry members, Workshop on Craft Brewers Business Development Regulatory Issues, Business and Professional Regulation Subcommittee, January 9, 2014.

<sup>2</sup> Beeradvocate, *The Growler: Beer-To-Go!* available at <http://beeradvocate.com/articles/384/> (last viewed February 1, 2014).

<sup>3</sup> Brew-Tek, What is a Growler? available at <http://www.brew-tek.com/products/growlers/what-is-a-growler/> (last viewed at February 3, 2014).

Section 561.42(14)(e), F.S., prohibits sampling activities that include the tasting of beer at a vendor's premises that is licensed for off-premises sales only.

Additionally, section 561.42(1), F.S., prohibits a licensed manufacturer or distributor from assisting any vendor by any gifts or loans of money or property of any description or by the giving of any rebates of any kind whatsoever. Specifically, s. 561.42(1), F.S., provides in part:

No licensed vendor shall accept, directly or indirectly, any gift or loan of money or property of any description or any rebates from any such manufacturer, distributor...; provided, however, that this does not apply to any bottles, barrels, or other containers necessary for the legitimate transportation of such beverages or to advertising materials and does not apply to the extension of credit, for liquors sold, made strictly in compliance with the provisions of this section.

Vendors are not prohibited from providing alcoholic beverages directly to consumers if the alcoholic beverages are paid for by the vendor. Therefore, vendors are currently permitted to conduct malt beverage tastings using malt beverages that the vendor owns.

### **Effect of the Bill**

#### **Container Sizes and Growler Requirements**

The bill removes all container size limitations on individual containers. The removal of size limits will permit manufacturers and other authorized licensees to fill any size individual container, including a 64 ounce container used as a growler. In addition, manufacturers will be permitted to package malt beverages in any size container to be sold through the three-tier system.

Furthermore, the bill requires that containers include information specifying the manufacturer and brand of the malt beverage it contains, and that it must have an unbroken seal or be incapable of being immediately consumed.

#### **Tied House Evil Gifts and Tastings**

The bill creates s. 563.09, F.S., to permit manufacturers, distributors, and vendors to conduct malt beverages tastings upon a vendor's licensed premises. The language codifies the vendor's ability to conduct malt beverage tastings upon a licensed vendor premises. The tastings are subject to the following requirements:

- The malt beverage tasting must be limited to a vendor's premises authorized to sell alcoholic beverages by package or for consumption on the premises.
- The malt beverage tasting must be limited to patrons 21 years of age or older.

### **B. SECTION DIRECTORY:**

**Section 1** amends s. 563.06(6), F.S., to authorize containers of malt beverages to be sold or offered for sale by a vendor at a retail in any size and provides requirements for malt beverage containers.

**Section 2** creates s. 563.09, F.S., to authorize manufacturers, distributors, and vendors to conduct malt beverages tastings on certain vendor's licensed premises.

**Section 3** provides that the bill is effective upon becoming a law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None. The Department of Business and Professional Services anticipates using existing resources to investigate alleged violations of the provisions of this bill.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

This bill will permit manufacturers to utilize containers of any size for individual servings of malt beverages. This will permit licensees who fill growlers to use and fill 64 ounce growlers. In addition, this will permit manufacturers to package malt beverages other than growlers in containers of any size for distribution. Distributors and vendors may incur indeterminate expenditures to accommodate the potential changes in container sizes.

Additionally, the bill will permit manufacturers and distributors to hold tastings at a vendor's premises, which could increase costs for distributors and have an indeterminate impact on manufacturers', distributors', and vendors' revenue.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill does not delete s. 561.42(14)(e), F.S., which generally prohibits manufacturers and distributors from conducting sampling activities, including tastings, at a vendor's premises licensed for off-premises sales only.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



1                                   A bill to be entitled  
 2           An act relating to malt beverages; amending s. 563.06,  
 3           F.S.; authorizing containers of malt beverages to be  
 4           sold or offered for sale by a vendor at retail in any  
 5           size; providing requirements for malt beverage  
 6           containers; creating s. 563.09, F.S.; authorizing malt  
 7           beverage tastings upon certain licensed premises under  
 8           certain circumstances; providing an effective date.

9  
 10   Be It Enacted by the Legislature of the State of Florida:

11  
 12           Section 1. Subsection (6) of section 563.06, Florida  
 13           Statutes, is amended to read:

14           563.06 Malt beverages; imprint on individual container;  
 15           size of containers; exemptions.-

16           (6) All malt beverages packaged in individual containers  
 17           that are sold or offered for sale by a vendor ~~vendors~~ at retail  
 18           in this state may shall be in individual containers of any size.  
 19           Such containers shall include information specifying the  
 20           manufacturer and brand of the malt beverage and must have an  
 21           unbroken seal or be incapable of being immediately consumed.  
 22           ~~containing no more than 32 ounces of such malt beverages;~~  
 23           ~~provided, however, that nothing contained in~~ This section does  
 24           not shall affect malt beverages packaged in bulk, ~~or~~ in kegs, or  
 25           in barrels or in any individual container containing 1 gallon or  
 26           ~~more of such malt beverage regardless of individual container~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

HB 283

2014

27 | ~~type.~~

28 | Section 2. Section 563.09, Florida Statutes, is created to  
 29 | read:

30 | 563.09 Malt beverage tastings by manufacturers and  
 31 | vendors.—Notwithstanding any other provision of the Beverage  
 32 | Law, a licensed manufacturer or distributor of malt beverages or  
 33 | a vendor may conduct a malt beverage tasting upon a licensed  
 34 | premises authorized to sell alcoholic beverages by package or  
 35 | for consumption on the premises. Such manufacturer, distributor,  
 36 | or vendor does not violate s. 561.42 if the conduct of the malt  
 37 | beverage tasting is limited to and directed toward members of  
 38 | the general public who are of the age of legal consumption.

39 | Section 3. This act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 387 Malt Beverages  
**SPONSOR(S):** Passidomo  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 470

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professional Regulation Subcommittee		Brown-Blake <i>WBB</i>	Luczynski <i>ml</i>
2) Government Operations Appropriations Subcommittee			
3) Regulatory Affairs Committee			

### SUMMARY ANALYSIS

Florida's alcoholic beverage law provides for a structured three-tiered distribution system: manufacturer, distributor, and vendor. The Division of Alcoholic Beverages and Tobacco in the Department of Business and Professional Regulation is responsible for enforcing the provisions of the Beverage Law.

Current law prohibits manufacturers or distributors from conducting tastings of malt beverages at a vendor's premises and prohibits a licensed manufacturer or distributor from assisting any vendor by any gifts or loans of money or property of any description or by the giving of any rebates of any kind whatsoever. A vendor, however, is not prohibited from conducting tastings on its licensed premises of malt beverages that it has purchased.

The bill authorizes distributors and vendors to conduct malt beverages tastings upon a vendor's licensed premises, subject to the following requirements:

- The malt beverage tasting must be limited to a vendor's premises authorized to sell alcoholic beverages by package or for consumption on the premises.
- The malt beverage tasting must be limited to patrons 21 years of age or older.

The bill is expected to have a minimal impact on the Department of Business and Professional Regulation which can be absorbed with existing resources. The bill is expected to have no impact on local government.

The bill has an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

The Division of Alcoholic Beverages and Tobacco (Division) in the Department of Business and Professional Regulation (Department) is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of alcoholic beverages. Florida's alcoholic beverage law provides for a structured three-tiered distribution system: manufacturer, distributor, and vendor. The vendor makes the ultimate sale to the consumer. Generally, alcoholic beverage excise taxes are collected at the wholesale level based on inventory depletions and the state "sales tax" is collected at the retail level.

Activities between the license groups are extensively regulated and constitute the basis for Florida's "Tied House Evil" law. Among those restrictions, s. 561.42, F.S., prohibits a manufacturer or distributor from having any financial interest, directly or indirectly, in the establishment or business of a licensed vendor. Many restrictions apply to business and market activities between the three tiers.

Manufacturers and distributors are prohibited from providing malt beverages for tastings at a vendor's licensed premises, as it would be a violation of the Tied-House Evil provisions of the Beverage Law. Section 561.42(14)(e), F.S., prohibits sampling activities that include the tasting of beer at a vendor's premises that is licensed for off-premises sales only.

Additionally, section 561.42(1), F.S., prohibits a licensed manufacturer or distributor from assisting any vendor by any gifts or loans of money or property of any description or by the giving of any rebates of any kind whatsoever. Specifically, s. 561.42(1), F.S., provides in part:

No licensed vendor shall accept, directly or indirectly, any gift or loan of money or property of any description or any rebates from any such manufacturer, distributor...; provided, however, that this does not apply to any bottles, barrels, or other containers necessary for the legitimate transportation of such beverages or to advertising materials and does not apply to the extension of credit, for liquors sold, made strictly in compliance with the provisions of this section.

Vendors are not prohibited from providing alcoholic beverages directly to consumers if the alcoholic beverages are paid for by the vendor. Therefore, vendors are currently permitted to conduct malt beverage tastings using malt beverages that the vendor owns.

##### Effect of the Bill

The bill deletes language in s. 561.42(14)(e), F.S., prohibiting manufacturers or distributors from conducting sampling of malt beverages on a vendor's licenses premises. Section 563.09, F.S., is created to permit distributors or vendors to conduct malt beverages tastings upon a vendor's licensed premises. The tastings are subject to the following requirements:

- The malt beverage tasting must be limited to a vendor's premises authorized to sell alcoholic beverages by package or for consumption on the premises.
- The malt beverage tasting must be limited to patrons 21 years of age or older.

**B. SECTION DIRECTORY:**

**Section 1** deletes s. 561.42(14)(e), F.S., to remove language prohibiting manufacturers or distributors from conducting sampling of malt beverages on a vendor's premises licensed for off-premises sales only.

**Section 2** creates s. 563.09, F.S., to authorize distributors or vendors to conduct malt beverages tastings on certain vendor's licensed premises.

**Section 3** provides an effective date of July 1, 2014.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None. The Department of Business and Professional Services anticipates using existing resources to investigate alleged violations of the provisions of this bill.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill will permit distributors to hold tastings at vendor's premises, which could increase costs for distributors and have an indeterminate impact on manufacturers', distributors', and vendors' revenue.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                   A bill to be entitled  
 2           An act relating to malt beverages; amending s. 561.42,  
 3           F.S.; deleting a provision that prohibits certain  
 4           persons from conducting sampling activities at a  
 5           vendor's premises licensed only for off-premises  
 6           sales; creating s. 563.09, F.S.; authorizing malt  
 7           beverage tastings upon certain licensed premises under  
 8           certain circumstances; providing an effective date.

