



Business & Professional Regulation Subcommittee

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

MEETING PACKET

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

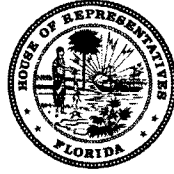
Consideration of the following proposed committee bill(s):

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.¹

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.² The standard size for a growler is 64 ounces.³ 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.

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

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

³ 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.

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.¹

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.² 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.³
- 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.⁴
- A licensed winery may obtain up to three vendor's licenses for the sale of alcoholic beverages on a property.⁵
- Individuals may bring small quantities of alcohol back from trips out-of-state without being held to distributor requirements.⁶

Manufacturer/Vendor Exceptions

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

¹ Section 561.02, F.S.

² 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 (Last visited February 1, 2014).

³ Section 561.221(2), F.S.

⁴ Section 561.221(3), F.S.

⁵ Section 561.221(1), F.S.

⁶ 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.⁷ The language was amended in 1967 to permit wine manufacturers to hold one vendor's license,⁸ and again in 1978 to permit malt beverage and wine manufacturers to hold two vendor's licenses.⁹ At the time, three manufacturers met the criteria to hold a vendor's license, but only one did.¹⁰ The next amendment came in SB 758 (1979),¹¹ 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),¹² 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.¹³ 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."¹⁴ 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,"¹⁵ 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

⁷ Chapter 63-11, Laws of Fla.

⁸ Chapter 67-511, Laws of Fla.

⁹ Chapter 78-187, Laws of Fla.

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

¹¹ Chapter 79-54, Laws of Fla.

¹² Chapter 84-142, Laws of Fla.

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

¹⁴ Section 561.221(2), F.S.

¹⁵ 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.¹⁶ 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 2013.¹⁷ 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 2011.¹⁸

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),¹⁹ 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.

¹⁶ 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).

¹⁷ 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).

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

¹⁹ 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.²⁰

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.²¹

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.²² The standard size for a growler is 64 ounces.²³ 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.

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

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

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

²³ 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.²⁴

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:

²⁴ 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.