



Business & Professions Subcommittee

**Wednesday, February 18, 2015
10:30 AM
Sumner Hall (404 HOB)**

MEETING PACKET

REVISED

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Business & Professions Subcommittee

Start Date and Time: Wednesday, February 18, 2015 10:30 am
End Date and Time: Wednesday, February 18, 2015 01:00 pm
Location: Sumner Hall (404 HOB)
Duration: 2.50 hrs

Consideration of the following bill(s):

HB 107 Malt Beverages by Steube
HB 301 Malt Beverages by Sprowls

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., Tuesday, February 17, 2015.

By request of the Chair, all Business & Professions Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Tuesday, February 17, 2015.

NOTICE FINALIZED on 02/11/2015 16:15 by Ellinor.Martha



The Florida House of Representatives

Regulatory Affairs Committee

Business & Professions Subcommittee

Steve Crisafulli
Speaker

Halsey Beshears
Chair

AGENDA

February 18, 2015
404 House Office Building
10:30 AM – 1:00 PM

- I. **Call to Order & Roll Call**
- II. HB 301 by *Rep. Sprowls*
Malt Beverages
- III. HB 107 by *Rep. Steube*
Malt Beverages
- IV. **Adjournment**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 107 Malt Beverages
SPONSOR(S): Steube
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee		Butler BSB	Luczynski nj
2) Government Operations Appropriations Subcommittee			
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

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

Package Stores and Electronic Benefits Transfer Program

- Repeals the provisions that limits the items a package store may sell and that prohibits direct access to other buildings or rooms.
- Provides that EBT cards cannot be used to purchase alcoholic beverages.

Malt Beverage Manufacturer/Vendor Licensure Three-Tier Exceptions

- Manufacturers with Vendor's Licenses:
 - Permits a manufacturer to obtain a vendor's license at two manufacturing premises.
 - Provides for the sale of malt beverages directly to consumers for on-premises and off-premises consumption with some limitations.
- Taprooms:
 - A manufacturer may have a taproom at its licensed premises without a vendor's license to sell malt beverages directly to consumers with some limitations.
- Brewpubs:
 - May sell malt beverages brewed on premises for on-premises or off-premises consumption.
 - May sell malt beverages brewed by other manufacturers as authorized by its vendors license.

Deliveries of Alcoholic Beverages

- Permits a licensed vendor to transport alcoholic beverages from a distributor's place of business to the vendor's licensed premises or off-premises storage without a vehicle permit.

Growlers and Malt Beverage Tastings

- Specifies growlers to be containers between 32 and 128 ounces; specifies packaging and labeling requirements and the licensees authorized to fill and sell growlers.
- Permits manufacturers or distributors to conduct tasting of malt beverages on a vendor's licensed premises subject to certain requirements.

Malt Beverage Franchise Agreements

- Revises regulation of contract agreements between malt beverages manufacturers and distributors.

Limited Malt Beverage Self-Distribution

- Permits limited self-distribution by any malt beverage manufacturer.

Craft Distilleries

- Permits craft distilleries to sell unlimited distilled spirits in face-to-face transactions with consumers making the purchases for personal use.

The bill is expected to have a significant fiscal impact on the Department of Business and Professional Regulation.

The bill has an effective date of July 1, 2015.

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

STORAGE NAME: h0107.BPS.DOCX

DATE: 2/17/2015

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

General Beverage Law

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 (Department), 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 are generally 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 concept of the perceived "tied house evil," in which a bar is owned or operated by a manufacturer or the manufacturer exercises undue influence over the retail vendor.² Activities between manufacturers, distributors, and vendors are extensively regulated and constitute the basis for Florida's "Tied House Evil" law. Among those regulations, 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.

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

Electronic Benefits Transfer Program

Current Situation

Currently, the Florida Department of Children and Families (DCF) uses the electronic benefits transfer (EBT) cards to assist in the dissemination of the food assistance benefits and temporary cash

¹ s. 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*, (June 2004), http://www.lanepowell.com/wp-content/uploads/2009/04/pricce_001.pdf.