9

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

11

12           Section 1. Paragraph (e) of subsection (14) of section  
 13           561.42, Florida Statutes, is amended to read:

14           561.42 Tied house evil; financial aid and assistance to  
 15           vendor by manufacturer, distributor, importer, primary American  
 16           source of supply, brand owner or registrant, or any broker,  
 17           sales agent, or sales person thereof, prohibited; procedure for  
 18           enforcement; exception.—

19           (14) The division shall adopt reasonable rules governing  
 20           promotional displays and advertising, which rules shall not  
 21           conflict with or be more stringent than the federal regulations  
 22           pertaining to such promotional displays and advertising  
 23           furnished to vendors by distributors, manufacturers, importers,  
 24           primary American sources of supply, or brand owners or  
 25           registrants, or any broker, sales agent, or sales person  
 26           thereof; however:



27 ~~(c) Manufacturers, distributors, importers, brand owners,~~  
 28 ~~or brand registrants of beer, and any broker, sales agent, or~~  
 29 ~~sales person thereof, shall not conduct any sampling activities~~  
 30 ~~that include tasting of their product at a vendor's premises~~  
 31 ~~licensed for off-premises sales only.~~

32 Section 2. Section 563.09, Florida Statutes, is created to  
 33 read:

34 563.09 Malt beverage tastings by distributors and  
 35 vendors.-A licensed distributor of malt beverages or a vendor  
 36 may conduct a malt beverage tasting upon a licensed premises  
 37 authorized to sell alcoholic beverages by package or for  
 38 consumption on the premises. Such distributor or vendor does not  
 39 violate s. 561.42 if the conduct of the malt beverage tasting is  
 40 limited to and directed toward members of the general public who  
 41 are of the age of legal consumption.

42 Section 3. This act shall take effect July 1, 2014.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB BPRS 14-02 Craft Brewers  
**SPONSOR(S):** Business & Professional Regulation Subcommittee  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Business & Professional Regulation Subcommittee		Brown-Blake KBB	Luczynski nj

### SUMMARY ANALYSIS

The bill sets forth requirements for malt beverage manufacturers, distributors, and vendors in order to support the growth of the craft brewery industry while minimizing the erosion of the three-tier system.

#### Three-Tier Exceptions:

- **Manufacturers with Vendor's Licenses:**
  - Permits malt beverage manufacturers to obtain a vendor's license for a retail location attached to a manufacturing premises at two manufacturing premises.
  - Permits the manufacturer/vendor to sell malt beverages that manufacturer brews directly to consumers on-premises, in bottles and cans, and growlers.
  - Permits the manufacturer to sell malt beverages brewed by other manufacturers as authorized by its vendor's license.
- **Taprooms:**
  - Permits malt beverage manufacturers to have a taproom attached to any manufacturing premises without a vendor's license to sell malt beverages that manufacturer brews directly to consumers.
  - Requires that 70 percent of malt beverages sold in a taproom be brewed on premises.
- **Brewpubs**
  - Permits brewpubs to hold both a manufacturer and vendor's license.
  - Permits brewpubs to sell malt beverages it brews for on-premises consumption or in growlers.
  - Permits brewpubs to sell malt beverages brewed by other manufacturers as authorized by its vendor's license.
  - Prohibits the brewpub from placing malt beverages into the distribution channel or shipping between brewpubs owned by the same entity.
- The changes to the three-tier exceptions have the effect of forcing businesses to choose to operate primarily as a vendor or a manufacturer rather than under the current law that effectively permits businesses to operate in both tiers.

#### Growth of the Malt Beverage Industry

- Permits malt beverage manufacturers to treat malt beverages made in collaboration with another manufacturer as their own malt beverages for the purposes of shipping between breweries owned by either of the collaborating manufacturers.
- Permits limited self-distribution of malt beverages by manufacturers of no more than 3000 gallons of malt beverages in a calendar year.
- **Growlers:**
  - Defines growlers to include 32, 64, 128 ounces, and one and two liter containers.
  - Sets packaging requirements for growlers.
  - Specifies the licensees authorized to fill and sell growlers.
- Permits manufacturers and distributors to conduct tastings of malt beverages at a licensed vendor's premises subject to size, number of samples, and time of day limitations.

The bill is expected to have a minimal impact on the Department of Business and Professional Regulation which can be absorbed with existing resources. The bill is expected to have no impact on local government. The bill has an effective date of July 1, 2014.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb02.BPRS.DOCX

DATE: 2/10/2014

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Three-Tier System

Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law. The Division of Alcoholic Beverages and Tobacco (Division), in the Department of Business and Professional Regulation, is responsible for the regulation of the alcoholic beverage industry.<sup>1</sup>

In general, Florida's Beverage Law provides for a structured three-tiered distribution system consisting of the manufacturer, distributor, and vendor. The manufacturer creates the beverages. The distributor obtains the beverages from the manufacturer and delivers them to the vendor. The vendor makes the ultimate sale to the consumer. In the three-tiered system, alcoholic beverage excise taxes generally are collected at the distribution level based on inventory depletions and the state sales tax is collected at the retail level.

The three-tiered system is deeply rooted in the perceived evils of the "tied house" in which a bar is owned or operated by a manufacturer or the manufacturer exercises undue influence over the retail vendor.<sup>2</sup> Because of the perceived evils, manufacturers and distributors are not permitted to have a financial interest in vendors. The following are some limited exceptions to the three-tier regulatory system:

- A manufacturer of malt beverages may obtain a vendor's license for the sale of alcoholic beverages on property that includes a brewery and promotes tourism.<sup>3</sup>
- A vendor may obtain a manufacturer's license to manufacture malt beverages if the vendor brews malt beverages at a single location in an amount of no more than 10,000 kegs per year and sells the beverages to consumers for consumption on the premises or consumption on contiguous licensed premises owned by the vendor.<sup>4</sup>
- A licensed winery may obtain up to three vendor's licenses for the sale of alcoholic beverages on a property.<sup>5</sup>
- Individuals may bring small quantities of alcohol back from trips out-of-state without being held to distributor requirements.<sup>6</sup>

##### Manufacturer/Vendor Exceptions

As noted above, there are two exceptions to the prohibition against manufacturers having financial interests in a vendor.

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<sup>1</sup> Section 561.02, F.S.

<sup>2</sup> Erik D. Price, *Time to Untie the House? Revisiting the Historical Justifications of Washington's Three-Tier System Challenged by Costco v. Washington State Liquor Control Board*, a copy can be found at: [http://www.lanepowell.com/wp-content/uploads/2009/04/pricee\\_001.pdf](http://www.lanepowell.com/wp-content/uploads/2009/04/pricee_001.pdf) (Last visited February 1, 2014).

<sup>3</sup> Section 561.221(2), F.S.

<sup>4</sup> Section 561.221(3), F.S.

<sup>5</sup> Section 561.221(1), F.S.

<sup>6</sup> Section 562.16, F.S.

## Tourism Exception

The first exception is sometimes referred to as the Tourism Exception. In this exception, a manufacturer of malt beverages may obtain a vendor's license for the sale of alcoholic beverages on property that includes a brewery and promotes tourism.

This exception first became law 1963, when s. 561.221, F.S., was amended to permit malt beverage manufacturers to hold one vendor's license.<sup>7</sup> The language was amended in 1967 to permit wine manufacturers to hold one vendor's license,<sup>8</sup> and again in 1978 to permit malt beverage and wine manufacturers to hold two vendor's licenses.<sup>9</sup> At the time, three manufacturers met the criteria to hold a vendor's license, but only one did.<sup>10</sup> The next amendment came in SB 758 (1979),<sup>11</sup> when the statute was amended to permit malt beverage and wine manufacturers to hold three vendor's licenses.

It wasn't until HB 183 (1984),<sup>12</sup> was passed that the current exception was adopted into law. HB 183 amended s. 561.221, F.S., to remove malt beverage manufacturers from the provision permitting malt beverage and wine manufacturers to hold three vendor's licenses and created a new subsection permitting a malt beverage manufacturer to hold vendor's licenses on a property consisting of a single complex, including a brewery, which promotes the brewery and the tourist industry. HB 183 authorized a malt beverage manufacturer to have unlimited vendor's licenses on a property contiguous to a brewery.<sup>13</sup> At the time, only one manufacturer took advantage of the amendment, Anheuser Busch, at its Busch Gardens location in Tampa, Florida. This provision has not been amended since 1984.

This exception permits manufacturers to obtain vendor's licenses for the sale of malt beverages at a brewery location if the vendor's license will "promote tourism."<sup>14</sup> The phrase "promote tourism" is not defined in statute or in the Division's rules. As interpreted by the Division, this exception permits the restaurant or taproom attached to the manufacturing premises to sell alcoholic beverages subject to the following conditions:

- Malt beverages manufactured on premises or shipped from the manufacturer's other manufacturing premises may be sold for on-premises consumption.
- Malt beverages manufactured on premises or shipped from the manufacturer's other manufacturing premises may be sold for off-premises consumption in authorized containers, including growlers.
- Any other alcoholic beverages may be sold as authorized by the vendor's license.

In Florida, a number of breweries, known as "craft breweries,"<sup>15</sup> have used the exception to open restaurants or taprooms attached to their breweries in order to build their brand. Since 1995, 90 licenses have been issued in Florida to various entities pursuant to this exception, with 33 being issued

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<sup>7</sup> Chapter 63-11, Laws of Fla.

<sup>8</sup> Chapter 67-511, Laws of Fla.

<sup>9</sup> Chapter 78-187, Laws of Fla.

<sup>10</sup> *Senate Staff Analysis and Economic Impact Statement*, SB 758 (1978), May 2, 1978.

<sup>11</sup> Chapter 79-54, Laws of Fla.

<sup>12</sup> Chapter 84-142, Laws of Fla.

<sup>13</sup> *Senate Staff Analysis and Economic Impact Statement*, HB 83 (1984), May 9, 1984.

<sup>14</sup> Section 561.221(2), F.S.

<sup>15</sup> Brewers Association defines a "craft brewery" as a small, independent and traditional brewer, with an annual production of 6 million barrels of beer or less, less than 25% owned or controlled by an alcoholic beverage industry member that is not a craft brewery, and has an all malt flagship beer or at least 50% of its volume in either all malt beers or in beers which use adjuncts to enhance rather than lighten flavor. *Craft Brewery Defined*, available at <http://www.brewersassociation.org/pages/business-tools/craft-brewing-statistics/craft-brewer-defined>, (last viewed February 4, 2014).

in 2012 and 2013 alone.<sup>16</sup> Currently in Florida, approximately 60 breweries are licensed as both manufacturers and vendors pursuant to this exception.

Since 1977, the brewery industry has grown exponentially nationwide, growing from 89 breweries nationwide to 2,538 in June of 2013.<sup>17</sup> During 2012, in a year when the total U.S. beer market grew by one percent, craft brewers saw a 15 percent rise in volume and a 17 percent increase by dollars compared to growth in 2011.<sup>18</sup>

### *Brewpub Exception*

The second exception where an entity may obtain both a license as a manufacturer of malt beverages and a vendor's license for the sale of alcoholic beverages is often referred to as the Brewpub Exception. This exception was added to s. 561.221, F.S., by SB 1218 (1987),<sup>19</sup> which amended the language to permit a vendor to be licensed as a manufacturer of malt beverages at a single location, with the following requirements:

- The brewpub shall not manufacture more than 10,000 kegs per year.
- The malt beverages manufactured on premises must be sold for on-premises consumption.