³ s. 561.221(2), F.S.

⁴ s. 561.221(3), F.S.

⁵ s. 561.221(1), F.S.

⁶ s. 562.16, F.S.

assistance payments provided by federal and state government programs such as SNAP (Supplemental Nutrition Assistance Program) and TANF (Temporary Assistance for Needy Families).⁷ The benefits are placed on an EBT card, which acts like a credit card with a set limit, and can be used for certain covered purchases.

Section 402.82(4), F.S., provides locations and activities for which the EBT card cannot be used. The EBT card cannot be used at “[a]n establishment licensed under the Beverage Law to sell distilled spirits as a vendor and restricted as to the types of products that can be sold under ss. 565.04 and 565.045, or in a bottle club as defined in s. 561.01.”⁸ Therefore the EBT card is not permitted to be used in package stores, where all alcoholic beverages, including distilled spirits are sold.⁹ Additionally, the EBT card cannot be used at bars and restaurants that hold quota licenses pursuant to s. 565.02(1)(b)-(f), F.S., where alcoholic beverages including distilled spirits are sold.

Effect of the Bill

The bill expands the prohibition for the use of the EBT card by amending s. 402.82, F.S., to provide that EBT cards cannot be used to purchase an alcoholic beverage as defined in s. 561.01, F.S., and sold pursuant to the Beverage Law. This would include any alcoholic beverage sold pursuant to chs. 561, 562, 563, 564, 565, 567, and 568 F.S., including all wines, beers, and spirits.

Package Stores

Current Situation

Section 565.04, F.S., provides that vendors licensed under s. 565.02(1)(a), F.S., are not permitted to sell any merchandise in their store other than alcoholic beverages, bitters, grenadine, nonalcoholic mixers (not including juice from outside of Florida), fruit juice produced in Florida, bar and party supplies and equipment and tobacco products. Section 565.02(1)(a), F.S., creates a state license for “vendors who are permitted to sell any alcoholic beverages regardless of alcoholic content” and “operating a place of business where [alcoholic] beverages are sold only in sealed containers for consumption off the premises.” The result has been the creation of “package stores,” where the vendor sells the above and nothing else in an enclosed space that is separated from any other store by a wall.

Effect of the Bill

The bill repeals s. 565.04, F.S., permitting vendors licensed under s. 565.02(1)(a), F.S., to sell alcoholic beverages in stores without restrictions on other items that may be sold in the store. This will permit grocery stores and big box chain stores to put spirits in their main store rather than building or renting a separate building to sell the higher alcoholic content beverages. Additionally, the repeal of this section will remove the restriction on the type of products that may be sold in a package store.

Malt Beverage Manufacturer/Vendor Licensure Exceptions

Current Situation

There are a few exceptions to the three-tier regulatory system throughout the nation, where one of the three-tiers (manufacturer, distributor, or vendor) has some ownership or control interest in another tier. Two exceptions in Florida law are referred to as the “tourism exception” and the “brewpub exception.”

⁷ s. 402.82(1), F.S.

⁸ s. 402.82(4)(a), F.S.

⁹ s. 565.04, 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 vendor's licenses 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.¹⁰ The language was amended in 1967 to permit wine manufacturers to hold one vendor's license,¹¹ and again in 1978 to permit malt beverage and wine manufacturers to hold two vendor's licenses.¹² At the time, three manufacturers met the criteria to hold a vendor's license, but only one did.¹³ The next amendment came 1979,¹⁴ when the statute was amended to permit malt beverage and wine manufacturers to hold three vendor's licenses.