This exception was originally intended for vendors, such as restaurants, that wished to brew malt beverages to sell on site. Due to the requirement that malt beverages be sold for on-premises consumption, brewpubs are not permitted to sell growlers.

### *Overlap of Exceptions*

The statutory language of the Tourist Exception addresses a manufacturer that wishes to hold a vendor's license to permit the sale of malt beverages directly to the public at a brewery. The statutory language of the Brewpub Exception addresses a vendor that wishes to hold a manufacturer's license to permit the brewing of malt beverages for consumption on premises at a retail location. Nevertheless, some "brewpubs" are licensed under the Tourist Exception. In some cases, these restaurants even use the word "brewpub" in the name of the business. At these manufacturers' locations, the public is able to purchase growlers. However a vendor licensed as a brewpub pursuant to the brewpub exception is not able to sell growlers to the public.

Additionally, the Division has permitted licensees originally licensed pursuant to the Brewpub Exception to change their licensure to a manufacturer with a vendor's license under the Tourist Exception. The law created limited exceptions to the three-tier system; however, as more recently implemented, the overlap between the tiers has become more pronounced.

### Malt Beverage Distribution

Manufacturers are prohibited from selling alcoholic beverages to any entity other than a licensed distributor. This prohibition supports the three-tier system. There are a few exceptions to this requirement, as follows:

- Section 561.545(5), F.S., provides an exception for the direct shipping of sacramental alcoholic beverages to bona fide religious organizations as authorized by the Division.

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<sup>16</sup> Email from Dan Olson, Office of Legislative Affairs, Department of Business and Professional Regulation, Re: CMB licenses with a vendor's license issued pursuant to s. 561.221(2), F.S., by year since 1995, February 4, 2014, (on file with the Business and Professional Regulation Subcommittee).

<sup>17</sup> Brewers Association, *126-Year Brewery Count*, available at <http://482256.cache1.evolutionhosting.com/attachments/0001/2578/126-Brewery-Count-HR.jpg> (last viewed February 1, 2014).

<sup>18</sup> Brewers Association, *Craft Brewing Facts*, available at <http://www.craftbrewingbusiness.com/news/craft-beer-continues-to-brew-growth/> (last viewed on February 1, 2014).

<sup>19</sup> Chapter 87-63 Laws of Fla.

- Section 563.022(14)(d), F.S., permits a manufacturer to ship products between its licensed manufacturing premises without a distributor's license.

These exceptions are limited and do not provide for emergencies, such as a faulty keg or the vendor's failure to order enough alcoholic beverages to cover an event, which has been noted as an occasional problem by industry members.<sup>20</sup>

## Container Sizes

### *Standard Containers*

Currently, s. 563.06(6), F.S., requires that all malt beverages that are offered for sale by vendors be packaged in individual containers of no more than 32 ounces. However, malt beverages may be packaged in bulk or in kegs or in barrels or in any individual container containing one gallon or more of malt beverages regardless of individual container type. The industry developed bottles, cans, kegs, half kegs, and other containers based on industry standard sizes, which meet the statutory requirements. Distributors have created a distribution system both state and nationwide with the capacity to transport industry standard sized containers.<sup>21</sup>

### *Growlers*

Some states permit vendors to sell malt beverages in containers known as growlers, which typically are reusable containers of between 32 ounces and two liters that the consumer can take to a vendor for a vendor to fill with the vendor's malt beverage for consumption off the licensed premises.<sup>22</sup> The standard size for a growler is 64 ounces.<sup>23</sup> Florida malt beverage law does not specifically address growlers. Florida malt beverage law does not permit the use of a 64 ounce containers or any other container size between 32 ounces and one gallon. As a result, growlers are prohibited in any sizes other than 32 ounces or less, and one gallon.

## Tied House Evil Gifts and Tastings

Manufacturers and distributors are prohibited from providing malt beverages for tastings at a vendor's licensed premises, as it would be a violation of the Tied-House Evil provisions of the Beverage Law. Section 561.42(14)(e), F.S., prohibits sampling activities that include the tasting of beer at a vendor's premises that is licensed for off-premises sales only. This prohibition applies to manufacturers, distributors, importers, brand owners or brand registrants of beer, and their sales agents or sales persons.

Additionally, section 561.42(1), F.S., prohibits a licensed manufacturer or distributor from assisting any vendor by any gifts or loans of money or property of any description or by the giving of any rebates of any kind whatsoever. Specifically, s. 561.42(1), F.S., provides in part:

No licensed vendor shall accept, directly or indirectly, any gift or loan of money or property of any description or any rebates from any such manufacturer, distributor...; provided, however, that this does not apply to any bottles, barrels, or other containers necessary for the legitimate transportation of such beverages or to advertising materials and does not apply to the extension of credit, for liquors sold, made strictly in compliance with the provisions of this section.

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<sup>20</sup> Testimony of industry members, Workshop on Craft Brewers Business Development Regulatory Issues, Business and Professional Regulation Subcommittee, September 24, 2013.

<sup>21</sup> Testimony of industry members, Workshop on Craft Brewers Business Development Regulatory Issues, Business and Professional Regulation Subcommittee, January 9, 2013.

<sup>22</sup> Beeradvocate, *The Growler: Beer-To-Go!* available at <http://beeradvocate.com/articles/384/> (last viewed February 1, 2014).

<sup>23</sup> Brew-Tek, What is a Growler? available at <http://www.brew-tek.com/products/growlers/what-is-a-growler/> (last viewed at February 3, 2014).

Vendors are not prohibited from providing alcoholic beverages directly to consumers if the alcoholic beverages are paid for by the vendor.

## **Effect of the Bill**

### **Three-Tier System and Manufacturer/Vendor Exceptions**

#### *Brewery with Vendor's License Exception*

The bill permits manufacturers to obtain a vendor's license at two manufacturing premises licensed by the manufacturer, pursuant to the following requirements:

- The manufacturing premises and the vendor's retail premises must be located on the same property, which may be separated by one street or highway.
- The premises must contain a brewery.
- The manufacturer and the vendor retail premises must be included on a sketch provided to the Division at the time of application for licensure.

The manufacturer is permitted to sell alcoholic beverages to consumers pursuant to their vendor's license in face-to-face transactions subject to the following requirements:

- Malt beverages brewed at the licensed manufacturing premises, at another manufacturing premises owned by the manufacturer, or malt beverages brewed in collaboration with another manufacturer to consumers:
  - For on-premises consumption.
  - For off-premises consumption in authorized containers such as cans or bottles.
  - For off-premises consumption in growlers.
- Malt beverages brewed by another manufacturer:
  - For on-premises consumption.
  - For off-premises consumption in authorized containers such as cans or bottles.
  - For off-premises consumption in growlers if the manufacturer holds a quota license as the vendor's license.
- Wine or liquor for on-premises consumption as authorized by the vendor's license.

The manufacturer maintains its responsibility to keep records and pay excise taxes for the malt beverages it sells or gives to consumers pursuant to its vendor's license.

#### *Taprooms*

The bill permits manufacturers to have a taproom without obtaining a vendor's license. Manufacturers who already have two premises with both a manufacturer and vendor's license pursuant to the above exception may have a taproom at any additional manufacturing premises or at any manufacturing premises in lieu of obtaining a vendor license. Manufacturers may only have a taproom pursuant to the following requirements:

- Taprooms must be attached to the licensed manufacturing premises, which may be separated by a street or highway.
- The manufacturing premises and taproom must be included on a sketch provided to the Division at the time of application for licensure.

The manufacturer is authorized to sell only malt beverages it brews in a taproom through face-to-face transactions with consumers according to the following requirements:

- For on-premises consumption.



- For off-premises consumption in authorized containers such as cans or bottles.
- For off-premises consumption in growlers.

Of the malt beverages sold in the taproom, at least 70 percent must have been brewed on the licensed manufacturing premises. No more than 30 percent of the malt beverages sold in the taproom may be brewed by the manufacturer at other licensed manufacturing premises or in collaboration with another manufacturer and shipped to the taproom pursuant to s. 563.022(14)(d), F.S.

The manufacturer maintains its responsibility to keep records and pay excise taxes for the malt beverages it sells or gives to consumers in the taproom. Furthermore, manufacturers are permitted to obtain a permanent food service license in the taproom.

### *Brewpub Exception*

The bill permits the Division to issue both a manufacturer's and a vendor's license to a brewpub subject to the following requirements:

- The brewpub may not brew more than 10,000 kegs of malt beverages on the premises per year.
- The brewpub may not ship malt beverages to or between licensed brewpub premises owned by the same licensed entity pursuant to s. 563.022(14), F.S.
- The brewpub must hold a permanent food service license.
- The brewpub shall not place malt beverages brewed on the premises into the distribution channel.

The brewpub is authorized to sell alcoholic beverages through face-to-face transactions according to the following requirements:

- Malt beverages brewed at the brewpub:
  - For on-premises consumption.
  - For off-premises consumption in growlers.
- Malt beverages brewed by another manufacturer:
  - For on-premises consumption as authorized by the vendor's license.
  - For off-premises consumption in authorized containers such as cans or bottles, as authorized by the vendor's license.
  - For off-premises consumption in growlers if the brewpub holds a quota license as the vendor's license.
- Wine or liquor for on-premises or off-premises consumption as authorized by the vendor's license.

The brewpub maintains its responsibility to keep records and pay excise taxes for the malt beverages it sells or gives to consumers.

### Malt Beverages Distribution

#### *Single Manufacturer Inter-Premises Shipping*

The authorization for manufacturers to ship products between breweries without a distributor's license pursuant to s. 563.022(14)(d), F.S., does not explicitly provide for malt beverages made in collaboration between two manufacturers. The bill extends the authorization to malt beverages brewed in collaboration, by stating that they shall be considered a product of both collaborating manufacturers. The bill permits collaboration malt beverages to be shipped to the licensed manufacturing premises of either manufacturer without having a distributor's license. Furthermore, the bill provides that a brewpub licensed under s. 561.221(3), F.S., is not a manufacturer for purposes of this provision.

### *Limited Self-Distribution*

The bill provides for limited self-distribution by any malt beverage manufacturer; however, a brewpub licensed under s. 561.221(3), F.S., is not a manufacturer for purposes of this provision. Any malt beverage manufacturer may sell and ensure receipt of no more than 3000 gallons of malt beverages per year directly to vendors. This exception will permit manufacturers to provide replacement kegs or additional malt beverages for emergency requests. While this provision will permit any malt beverages manufacturer to make limited sales and delivery of products directly to vendors, it is expected to serve as a mechanism to assist new manufacturers in establishing customers.<sup>24</sup>

The manufacturer is responsible for keeping records and paying excise taxes for the malt beverages it sells or gives to vendors.