In 1984,¹⁵ the current exception was adopted into law. Chapter 84-142, Laws of Florida 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 tourism industry. These amendments authorized a malt beverage manufacturer to have unlimited vendor's licenses on a property contiguous to a brewery.¹⁶ 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.¹⁷ 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,"¹⁸ have used the exception to open restaurants or taprooms attached to their breweries in order to build their brand. Between 1995 and February 2014, 90 licenses have been issued in Florida to various entities pursuant to this exception, with 33 being issued in 2012 and 2013 alone.¹⁹ Currently in Florida, approximately 60 breweries are licensed as both manufacturers and vendors pursuant to this exception.²⁰

¹⁰ ch. 63-11, Laws of Fla.

¹¹ ch. 67-511, Laws of Fla.

¹² ch. 78-187, Laws of Fla.

¹³ *Senate Staff Analysis and Economic Impact Statement*, SB 758 (1978), May 2, 1978.

¹⁴ ch. 79-54, Laws of Fla.

¹⁵ ch. 84-142, Laws of Fla.

¹⁶ *Senate Staff Analysis and Economic Impact Statement*, SB 813 (1984), May 9, 1984 (CS/HB 183 was substituted for CS/SB 813).

¹⁷ s. 561.221(2), F.S.

¹⁸ The Brewers Association defines a "craft brewer" 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 a majority of its total beverage alcohol volume in beers whose flavor derives from traditional or innovative brewing ingredients and their fermentation. BREWERS ASSOCIATION, *Craft Brewer Defined*, <http://www.brewersassociation.org/statistics/craft-brewer-defined/> (last visited Feb. 6, 2015).

¹⁹ Email from Dan Olson, Deputy Director 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 (Feb. 4, 2014).

²⁰ *Id.*

Since 1977, the brewery industry has grown nationwide exponentially, from 89 breweries nationwide in 1977 to 2,538 in June 2013.²¹ During 2013, craft brewers saw an 18 percent rise in volume and a 20 percent increase by dollars compared to 15 percent rise in volume and 17 percent increase by dollars in 2012.²²

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),²³ 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 may not brew more than 10,000 kegs of malt beverages on the premises per year;
- Malt beverages manufactured on premises must be sold for on-premises consumption;
- Malt beverages brewed by other manufacturers, as well as wine or liquor may be sold for on-premises consumption as authorized by its vendor's license;
- The brewpub must keep records and pay excise taxes for the malt beverages it sells or gives to consumers.

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 Tourism 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 Tourism 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 Tourism 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.

Come to Rest Requirements

Section 561.5101, F.S., provides that, for purposes of inspection and tax-revenue control, all malt beverages except those brewed in brewpubs pursuant to s. 561.221(3), F.S., must come to rest at the licensed premises of a distributor prior to being sold to a vendor. The exception does not include s. 561.221(2), F.S., for beer brewed at a brewery and sold at retail on the manufacturer's premises under the Tourism Exception.

²¹ BREWERS ASSOCIATION, *Brewers Association Reports Continued Growth for U.S. Craft Brewers*, (July 29, 2013), <http://www.brewersassociation.org/press-releases/brewers-association-reports-continued-growth-for-u-s-craft-brewers/>.

²² BREWERS ASSOCIATION, *Craft Brewing Facts*, <http://old.brewersassociation.org/pages/business-tools/craft-brewing-statistics/facts> (last visited on Feb. 6, 2015).

²³ ch. 87-63, Laws of Fla.

Effect of the Bill

Manufacturer 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 or at another manufacturing premises owned by the 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.
- Wine or liquor for on-premises or off-premises consumption as authorized by the vendor's license.

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

An entity that has applied for a manufacturer's and vendor's license at more than two licensed manufacturing premises pursuant to this paragraph before March 15, 2015, or has been issued a manufacturer's and vendor's license at more than two licensed manufacturing premises pursuant to this paragraph before July 1, 2015, may maintain the licenses previously obtained or received based on the application prior to March 15, 2015, but may not obtain or apply for additional vendor's licenses. But manufacturers that hold both a vendor's license and a manufacturer's license must comply with the above listed requirements.