### Container Sizes and Growler Requirements

#### *Container Size*

The bill provides that authorized containers as defined in section 563.06(6), F.S., do not include growlers. Subsection (7) is created to define growlers, set requirements for growlers, and indicate license types authorized to fill growlers. The new container sizes authorized for use as growlers are limited to use as specified and may not be used for purposes of distribution or sale outside the manufacturer's or vendor's licensed premises.

#### *Growlers*

The bill defines growlers as a container originally manufactured to hold malt beverages in the following sizes:

- 32 ounces.
- 64 ounces.
- 128 ounces.
- 1 liter.
- 2 liters.

The requirement that the container be originally manufactured to hold malt beverages insures the exclusion of containers such as empty soda bottles, milk jugs, or other containers not manufactured strictly to hold malt beverages.

Growlers may be filled or refilled by manufacturers and vendors subject to the following requirements:

- A manufacturer may fill or refill a growler with malt beverages brewed by the manufacturer in a taproom or an attached licensed vendor's premises pursuant to s. 561.221(2), F.S.
- A vendor that holds a valid quota license pursuant to ss. 561.20(1) and 565.02(1)(a)-(f), F.S., whether or not that vendor is also licensed as a manufacturer pursuant to s. 561.221, F.S., may fill or refill a growler with malt beverages brewed by any manufacturer.

Growlers must meet the following requirements:

- Have an unbroken seal or be incapable of being immediately consumed.
- Be clean prior to filling.
- Be appropriately labeled. The label must sufficiently cover an existing identifying mark from another manufacturer to indicate the malt beverage placed in the growler, and must include:

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<sup>24</sup> Testimony of industry members, Workshop on Craft Brewers Business Development Regulatory Issues, Business and Professional Regulation Subcommittee, October 9, 2013.

- Name of the manufacturer.
- Brand.
- Volume.
- Percentage of alcohol by volume.
- Federal health warning.

The bill provides that it is legal to possess and transport empty growler containers.

### Tied House Evil Gifts and Tastings

The bill deletes language in s. 561.42(14)(e), F.S., prohibiting manufacturers or distributors from conducting sampling of malt beverages on a vendor's licenses premises. Section 563.09, F.S., is created to permit manufacturers and distributors to conduct malt beverages tastings upon a vendor's licensed premises. The tastings are subject to the following requirements:

- The malt beverage tasting must be limited to patrons 21 years of age or older.
- Samples may be 2 ounces or less and limited to no more than eight product samples.
- No person may receive more than one sample of each product.
- The tasting may be held between 10 a.m. and 8 p.m.

#### B. SECTION DIRECTORY:

**Section 1** amends s. 561.221, F.S., clarifying exceptions to the three-tier system.

**Section 2** amends s. 561.42(14)(e), F.S., deleting the prohibition against manufacturers and distributors conducting tastings.

**Section 3** amends s. 561.5101(1), F.S., updating a cross-reference.

**Section 4** amends 562.34(1) and (3), F.S., providing that possessing and transporting growler containers is lawful.

**Section 5** amends 563.022(14)(d) and (g), F.S., clarifying an exception to the three-tier system and permitting limited self-distribution.

**Section 6** amends 563.06(1), (6), and (7), F.S., providing a definition and setting requirements for growlers.

**Section 7** creates 563.09, F.S., allowing malt beverage tastings to be conducted by manufacturers and distributors.

**Section 8** provides an effective date of July 1, 2014.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

None. The Department of Business and Professional Regulation anticipates using existing resources to investigate alleged violations of the provisions of this bill.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

This bill will expand business opportunities for manufacturers and vendors of malt beverages, specifically permitting growlers to be filled by certain licensees, permitting limited self-distribution and inter-premises shipping of collaboration malt beverages, and clarifying exceptions to the three-tier system.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                   A bill to be entitled  
 2           An act relating to craft brewers; amending s. 561.221,  
 3           F.S.; clarifying exceptions to the three-tier system;  
 4           setting requirements and parameters for manufacturers  
 5           obtaining vendor's licenses; providing a definition;  
 6           amending s. 561.42, F.S.; deleting the prohibition  
 7           against manufacturers and distributors conducting  
 8           tastings; amending s. 561.5101, F.S.; updating a  
 9           cross-reference; amending s. 562.34, F.S.; providing  
 10          that possessing and transporting growler containers is  
 11          lawful; amending s. 563.022, F.S.; clarifying the  
 12          treatment of malt beverages brewed in collaboration  
 13          between two manufacturers; permitting limited self-  
 14          distribution by manufacturers; amending s. 563.06,  
 15          F.S.; providing a definition; setting requirements for  
 16          growlers; creating s. 563.09, F.S.; allowing malt  
 17          beverage tastings to be conducted by manufacturers and  
 18          distributors with limitations; providing an effective  
 19          date.

20  
 21   Be It Enacted by the Legislature of the State of Florida:

22  
 23           Section 1. Subsections (2) and (3) of section 561.221,  
 24   Florida Statutes, are amended to read:

25           561.221 Retail exceptions to manufacturing licenses and  
 26   brewing exceptions to vendor licenses ~~Licensing of manufacturers~~

27 ~~and distributors as vendors and of vendors as manufacturers;~~  
 28 conditions and limitations.-

29 (2) A manufacturer of malt beverages who is licensed and  
 30 engaged in the manufacture of malt beverages in this state may  
 31 sell directly to consumers in face-to-face transactions as  
 32 follows:

33 (a) At a taproom, malt beverages brewed by the  
 34 manufacturer or in collaboration with other manufacturers may be  
 35 sold to consumers for on-premises or off-premises consumption  
 36 without obtaining a vendor's license. Taprooms are subject to  
 37 the following requirements:

38 1. The taproom must be a room or rooms located on the  
 39 manufacturing licensed premises consisting of a single complex,  
 40 which shall include a brewery. Such premises may be divided by  
 41 no more than one public street or highway. The taproom shall be  
 42 included on the sketch or diagram defining the licensed premises  
 43 submitted with the manufacturer's license application. All  
 44 sketch or diagram revisions by the manufacturer shall require  
 45 the division's approval verifying that the taproom operated by  
 46 the licensed manufacturer is owned or leased by the manufacturer  
 47 and on licensed manufacturing premises.

48 2. At least 70 percent of the malt beverages sold to  
 49 consumers in the taproom, per calendar year, shall be brewed on  
 50 the licensed manufacturing premises. Malt beverages brewed in  
 51 collaboration with other manufacturers shall not be included in  
 52 the 70 percent. No more than 30 percent of the malt beverages

53 sold to consumers at the taproom, per calendar year, may be  
 54 brewed by the manufacturer at other manufacturing premises and  
 55 shipped to the licensed manufacturing premises pursuant to s.  
 56 563.022(14)(d) or brewed in collaboration with other  
 57 manufacturers.

58 3. Malt beverages may be sold to consumers at the taproom  
 59 for off-premises consumption in authorized containers pursuant  
 60 the requirements set forth in s. 563.06(6) and (7).

61 4. The manufacturer of malt beverages pursuant to this  
 62 subsection shall be responsible for applicable reports pursuant  
 63 to ss. 561.50 and 561.55 with respect to the amount of malt  
 64 beverage sold or given to consumers in the taproom each month  
 65 and shall pay applicable excise taxes thereon to the division by  
 66 the 10th day of each month for the previous month.

67 5. Nothing in this subsection precludes a licensed  
 68 manufacturer of malt beverages with a taproom from also holding  
 69 a permanent food service license at the taproom.

70 6. No manufacturer may hold a vendor license at a licensed  
 71 manufacturing premises operating a taproom pursuant to this  
 72 paragraph.

73 (b) In lieu of a taproom, the ~~The~~ division is authorized  
 74 to issue a vendor's license licenses to a manufacturer of malt  
 75 beverages at no more than two manufacturing premises for which  
 76 the manufacturer has an interest, directly or indirectly, in the  
 77 license if the following requirements are met: ~~, even if such~~  
 78 ~~manufacturer is also licensed as a distributor, for the sale of~~

79 ~~alcoholic beverages on property consisting of a single complex,~~  
 80 ~~which property shall include a brewery and such other structures~~  
 81 ~~which promote the brewery and the tourist industry of the state.~~  
 82 ~~However, such property may be divided by no more than one public~~  
 83 ~~street or highway.~~

84 1. A licensed manufacturer may obtain one vendor's license  
 85 per licensed manufacturing premises for up to two of the  
 86 manufacturer's premises. Any additional manufacturing premises  
 87 for which the manufacturer has an interest, directly or  
 88 indirectly, in the license may operate a taproom without a  
 89 vendor's license pursuant to the requirements set forth in  
 90 paragraph (a).

91 2. The vendor's license shall be located on the  
 92 manufacturing premises consisting of a single complex, which  
 93 shall include a brewery. Such premises may be divided by no more  
 94 than one public street or highway. The vendor licensed premises  
 95 shall be included on the sketch or diagram defining the licensed  
 96 premises submitted with the manufacturer's license application.  
 97 All sketch or diagram revisions by the manufacturer shall  
 98 require the division's approval verifying that the vendor  
 99 premises operated by the licensed manufacturer is owned or  
 100 leased by the manufacturer and on the licensed manufacturing  
 101 premises.

102 3. The manufacturer may sell alcoholic beverages under its  
 103 vendor's license as follows:



104 a. Malt beverages manufactured on the licensed premises; at  
105 another manufacturing premises for which the manufacturer has an  
106 interest, directly or indirectly, in the license; or in  
107 collaboration with another manufacturer for:

108 (I) On-premises consumption.

109 (II) Off-premises consumption in authorized containers,  
110 pursuant to s. 563.06(6).

111 (III) Off-premises consumption in growlers, pursuant to s.  
112 563.06(7).

113 b. Malt beverages manufactured exclusively by other  
114 manufacturers for:

115 (I) On-premises consumption.

116 (II) Off-premises consumption in authorized containers,  
117 pursuant to s. 563.06(6).

118 (III) Off-premises consumption in growlers, pursuant to s.  
119 563.06(7), by holders of a quota license.

120 c. Any wine or liquor for on-premises or off-premises  
121 consumption as authorized under its vendor's license.

122 4. The manufacturer of malt beverages pursuant to this  
123 subsection shall be responsible for applicable reports pursuant  
124 to ss. 561.50 and 561.55 with respect to the amount of malt  
125 beverages manufactured and sold pursuant to their vendor's  
126 license, or given to consumers each month, including malt  
127 beverages brewed in collaboration with another manufacturer, and  
128 shall pay applicable excise taxes thereon to the division by the  
129 10th day of each month for the previous month.

130        5. Nothing in this subsection precludes a licensed  
 131 manufacturer of malt beverages with a vendor's license from also  
 132 holding a permanent food service license at the taproom.

133        (3) The division is authorized to issue a manufacturer's  
 134 license and a vendor's license to a brewpub. The brewpub may  
 135 only obtain a consumption-on-premises vendor's license pursuant  
 136 to s. 563.02, or a quota license pursuant to ss. 561.20(1) and  
 137 565.01(1)(a)-(f), and may sell alcoholic beverages according to  
 138 those licenses and as approved for in paragraph (a).

139        (a) In order to operate as a brewpub, the following  
 140 requirements must be met ~~Notwithstanding other provisions of the~~  
 141 ~~Beverage Law, any vendor licensed in this state may be licensed~~  
 142 ~~as a manufacturer of malt beverages upon a finding by the~~  
 143 ~~division that:~~

144        1. The brewpub vendor will be engaged in brewing malt  
 145 beverages at a single licensed brewpub premises ~~location~~ and in  
 146 an amount which will not exceed 10,000 kegs per calendar year.  
 147 For purposes of this subsection, the term "keg" means 15.5  
 148 gallons.

149        2. A brewpub may sell alcoholic beverages in face-to-face  
 150 transactions with consumers as follows:

151        a. Malt beverages manufactured on the licensed premises  
 152 for:

153        (I) On-premises consumption.

154        (II) Off-premises consumption in growlers, pursuant to s.  
 155 563.06(7).

156        b. Malt beverages manufactured exclusively by other  
 157 manufacturers for:  
 158            (I) On-premises consumption as authorized under its  
 159 vendor's license.  
 160            (II) Off-premises consumption in authorized containers,  
 161 pursuant to s. 563.06(6) as authorized under its vendor's  
 162 license.  
 163            (III) Off-premises consumption in growlers, pursuant to s.  
 164 563.06(7), by holders of a quota license.  
 165        c. Any wine or liquor for on-premises or off-premises  
 166 consumption as authorized under its vendor's license.  
 167            ~~2. The malt beverages so brewed will be sold to consumers~~  
 168 ~~for consumption on the vendor's licensed premises or on~~  
 169 ~~contiguous licensed premises owned by the vendor.~~  
 170            3. The brewpub may not ship malt beverages to or between  
 171 licensed brewpub premises owned by the licensed entity. A  
 172 brewpub is not a manufacturer for the purposes of s.  
 173 563.022(14).  
 174            4. The brewpub may not distribute or sell malt beverages  
 175 outside the licensed brewpub premises.  
 176            5. The brewpub must hold a permanent food service license.  
 177        (b) The brewpub ~~Any vendor which is also licensed as a~~  
 178 ~~manufacturer of malt beverages pursuant to this subsection shall~~  
 179 be responsible for applicable reports pursuant to ss. 561.50 and  
 180 561.55 with respect to the amount of beverage manufactured each  
 181 month and shall pay applicable excise taxes thereon to the

182 division by the 10th day of each month for the previous month.

183 (c) It shall be unlawful for any licensed distributor of  
 184 malt beverages or any officer, agent, or other representative  
 185 thereof to discourage or prohibit any brewpub ~~vendor~~ licensed ~~as~~  
 186 ~~a manufacturer~~ under this subsection from offering malt  
 187 beverages brewed for consumption on the licensed premises of the  
 188 vendor.

189 (d) It shall be unlawful for any manufacturer of malt  
 190 beverages or any officer, agent, or other representative thereof  
 191 to take any action to discourage or prohibit any distributor of  
 192 the manufacturer's product from distributing such product to a  
 193 licensed brewpub ~~vendor which is also licensed as a manufacturer~~  
 194 ~~of malt beverages~~ pursuant to this subsection.

195 Section 2. Paragraph (e) of subsection (14) of section  
 196 561.42, Florida Statutes, is amended to read:

197 561.42 Tied house evil; financial aid and assistance to  
 198 vendor by manufacturer, distributor, importer, primary American  
 199 source of supply, brand owner or registrant, or any broker,  
 200 sales agent, or sales person thereof, prohibited; procedure for  
 201 enforcement; exception.—

202 (14) The division shall adopt reasonable rules governing  
 203 promotional displays and advertising, which rules shall not  
 204 conflict with or be more stringent than the federal regulations  
 205 pertaining to such promotional displays and advertising  
 206 furnished to vendors by distributors, manufacturers, importers,  
 207 primary American sources of supply, or brand owners or

208 registrants, or any broker, sales agent, or sales person  
 209 thereof; however:

210 ~~(c) Manufacturers, distributors, importers, brand owners,~~  
 211 ~~or brand registrants of beer, and any broker, sales agent, or~~  
 212 ~~sales person thereof, shall not conduct any sampling activities~~  
 213 ~~that include tasting of their product at a vendor's premises~~  
 214 ~~licensed for off-premises sales only.~~

215 Section 3. Subsection (1) of section 561.5101, Florida  
 216 Statutes, is amended to read:

217 561.5101 Come-to-rest requirement; exceptions; penalties.-

218 (1) For purposes of inspection and tax-revenue control,  
 219 all malt beverages, except those manufactured and sold pursuant  
 220 to s. 561.221(2) or (3), must come to rest at the licensed  
 221 premises of an alcoholic beverage wholesaler in this state  
 222 before being sold to a vendor by the wholesaler. The prohibition  
 223 contained in this subsection does not apply to the shipment of  
 224 malt beverages commonly known as private labels. The prohibition  
 225 contained in this subsection shall not prevent a manufacturer  
 226 from shipping malt beverages for storage at a bonded warehouse  
 227 facility, provided that such malt beverages are distributed as  
 228 provided in this subsection or to an out-of-state entity.

229 Section 4. Subsections (1) and (3) of section 562.34,  
 230 Florida Statutes, are amended to read:

231 562.34 Containers; seizure and forfeiture.-

232 (1) It shall be unlawful for any person to have in her or  
 233 his possession, custody, or control any cans, jugs, jars,

234 bottles, vessels, or any other type of containers which are  
 235 being used, are intended to be used, or are known by the  
 236 possessor to have been used to bottle or package alcoholic  
 237 beverages; however, this provision shall not apply to any person  
 238 properly licensed to bottle or package such alcoholic beverages  
 239 or to any person intending to dispose of such containers to a  
 240 person, firm, or corporation properly licensed to bottle or  
 241 package such alcoholic beverages, or to any person that has in  
 242 her or his possession a growler, as defined in s. 563.06(7).

243 (3) It shall be unlawful for any person to transport any  
 244 cans, jugs, jars, bottles, vessels, or any other type of  
 245 containers intended to be used to bottle or package alcoholic  
 246 beverages; however, this section shall not apply to any firm or  
 247 corporation holding a license to manufacture or distribute such  
 248 alcoholic beverages and shall not apply to any person  
 249 transporting such containers to any person, firm, or corporation  
 250 holding a license to manufacture or distribute such alcoholic  
 251 beverages, or to any person transporting a growler, as defined  
 252 in s. 563.06(7).

253 Section 5. Paragraph (d) of subsection (14) of section  
 254 563.022, Florida Statutes, is amended and paragraph (g) is added  
 255 to said section, to read:

256 563.022 Relations between beer distributors and  
 257 manufacturers.—

258 (14) MANUFACTURER; PROHIBITED INTERESTS.—

259 (d) Nothing in the Beverage Law shall be construed to

260 prohibit a manufacturer from shipping products to or between its  
 261 licensed manufacturing premises ~~breweries~~ without a  
 262 distributor's license. Malt beverages brewed in collaboration  
 263 between two manufacturers shall be considered products of both  
 264 manufacturers and may be shipped to the licensed manufacturing  
 265 premises of either manufacturer pursuant to this section.

266 (g) Notwithstanding any provision of the Beverage Law,  
 267 manufacturers may sell and ensure receipt of no more than 3000  
 268 gallons of malt beverages manufactured by the manufacturer, per  
 269 calendar year, directly to vendors. The manufacturer shall be  
 270 responsible for applicable reports pursuant to ss. 561.50 and  
 271 561.55 with respect to the amount of malt beverage sold pursuant  
 272 to this paragraph, including malt beverages brewed in  
 273 collaboration with another manufacturer, and shall pay  
 274 applicable excise taxes thereon to the division by the 10th day  
 275 of each month for the previous month. The sale and delivery of  
 276 malt beverages pursuant to this subsection shall not be  
 277 considered distribution under the Beverage Law.

278 Section 6. Subsections (1), (6), and (7) of section  
 279 563.06, Florida Statutes, are amended to read:

280 563.06 Malt beverages; imprint on individual container;  
 281 size of containers; growlers; exemptions.-

282 (1) All ~~On and after October 1, 1959,~~ all taxable malt  
 283 beverages packaged in individual containers possessed by any  
 284 person in the state for the purpose of sale or resale in the  
 285 state, except operators of railroads, sleeping cars, steamships,

286 buses, and airplanes engaged in interstate commerce and licensed  
 287 under this section, shall have imprinted thereon in clearly  
 288 legible fashion by any permanent method the word "Florida" or  
 289 "FL" and no other state name or abbreviation of any state name  
 290 in not less than 8-point type. The word "Florida" or "FL" shall  
 291 appear first or last, if imprinted in conjunction with any  
 292 manufacturer's code. A facsimile of the imprinting and its  
 293 location as it will appear on the individual container shall be  
 294 submitted to the division for approval.

295 (6) With the exception of growlers, as defined in  
 296 subsection (7) below, all ~~All~~ malt beverages packaged in  
 297 individual containers sold or offered for sale by vendors at  
 298 retail in this state shall be in individual containers  
 299 containing no more than 32 ounces of such malt beverages;  
 300 provided, however, that nothing contained in this section shall  
 301 affect malt beverages packaged in bulk or in kegs or in barrels  
 302 or in any individual container containing 1 gallon or more of  
 303 such malt beverage regardless of individual container type.

304 (7) (a) The term "growler" as used in the Beverage Law,  
 305 means any 32 ounce, 64 ounce, 128 ounce, 1 liter, or 2 liter  
 306 container originally manufactured to hold malt beverages.

307 (b) Growlers may be filled or refilled with malt beverages  
 308 as follows:

309 1. With malt beverages manufactured by the manufacturer  
 310 who holds a valid manufacturer license and has a taproom  
 311 pursuant to s. 561.221(2) (a).



312        2. With malt beverages manufactured by the manufacturer who  
 313 holds a valid manufacturer license and a valid vendor license  
 314 pursuant to s. 561.221(2)(b).

315        3. With any malt beverages, by a manufacturer who holds a  
 316 valid manufacturer license pursuant to s. 561.221(2) and a valid  
 317 quota license pursuant to ss. 561.20(1) and 565.01(1)(a)-(f).

318        4. With any malt beverages by a vendor who holds a valid  
 319 quota license pursuant to ss. 561.20(1) and 565.01(1)(a)-(f).