Manufacturers with vendor's licenses are prohibited from creating a chain of more than two vendor licensed manufacturing premises under common control of one entity, either directly or indirectly. However, manufacturers are not prohibited to purchase or own stock in a publicly traded corporation where the licensee does not have and does not obtain a controlling interest. For manufacturers that hold vendor's licenses at more than two licensed manufacturing premises prior to July 1, 2015, or applied for prior to March 15, 2015, the limit of two is replaced with the actual number of manufacturing premises with vendor licenses the entity operates or obtains as a result of the application prior to March 15, 2015.

Taprooms

The bill permits manufacturers to have a taproom at a licensed manufacturing premises 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 and shipped to the taproom pursuant to s. 563.022(14)(d), F.S.

The manufacturer maintains its responsibility to record 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.

Severability of the Brewery with Vendor's License Exception and Taprooms Exception

The bill provides that, if a provision of s. 561.221(2), F.S., regarding the breweries with a vendor's license exception or taprooms, as referenced above, is held invalid, or if the application of the section is held invalid, that the invalidity of the section does not affect other provisions or applications of the act.

Brewpub Exception

The bill maintains the Division's authority to issue both a manufacturer's and a vendor's license to a brewpub subject to the following requirements, in addition to the existing requirements listed above:

- 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)(d), 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 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 brewpub:
 - For on-premises consumption;
 - For off-premises consumption in growlers.
- Malt beverages brewed by another manufacturer:
 - For on-premises consumption;
 - For off-premises consumption in growlers if the brewpub holds a valid quota license.
- Wine or liquor for on-premises or off-premises consumption as authorized by the vendor's license.

Come to Rest Requirements

The bill exempts malt beverages brewed by a manufacturer with a vendor's license pursuant to s. 561.221(2) or (3), F.S., (Tourist Exception, Taprooms, and Brewpubs) from the requirement that all malt beverages come to rest at the licensed premises of a distributor prior to being sold to a vendor by the distributor.

Malt Beverage Tastings

Current Situation

As part of Florida's "Tied House Evil" laws, there are many restrictions to the business and market activities between the three-tiers. Restrictions include preventing shared promotions, where a manufacturer or distributor may partner with a vendor to promote a specific product at the vendor's location.

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, s. 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.

Vendors are permitted to provide 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 licensed premises. Additionally, s. 563.09, F.S., is created to permit distributors to conduct malt beverage tastings upon a vendor's licensed premises. The tastings may take place in the interior of a premises if the vendor is licensed as follows:

- By package, if the premises consists of at least 10,000 square feet or more interior space;
- By package, if the premises is licensed pursuant to s. 565.02(1)(a), F.S., regardless of interior square footage;
- For consumption on-premises.

The tastings may only be conducted as follows:

- Served to members of the general public of the age of legal consumption;
- Served in a cup, glass, or other open container;
- Be no more than three ounces.

The manufacturer or distributor may purchase the malt beverages from the vendor at no more than retail price.

The manufacturer or distributor conducting the tastings shall:

- Provide the malt beverages used in the tasting;
- Not pay a fee or provide any compensation to the vendor;
- Properly dispose of any remaining beverages or return any unconsumed malt beverages to the manufacturer's or distributor's inventory;
- Must complete any applicable reports and pay applicable excise taxes, even if the manufacturer or distributor contracts with a third-party agent to conduct the tasting.

The bill does not alter a vendor's rights to conduct tastings under the current law, and is supplemental to any special act or ordinance. The bill provides rulemaking authority for the division to adopt rules to implement the tastings provision.