320        (c) The container must have an unbroken seal or be  
 321 incapable of being immediately consumed.

322        (d) The container must be clearly labeled as containing an  
 323 alcoholic beverage and provide the name of the manufacturer, the  
 324 brand, the volume, the percentage of alcohol by volume, and the  
 325 required federal health warning notice for alcoholic beverages.  
 326 If the growler being refilled has an existing label or other  
 327 identifying mark from a manufacturer or brand, that label shall  
 328 be covered sufficiently to indicate the manufacturer and brand  
 329 of the malt beverage placed in the container.

330        (e) The container shall be clean prior to filling.

331        (f) Licensees authorized to fill growlers may not use  
 332 growlers for purposes of distribution or sale outside the  
 333 manufacturer's or vendor's licensed premises.

334        (8)(7) Any person, firm, or corporation, its agents,  
 335 officers or employees, violating any of the provisions of this  
 336 section, shall be guilty of a misdemeanor of the first degree,  
 337 punishable as provided in s. 775.082 or s. 775.083; and the

338 license, if any, shall be subject to revocation or suspension by  
339 the division.

340 Section 7. Section 563.09, Florida Statutes, is created to  
341 read:

342 563.09 Malt beverage tastings by distributors and  
343 manufacturers.—A licensed distributor of malt beverages or a  
344 manufacturer of malt beverages may conduct a malt beverage  
345 tasting upon a licensed premises authorized to sell alcoholic  
346 beverages by package or for consumption on the premises if the  
347 tasting is conducted as follows:

348 (1) The malt beverage tasting is limited to and directed  
349 toward members of the general public who are of the age of legal  
350 consumption.

351 (2) Samples of malt beverages must be no more than two  
352 ounces for each product sampled.

353 (3) A sample of malt beverage may not be offered from more  
354 than eight products at any one tasting.

355 (4) A person shall not be served more than one sample of  
356 each malt beverage.

357 (5) Tastings may be held between the hours of 10 a.m. and 8  
358 p.m.

359 Section 8. This act shall take effect July 1, 2014.



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# **Business & Professional Regulation Subcommittee**

**Tuesday, February 11, 2014  
1:00 PM  
12 HOB**

## **Amendment Packet**





Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Business & Professional  
 2 Regulation Subcommittee  
 3 Representative Passidomo offered the following:

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:  
 7 Section 1. Subsection (14) of section 561.42, Florida  
 8 Statutes, is amended to read:

9 561.42 Tied house evil; financial aid and assistance to  
 10 vendor by manufacturer, distributor, importer, primary American  
 11 source of supply, brand owner or registrant, or any broker,  
 12 sales agent, or sales person thereof, prohibited; procedure for  
 13 enforcement; exception.-

14 (14) The division shall adopt reasonable rules governing  
 15 promotional displays and advertising, which rules may shall not  
 16 conflict with or be more stringent than the federal regulations  
 17 pertaining to such promotional displays and advertising



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18 | furnished to vendors by distributors, manufacturers, importers,  
19 | primary American sources of supply, or brand owners or  
20 | registrants, or any broker, sales agent, or sales person  
21 | thereof; however:

22 |       (a) If a manufacturer, distributor, importer, brand owner,  
23 | or brand registrant of malt beverage, or any ~~broker~~, sales  
24 | agent, or sales person thereof, provides a vendor with  
25 | expendable retailer advertising specialties such as trays,  
26 | coasters, mats, menu cards, napkins, cups, glasses,  
27 | thermometers, and the like, such items may ~~shall~~ be sold only at  
28 | a price not less than the actual cost to the industry member who  
29 | initially purchased them, without limitation in total dollar  
30 | value of such items sold to a vendor.

31 |       (b) Without limitation in total dollar value of such items  
32 | provided to a vendor, a manufacturer, distributor, importer,  
33 | brand owner, or brand registrant of malt beverage, or any  
34 | ~~broker~~, sales agent, or sales person thereof, may rent, loan  
35 | without charge for an indefinite duration, or sell durable  
36 | retailer advertising specialties such as clocks, pool table  
37 | lights, and the like, which bear advertising matter.

38 |       (c) If a manufacturer, distributor, importer, brand owner,  
39 | or brand registrant of malt beverage, or any ~~broker~~, sales  
40 | agent, or sales person thereof, provides a vendor with consumer  
41 | advertising specialties such as ashtrays, T-shirts, bottle  
42 | openers, shopping bags, and the like, such items may ~~shall~~ be  
43 | sold only at a price not less than the actual cost to the



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44 industry member who initially purchased them, and ~~but~~ may be  
45 sold without limitation in total value of such items sold to a  
46 vendor.

47 (d) A manufacturer, distributor, importer, brand owner, or  
48 brand registrant of malt beverage, or any ~~broker,~~ sales agent,  
49 or sales person thereof, may provide consumer advertising  
50 specialties described in paragraph (c) to consumers on any  
51 vendor's licensed premises.

52 (e) 1. A manufacturer, distributor, or importer of malt  
53 beverages, or any contracted third-party agent thereof, may  
54 ~~Manufacturers, distributors, importers, brand owners, or brand~~  
55 ~~registrants of beer, and any broker, sales agent, or sales~~  
56 ~~person thereof, shall not~~ conduct any sampling activities that  
57 include the tasting of malt beverage products on the licensed  
58 premises of any vendor authorized to sell alcoholic beverages by  
59 the drink for consumption on premises, or on the licensed  
60 premises of any vendor authorized to sell alcoholic beverages  
61 only in sealed containers for consumption off premises if the  
62 licensed premises is at an establishment having at least 10,000  
63 square feet of interior floor space exclusive of storage space  
64 not open to the general public or is a package store licensed  
65 under s. 565.02(1)(a) regardless of square footage ~~their product~~  
66 ~~at a vendor's premises licensed for off-premises sales only.~~

67 2. A malt beverage tasting conducted under this paragraph  
68 must be limited to and directed toward the general public of the  
69 age of legal consumption.



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70       3. For a malt beverage tasting conducted under this  
71 paragraph on the licensed premises of a vendor authorized to  
72 sell alcoholic beverages for consumption on premises, each  
73 serving of a malt beverage to be tasted must be provided to the  
74 consumer by the drink in a tasting cup, glass, or other open  
75 container and may not be provided by the package in an unopened  
76 can or bottle or in any other sealed container.

77       4. For a malt beverage tasting conducted under this  
78 paragraph on the licensed premises of a vendor authorized to  
79 sell alcoholic beverages only in sealed containers for  
80 consumption off premises, the tasting must be conducted in the  
81 interior of the building constituting the vendor's licensed  
82 premises and each serving of a malt beverage to be tasted must  
83 be provided to the consumer in a tasting cup having a capacity  
84 of 3 ounces or less.

85       5. A manufacturer, distributor, or importer, or any  
86 contracted third-party agent thereof, may not pay a vendor a fee  
87 or compensation of any kind, including the provision of any malt  
88 beverage at no or reduced cost, to authorize the conduct of a  
89 malt beverage tasting under this paragraph, violation of which  
90 constitutes a violation of s. 561.42.

91       6.a. A manufacturer, distributor, or importer, or any  
92 contracted third-party agent thereof, conducting a malt beverage  
93 tasting under this paragraph must provide all of the beverages  
94 to be tasted, the total volume of which for all tastings  
95 conducted by all manufacturers, distributors, and importers on a





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96 vendor's licensed premises on any one day may not exceed 576  
97 ounces; must have paid all excise taxes on those beverages which  
98 are required of the manufacturer or distributor; and must return  
99 to the manufacturer's or distributor's inventory all of the malt  
100 beverages provided for the tasting that remain unconsumed after  
101 the tasting.

102 b. Any samples of malt beverages provided to a vendor by a  
103 manufacturer, distributor, or importer, or any contracted third-  
104 party agent thereof, in conjunction with or at the time of a  
105 tasting conducted under this paragraph on the licensed premises  
106 of that vendor are subject to the volume limit for that premises  
107 set forth under sub-subparagraph a.

108 c. This subparagraph does not preclude a manufacturer,  
109 distributor, or importer, or any contracted third-party agent  
110 thereof, from buying the malt beverages it provides for the  
111 tasting from a vendor at no more than the retail price, but all  
112 of the malt beverages so purchased and provided for the tasting  
113 which remain unconsumed after the tasting must be removed from  
114 the premises of the tasting and properly disposed of.

115 7. A manufacturer, distributor, or importer of malt  
116 beverages that contracts with a third-party agent to conduct a  
117 malt beverage tasting under this paragraph on its behalf is  
118 responsible for any recordkeeping requirements under this  
119 paragraph with respect to that agent and any violation of this  
120 section by that agent.



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121 8. This paragraph does not preclude a vendor from  
122 conducting a malt beverage tasting on its licensed premises  
123 using malt beverages from its own inventory.

124 9. This paragraph is supplemental to and does not  
125 supersede any special act or ordinance.

126 10. The division may, pursuant to ss. 561.08 and 561.11,  
127 adopt rules to implement, administer, and enforce this  
128 paragraph.

129 (f) A manufacturer ~~Manufacturers~~, distributor  
130 ~~distributors~~, importer ~~importers~~, brand owner ~~owners~~, or brand  
131 registrant ~~registrants~~ of malt beverages ~~beer~~, and any ~~broker~~,  
132 sales agent, or sales person thereof or contracted third-party  
133 agent under paragraph (e), may shall not engage in cooperative  
134 advertising with a vendor and may not pay for advertising that  
135 names a vendor under the guise of advertising a tasting of malt  
136 beverages ~~vendors~~.

137 (g) A distributor ~~Distributors~~ of malt beverages ~~beer~~ may  
138 sell to a vendor ~~vendors~~ draft equipment and tapping accessories  
139 at a price not less than the cost to the industry member who  
140 initially purchased them, except there is no required charge,  
141 and the ~~a~~ distributor may exchange any parts that ~~which~~ are not  
142 compatible with a competitor's system and are necessary to  
143 dispense the distributor's brands. A distributor of malt  
144 beverages ~~beer~~ may furnish to a vendor at no charge replacement  
145 parts of nominal intrinsic value, including, but not limited to,  
146 washers, gaskets, tail pieces, hoses, hose connections, clamps,



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147 plungers, and tap markers.

148 Section 2. This act shall take effect August 15, 2014.

149

150

151 -----

152 T I T L E A M E N D M E N T

153 Remove everything before the enacting clause and insert:

154 A bill to be entitled

155 An act relating to malt beverage tastings; amending s. 561.42,  
156 F.S.; removing the prohibition on beer samplings at the premises  
157 of vendors licensed for off-premises sales only; authorizing  
158 malt beverage tastings on the licensed premises of certain  
159 vendors, subject to certain requirements, limitations,  
160 liabilities, and penalties; providing construction with respect  
161 to special acts and ordinances; authorizing rulemaking;  
162 expanding the prohibition on cooperative advertising with a  
163 vendor to prohibit certain persons from paying for advertising  
164 that names a vendor under the guise of advertising a tasting of  
165 malt beverages; revising language to conform terminology and  
166 editorial style; providing an effective date.