Deliveries of Alcoholic Beverages

Current Situation

A license vendor is permitted to transport alcoholic beverage purchased directly from a distributor's place of business to the vendor's licensed premises or off-premises storage, so long as the vendor or any person disclosed on the application owns or leases the vehicle used for transport and that the vehicle was disclosed to the Division and a permit is issued for the vehicle. The person whose name is included in the permit application must be the person that operates the vehicle during transport.²⁴

In order to obtain a vehicle permit for the transport of alcoholic beverages, the licensee must submit an application with a \$5 fee per vehicle to the Division. Permits do not expire unless the licensee disposes of the vehicle, the vendor's license is transferred, canceled, or not renewed, or is revoked. The vendor may request that a permit be canceled.²⁵

By accepting a vehicle permit, the vendor or person disclosed on the application agrees the vehicle is subject to inspection and search without a search warrant, to ensure the vendor is complying with the Beverage Law. The inspection may be completed by authorized Division employees, sheriffs, deputy sheriffs, and police officers during business hours or when the vehicle is being used to transport alcoholic beverages. The vehicle permit and invoice or sales ticket for the alcoholic beverage in the vehicle must be carried in the vehicle while the vehicle is being used to transport alcoholic beverages.

Pursuant to s. 562.07, F.S., alcoholic beverages cannot be transported in quantities of more than 12 bottles except by:

- Common Carriers;
- In owned or leased vehicles of licensed vendors or authorized persons transporting the alcoholic beverages from a distributor's place of business to the vendor's licensed premises or off-premises storage if the vehicle has the required permit;
- Individuals who possess the beverages not for resale;
- Licensed manufacturers, distributors, or vendors delivery of alcoholic beverages away from their place of business in vehicles owned or leased by the licensees; or
- A vendor, distributor, pool buying agent, or salesperson of wine and spirits as outlined in s. 561.57(5), F.S.

Effect of the Bill

The bill amends s. 561.57(3) and (4), F.S., to allow a licensed vendor to transport alcoholic beverages from a distributor's place of business to the vendor's licensed premises or off-premises storage permitted by the Division without a vehicle permit. The bill removes the requirement that the vehicle to be owned or leased by the vendor or person listed on the application, or operated by such individual during the time of transport.

Additionally, the bill maintains the requirement to possess an invoice or sales ticket during the transportation of alcoholic beverages, but removes the requirement that a vehicle permit be applied for each vehicle used to transport alcoholic beverages.

Finally, the bill amends s. 562.07, F.S., by amending entities and individuals that can transport alcoholic beverages in quantities of more than 12 bottles to include:

- Common carriers;
- Individuals who possess the beverages not for resale;

²⁴ s. 561.57(3), F.S.

²⁵ s. 561.57(4), F.S.

- Licensed manufacturers, distributors, or vendors transporting alcoholic beverages pursuant to s. 561.57, F.S.

Container Sizes and Growlers

Current Situation

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, and other containers, as well as the shipping equipment to protect and distribute bottles, cans, and kegs based on industry standard sizes. Distributors have created a nationwide distribution system with the capacity to transport industry standard sized containers.²⁶

Growlers

Some states permit vendors to sell malt beverages in containers known as growlers, which typically are reusable containers of 32 or 64 ounces that the consumer can take to a manufacturer/vendor to be filled with malt beverage for consumption off the licensed premises.²⁷ The standard size for a growler is 64 ounces.²⁸ Florida malt beverage law does not specifically address growlers.

Florida malt beverage law does not permit the use of 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.

Effect of the Bill

Container Size

The bill provides that authorized containers as defined in s. 563.06(6), F.S., do not include growlers. A new subsection 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 between 32 ounces and 128 ounces, originally manufactured to hold malt beverages. 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.

Licensees may fill or refill growlers with malt beverages as follows:

- Malt beverages brewed by the manufacturer or brewpub at the following locations:
 - A taproom attached to the manufacturer's premises pursuant to s. 561.221(2)(a), F.S.;
 - An attached vendor's premises licensed pursuant to s. 561.221(2)(b), F.S.;

²⁶ Testimony, Workshop on Craft Brewers Business Development Regulatory Issues, Business & Professional Regulation Subcommittee (Jan. 9, 2013).

²⁷ BeerAdvocate, *The Growler: Beer-To-Go!*, (July 31, 2002) <http://www.beeradvocate.com/articles/384/>.

²⁸ Brew-Tek, *What is a Growler?*, <http://www.brew-tek.com/products/growlers/what-is-a-growler/> (last visited Feb. 6, 2015).