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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing PCB: Business & Professional  
 2 Regulation Subcommittee  
 3 Representative Steube offered the following:

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:  
 7 Section 1. Subsections (2) and (3) of section 561.221,  
 8 Florida Statutes, are amended, and subsection (4) is added to  
 9 that section, to read:

10 561.221 Retail exceptions to manufacturing licenses and  
 11 brewing exceptions to vendor licenses ~~Licensing of manufacturers~~  
 12 ~~and distributors as vendors and of vendors as manufacturers;~~  
 13 conditions and limitations.-

14 (2) A manufacturer of malt beverages who is licensed and  
 15 engaged in the manufacture of malt beverages in this state may  
 16 sell directly to consumers in face-to-face transactions, which  
 17 notwithstanding s. 561.57(1) requires the physical presence of

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18 the consumer to make payment for and take receipt of the  
19 beverages on the licensed premises property, as follows:

20 (a) At a taproom, malt beverages brewed by the  
21 manufacturer on the licensed manufacturing premises may be sold  
22 to consumers for on-premises or off-premises consumption without  
23 obtaining a vendor's license, subject to the following  
24 requirements:

25 1. The taproom must be a room or rooms located on the  
26 manufacturing licensed premises consisting of a single complex,  
27 which shall include a brewery. Such premises may be divided by  
28 no more than one public street or highway. The taproom shall be  
29 included on the sketch or diagram defining the licensed premises  
30 submitted with the manufacturer's license application. All  
31 sketch or diagram revisions by the manufacturer shall require  
32 the division's approval verifying that the taproom operated by  
33 the licensed manufacturer is owned or leased by the manufacturer  
34 and on licensed manufacturing premises.

35 2. Taproom sales to consumers for off-premises consumption  
36 are limited to growlers only, pursuant to the requirements set  
37 forth in s. 563.06(7).

38 3. The manufacturer of malt beverages pursuant to this  
39 subsection shall be responsible for applicable reports pursuant  
40 to ss. 561.50 and 561.55 with respect to the amount of malt  
41 beverage sold or given to consumers in the taproom each month  
42 and shall pay applicable excise taxes thereon to the division by  
43 the 10th day of each month for the previous month.

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44 4. Nothing in this subsection precludes a licensed  
45 manufacturer of malt beverages with a taproom from also holding  
46 a permanent food service license at the taproom.

47 5. No manufacturer may hold a vendor license at a licensed  
48 manufacturing premises operating a taproom pursuant to this  
49 paragraph.

50 (b) In lieu of a taproom, on or after July 1, 2014, the  
51 The division is authorized to issue a vendor's license licenses  
52 to a manufacturer of malt beverages at no more than one  
53 manufacturing premises for which the manufacturer has an  
54 interest, directly or indirectly, in the license if the  
55 following requirements are met: ~~even if such manufacturer is~~  
56 ~~also licensed as a distributor, for the sale of alcoholic~~  
57 ~~beverages on property consisting of a single complex, which~~  
58 ~~property shall include a brewery and such other structures which~~  
59 ~~promote the brewery and the tourist industry of the state.~~  
60 However, such property may be divided by no more than one public  
61 street or highway.

62 1. A licensed manufacturer may obtain one vendor's license  
63 at no more than one licensed manufacturing premises. Any  
64 additional manufacturing premises for which the manufacturer has  
65 an interest, directly or indirectly, in the license may operate  
66 a taproom without a vendor's license pursuant to the  
67 requirements set forth in paragraph (a).

68 2. The vendor's license shall be located on the  
69 manufacturing premises consisting of a single complex, which

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70 shall include a brewery. Such premises may be divided by no more  
71 than one public street or highway. The vendor licensed premises  
72 shall be included on the sketch or diagram defining the licensed  
73 premises submitted with the manufacturer's license application.  
74 All sketch or diagram revisions by the manufacturer shall  
75 require the division's approval verifying that the vendor  
76 premises operated by the licensed manufacturer is owned or  
77 leased by the manufacturer and on the licensed manufacturing  
78 premises.

79 3. The manufacturer may sell alcoholic beverages under its  
80 vendor's license as follows:

81 a. Malt beverages manufactured on the licensed premises; at  
82 another manufacturing premises for which the manufacturer has an  
83 interest, directly or indirectly, in the license; or in  
84 collaboration with another manufacturer for:

85 (I) On-premises consumption.

86 (II) Off-premises consumption in authorized containers,  
87 pursuant to s. 563.06(6).

88 (III) Off-premises consumption in growlers, pursuant to s.  
89 563.06(7).

90 b. Malt beverages manufactured exclusively by other  
91 manufacturers for:

92 (I) On-premises consumption.

93 (II) Off-premises consumption in authorized containers,  
94 pursuant to s. 563.06(6).





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95 (III) Off-premises consumption in growlers, pursuant to s.  
96 563.06(7), by holders of a quota license.

97 c. Any wine or liquor for on-premises or off-premises  
98 consumption as authorized under its vendor's license.

99 4. The manufacturer of malt beverages pursuant to this  
100 subsection shall be responsible for applicable reports pursuant  
101 to ss. 561.50 and 561.55 with respect to the amount of malt  
102 beverages manufactured and sold pursuant to their vendor's  
103 license, or given to consumers each month, including malt  
104 beverages brewed in collaboration with another manufacturer, and  
105 shall pay applicable excise taxes thereon to the division by the  
106 10th day of each month for the previous month.

107 5. Nothing in this subsection precludes a licensed  
108 manufacturer of malt beverages with a vendor's license from also  
109 holding a permanent food service license at the taproom.

110 6. Entities issued a manufacturer's and vendor's license  
111 at more than one manufacturer's premises pursuant to this  
112 subsection prior to July 1, 2014, may maintain the licenses  
113 previously obtained, but shall not obtain additional vendor's  
114 licenses. However, except as to the allowance for manufacturers  
115 holding a vendor's license at more than one licensed  
116 manufacturing premises prior to July 1, 2014, a vendor's license  
117 held by a manufacturer of malt beverages pursuant to this  
118 subsection, regardless of when first obtained, shall be subject  
119 to the requirements of subparagraphs (b)1.-5.

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120        7. An entity with direct or indirect interests in vendor  
121 licenses issued to not more than one manufacturing premises  
122 under paragraph (2) (b) may not be related, directly or  
123 indirectly, to one or more other entities having interests,  
124 directly or indirectly, in other vendor licenses issued to other  
125 separate manufacturing premises. This provision prohibits the  
126 creation of a chain of more than one vendor licensed  
127 manufacturing premises under common control of entities having  
128 direct or indirect interests in such vendor licensed  
129 manufacturing facilities. This does not prohibit the purchase  
130 or ownership of stock in a publicly traded corporation where the  
131 licensee does not have and does not obtain a controlling  
132 interest in the corporation.

133        (3) The division is authorized to issue a manufacturer's  
134 license and a vendor's license to a brewpub. In order to operate  
135 as a brewpub, the following requirements must be met:

136        (a) ~~Notwithstanding other provisions of the Beverage Law,~~  
137 ~~any vendor licensed in this state may be licensed as a~~  
138 ~~manufacturer of malt beverages upon a finding by the division~~  
139 ~~that:~~

140        1. The brewpub vendor will be engaged in brewing malt  
141 beverages at a single licensed brewpub premises ~~location~~ and in  
142 an amount which will not exceed 10,000 kegs per calendar year.  
143 For purposes of this subsection, the term "keg" means 15.5  
144 gallons.



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145 (b) A brewpub may sell alcoholic beverages in face-to-face  
146 transactions with consumers as follows:

147 1. Malt beverages manufactured on the licensed brewpub  
148 premises for on-premises consumption.

149 2. Malt beverages manufactured exclusively by other  
150 manufacturers for on-premises consumption as authorized under  
151 its vendor's license.

152 3. Any wine or liquor for on-premises consumption as  
153 authorized under its vendor's license.

154 ~~2. The malt beverages so brewed will be sold to consumers~~  
155 ~~for consumption on the vendor's licensed premises or on~~  
156 ~~contiguous licensed premises owned by the vendor.~~

157 (c) The brewpub may not ship malt beverages to or between  
158 licensed brewpub premises owned by the licensed entity. A  
159 brewpub is not a manufacturer for the purposes of s.  
160 563.022(14).

161 (d) The brewpub may not distribute or sell malt beverages  
162 outside the licensed brewpub premises.

163 (e) The brewpub must hold a permanent food service  
164 license.

165 ~~(f)(b) The brewpub Any vendor which is also licensed as a~~  
166 ~~manufacturer of malt beverages pursuant to this subsection shall~~  
167 ~~be responsible for applicable reports pursuant to ss. 561.50 and~~  
168 ~~561.55 with respect to the amount of beverage manufactured each~~  
169 ~~month and shall pay applicable excise taxes thereon to the~~  
170 ~~division by the 10th day of each month for the previous month.~~

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171        (g) ~~(e)~~ It shall be unlawful for any licensed distributor  
172 of malt beverages or any officer, agent, or other representative  
173 thereof to discourage or prohibit any brewpub vendor licensed as  
174 a ~~manufacturer~~ under this subsection from offering malt  
175 beverages brewed for consumption on the licensed premises of the  
176 vendor.

177        (h) ~~(d)~~ It shall be unlawful for any manufacturer of malt  
178 beverages or any officer, agent, or other representative thereof  
179 to take any action to discourage or prohibit any distributor of  
180 the manufacturer's product from distributing such product to a  
181 licensed brewpub vendor ~~which is also licensed as a manufacturer~~  
182 ~~of malt beverages~~ pursuant to this subsection.

183        (4) It is the intent of the Legislature that the  
184 provisions relating to the sale of malt beverages in a taproom  
185 by a malt beverage manufacturer pursuant to s. 561.221(2)(a),  
186 and to the sale of alcoholic beverages by a malt beverages  
187 manufacturer pursuant to a vendor license issued pursuant to s.  
188 561.221(2)(b), and to the operation of a licensed brewpub  
189 pursuant to s. 561.221(3) constitute limited exceptions to the  
190 manufacturing and vendor licensing requirements of the Beverage  
191 Law. Anything not specifically authorized in these provisions  
192 shall be prohibited unless otherwise authorized by the Beverage  
193 Law.

194        Section 2. Paragraph (e) of subsection (14) of section  
195 561.42, Florida Statutes, is amended, to read:

196        561.42 Tied house evil; financial aid and assistance to

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197 vendor by manufacturer, distributor, importer, primary American  
198 source of supply, brand owner or registrant, or any broker,  
199 sales agent, or sales person thereof, prohibited; procedure for  
200 enforcement; exception.-

201 (14) The division shall adopt reasonable rules governing  
202 promotional displays and advertising, which rules shall not  
203 conflict with or be more stringent than the federal regulations  
204 pertaining to such promotional displays and advertising  
205 furnished to vendors by distributors, manufacturers, importers,  
206 primary American sources of supply, or brand owners or  
207 registrants, or any broker, sales agent, or sales person  
208 thereof; however:

209 ~~(e) Manufacturers, distributors, importers, brand owners,~~  
210 ~~or brand registrants of beer, and any broker, sales agent, or~~  
211 ~~sales person thereof, shall not conduct any sampling activities~~  
212 ~~that include tasting of their product at a vendor's premises~~  
213 ~~licensed for off premises sales only.~~

214 Section 3. Subsection (1) of section 561.5101, Florida  
215 Statutes, is amended, to read:

216 561.5101 Come-to-rest requirement; exceptions; penalties.-

217 (1) For purposes of inspection and tax-revenue control,  
218 all malt beverages, except those manufactured and sold pursuant  
219 to s. 561.221(2) or (3), must come to rest at the licensed  
220 premises of an alcoholic beverage wholesaler in this state  
221 before being sold to a vendor by the wholesaler. The prohibition  
222 contained in this subsection does not apply to the shipment of



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223 malt beverages commonly known as private labels. The prohibition  
224 contained in this subsection shall not prevent a manufacturer  
225 from shipping malt beverages for storage at a bonded warehouse  
226 facility, provided that such malt beverages are distributed as  
227 provided in this subsection or to an out-of-state entity.

228 Section 4. Subsection (6) of section 561.57, Florida  
229 Statutes, is amended, to read:

230 561.57 Deliveries by licensees.-

231 (6) Common carriers are not required to have vehicle  
232 permits to transport alcoholic beverages. Common carriers shall  
233 not make deliveries of malt beverages directly to a consumer.

234 Section 5. Subsections (1) and (3) of section 562.34,  
235 Florida Statutes, are amended, to read:

236 562.34 Containers; seizure and forfeiture.-

237 (1) It shall be unlawful for any person to have in her or  
238 his possession, custody, or control any cans, jugs, jars,  
239 bottles, vessels, or any other type of containers which are  
240 being used, are intended to be used, or are known by the  
241 possessor to have been used to bottle or package alcoholic  
242 beverages; however, this provision shall not apply to any person  
243 properly licensed to bottle or package such alcoholic beverages  
244 or to any person intending to dispose of such containers to a  
245 person, firm, or corporation properly licensed to bottle or  
246 package such alcoholic beverages, or to any person that has in  
247 her or his possession a growler, as defined in s. 563.06(7).

248 (3) It shall be unlawful for any person to transport any

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249 cans, jugs, jars, bottles, vessels, or any other type of  
250 containers intended to be used to bottle or package alcoholic  
251 beverages; however, this section shall not apply to any firm or  
252 corporation holding a license to manufacture or distribute such  
253 alcoholic beverages and shall not apply to any person  
254 transporting such containers to any person, firm, or corporation  
255 holding a license to manufacture or distribute such alcoholic  
256 beverages, or to any person transporting a growler, as defined  
257 in s. 563.06(7).

258 Section 6. Paragraph (d) of subsection (14) of section  
259 563.022, Florida Statutes, is amended and paragraph (g) is added  
260 to that section, to read:

261 563.022 Relations between beer distributors and  
262 manufacturers.—

263 (14) MANUFACTURER; PROHIBITED INTERESTS.—

264 (d) Nothing in the Beverage Law shall be construed to  
265 prohibit a manufacturer from shipping products to or between its  
266 licensed manufacturing premises ~~breweries~~ without a  
267 distributor's license. Malt beverages brewed in collaboration  
268 between two manufacturers shall be considered products of both  
269 manufacturers and may be shipped to the licensed manufacturing  
270 premises of either manufacturer pursuant to this section.

271 Section 7. Subsections (1), (6), and (7) of section  
272 563.06, Florida Statutes, are amended, to read:

273 563.06 Malt beverages; imprint on individual container;  
274 size of containers; growlers; exemptions.—

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275 (1) ~~All On and after October 1, 1959,~~ all taxable malt  
276 beverages packaged in individual containers possessed by any  
277 person in the state for the purpose of sale or resale in the  
278 state, except operators of railroads, sleeping cars, steamships,  
279 buses, and airplanes engaged in interstate commerce and licensed  
280 under this section, shall have imprinted thereon in clearly  
281 legible fashion by any permanent method the word "Florida" or  
282 "FL" and no other state name or abbreviation of any state name  
283 in not less than 8-point type. The word "Florida" or "FL" shall  
284 appear first or last, if imprinted in conjunction with any  
285 manufacturer's code. A facsimile of the imprinting and its  
286 location as it will appear on the individual container shall be  
287 submitted to the division for approval.

288 (6) With the exception of growlers, as defined in  
289 subsection (7) below, all All malt beverages packaged in  
290 individual containers sold or offered for sale by vendors at  
291 retail in this state shall be in individual containers  
292 containing no more than 32 ounces of such malt beverages;  
293 provided, however, that nothing contained in this section shall  
294 affect malt beverages packaged in bulk or in kegs or in barrels  
295 or in any individual container containing 1 gallon or more of  
296 such malt beverage regardless of individual container type.

297 (7) (a) The term "growler" as used in the Beverage Law,  
298 means any 32 ounce, 64 ounce, 128 ounce, 1 liter, or 2 liter  
299 container originally manufactured to hold malt beverages.

300 (b) Growlers may be filled or refilled with malt beverages





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301 as follows:

302 1. With malt beverages manufactured by the manufacturer  
303 who holds a valid manufacturer's license and has a taproom  
304 pursuant to s. 561.221(2)(a).

305 2. With malt beverages manufactured by the manufacturer  
306 who holds a valid manufacturer's license and a valid vendor's  
307 license pursuant to s. 561.221(2)(b).

308 3. With any malt beverages, by a manufacturer who holds a  
309 valid manufacturer's license pursuant to s. 561.221(2) and a  
310 valid quota license pursuant to ss. 561.20(1) and 565.02(1)(a)-  
311 (f).

312 4. With any malt beverages by a vendor who holds a valid  
313 quota license pursuant to ss. 561.20(1) and 565.02(1)(a)-(f).

314 (c) The container must have an unbroken seal or be  
315 incapable of being immediately consumed.

316 (d) The container must be clearly labeled as containing an  
317 alcoholic beverage and provide the name of the manufacturer, the  
318 brand, the volume, the percentage of alcohol by volume, and the  
319 required federal health warning notice for alcoholic beverages.  
320 If the growler being refilled has an existing label or other  
321 identifying mark from a manufacturer or brand, that label shall  
322 be covered sufficiently to indicate the manufacturer and brand  
323 of the malt beverage placed in the container.

324 (e) The container shall be clean prior to filling.

325 (f) Licensees authorized to fill growlers may not use  
326 growlers for purposes of distribution or sale outside the

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327 manufacturer's or vendor's licensed premises.

328 (8)(7) Any person, firm, or corporation, its agents,  
329 officers or employees, violating any of the provisions of this  
330 section, shall be guilty of a misdemeanor of the first degree,  
331 punishable as provided in s. 775.082 or s. 775.083; and the  
332 license, if any, shall be subject to revocation or suspension by  
333 the division.

334 Section 8. Section 563.09, Florida Statutes, is created to  
335 read:

336 563.09 Malt beverage tastings by distributors and  
337 manufacturers.—A licensed distributor of malt beverages or a  
338 manufacturer of malt beverages may conduct a malt beverage  
339 tasting subject to the following requirements:

340 (1) Tastings may only be conducted in the interior of a  
341 licensed premises authorized to sell alcoholic beverages as  
342 follows:

343 (a) By package, if the premises consists of at least  
344 10,000 square feet or more of interior space.

345 (b) By package, if the premises is licensed pursuant to s.  
346 565.02(1)(a), regardless of the premise's interior square  
347 footage.

348 (c) For consumption on the premises.

349 (2) The malt beverage tasting is limited to and directed  
350 toward members of the general public who are of the age of legal  
351 consumption.

352 (3) Samples may be:

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- 353        (a) No more than three ounces for each product sampled.  
354        (b) Served in a cup, glass, or other open container.  
355        (4) The manufacturer or distributor may purchase the malt  
356 beverages used in the tastings from the vendor at no more than  
357 retail price.  
358        (5) The manufacturer or distributor conducting the tasting  
359 shall:  
360        (a) Provide all of the malt beverages used for the  
361 tasting.  
362        (b) Not pay a vendor a fee or compensation of any kind,  
363 including the provision of any malt beverage at no or reduced  
364 cost.  
365        (c) Be responsible for applicable reports and shall pay  
366 applicable excise taxes thereon to the division. If the  
367 manufacturer or distributor contracts with a third-party to  
368 conduct the tasting, the manufacturer or distributor remains  
369 responsible for the recordkeeping requirements and excise tax  
370 payments.  
371        (d) Properly dispose of malt beverages provided for the  
372 tastings which remain unconsumed after the tasting.  
373        (6) This paragraph does not preclude a vendor from  
374 conducting a malt beverage tasting on its licensed premises  
375 using malt beverages from its own inventory.  
376        (7) This section is supplemental to and does not supersede  
377 any special act or ordinance.



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378           Section 9. If a provision of s. 561.221(2), Florida  
 379 Statutes, as amended by this act is held invalid, or if the  
 380 application of this subsection to any person or circumstance is  
 381 held invalid, the invalidity does not affect other provisions or  
 382 applications of the act which can be given effect without the  
 383 invalid provision or application, and to this end s. 561.221(2),  
 384 Florida Statutes, is severable.

385           Section 10. This act shall take effect July 1, 2014.  
 386  
 387

388 -----

389                           **T I T L E   A M E N D M E N T**

390           Remove everything before the enacting clause and insert:

391                           A bill to be entitled

392 An act relating to malt beverages; amending s. 561.221, F.S.;  
 393 clarifying malt beverage three-tier system exceptions and  
 394 application; setting requirements and parameters for  
 395 manufacturers obtaining vendor's licenses; providing a  
 396 definition; amending s. 561.42, F.S.; deleting the prohibition  
 397 against manufacturers and distributors conducting tastings;  
 398 amending s. 561.5101, F.S.; updating a cross-reference; amending  
 399 s. 561.57, F.S.; providing that common carriers are not  
 400 permitted to make deliveries of malt beverages to consumers;  
 401 amending s. 562.34, F.S.; providing that possessing and  
 402 transporting growler containers is lawful; amending s. 563.022,  
 403 F.S.; clarifying the treatment of malt beverages brewed in



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404 collaboration between two manufacturers; amending s. 563.06,  
405 F.S.; providing a definition; setting requirements for growers;  
406 creating s. 563.09, F.S.; allowing malt beverage tastings to be  
407 conducted by manufacturers and distributors with limitations;  
408 providing severability; providing an effective date.