- A brewpub licensed pursuant to s. 561.221(3), F.S.
- Malt beverages brewed by any manufacturer if the vendor/manufacturer holds a valid quota license pursuant to ss. 561.20(1) and 565.20(1)(a)-(f), F.S., at the following locations:
 - An attached vendor's premises licensed pursuant to s. 561.221(2)(b), F.S.;
 - A brewpub licensed pursuant to s. 561.221(3), F.S.;
 - Any vendor's licensed premises.
- Malt beverages brewed by any manufacturer if the vendor filling the growler obtains at least 80 percent of its annual gross revenues from the sale of malt beverages and the vendor does not hold a manufacturer's license.

Growlers must meet the following requirements:

- Have an unbroken seal or be incapable of being immediately consumed;
- Be clean prior to filling;
- Have a label that sufficiently covers an existing identifying mark from another manufacturer to indicate the malt beverage placed in the growler, and indicates:
 - 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.

Malt Beverage Franchise Agreements

Current Situation

Section 563.022, F.S., sets forth requirements for franchise agreements between distributors and manufacturers of malt beverages. Most states have a law that requires manufacturers to sign a franchise agreement with distributors in the state in order to preserve the three-tier system. This model was enacted in the 1970s. At the time, fewer than 50 manufacturers existed in America and nearly 5,000 distributors. Many distributors carried beer only from a single large manufacturer. Franchise laws were drafted to protect the distributors in case the manufacturer decided not to renew the franchise agreement.²⁹ Therefore the franchise laws that were written at the time were written in a way that would protect distributors from being forced out of business if a manufacturer decided to go with another distributor. The protectionism was based on the theory that a distributor that had only contracted with one large manufacturer would be forced out of business if that manufacturer decided to not renew the contract at the end of the contract term, since the distributor would have all its capital and equipment wrapped up in the distribution and marketing of that one manufacturer's brands.

Section 563.022(2)(c), F.S., defines "franchise" to mean "a contract or agreement, either express or implied whether oral or written, for a definite or indefinite period of time in which a manufacturer grants to a beer distributor the right to purchase, resell, and distribute any brand or brands offered by the manufacturer." The statute does not provide any requirements setting forth the required provisions of a franchise agreement.

The statute prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of manufacturing, importing, distributing, and selling of malt beverages, and provides that any person who violates any provision of the franchise requirements is not subject to criminal penalties in the Beverage Law on account of the violation. Subsection (5) lists various acts that can constitute unfair or prohibited acts. It also provides that it is unlawful for any manufacturer or representative of a manufacturer "to terminate, cancel, **fail to renew, or refuse to continue** the franchise or selling

²⁹ Steve Hindy, *Free Craft Beer!*, NEW YORK TIMES, (Mar. 30, 2014), at SR12.

agreement of any...distributor without good cause..."³⁰ "The nonrenewal of a franchise or selling agreement without good cause shall constitute an unfair termination or cancellation regardless of the specified time period of such franchise or selling agreement."³¹ This language negates any language in the contract placing a term limit on the contract, thus making the contract essentially perpetual. Additionally, distributors and manufacturers are not required to renegotiate a contract for different terms at any point. This means that a manufacturer entering into a contract would be held to the terms of the agreement perpetually, even if the market or industry changed in a significant manner or if another distributor was able to compete with the terms of the contract at a later date, thus lessening the manufacturer's free contract rights or competitive pricing in distribution of malt beverages.

Once a franchise contract is established, there is no requirement in law for either the manufacturer or distributor to renegotiate the terms of the contract based on outside factors which may have changed the relative market or bargaining positions of the parties. Because these contracts are unlikely to be revisited, manufacturers whose bargaining and market position may rise may not be able to leverage their success and as readily control their brand, as distribution contracts are virtually perpetual under the current law.

In order to terminate, cancel, fail to renew, or refuse to continue a franchise agreement, the manufacturer must give notice at least 90 days prior of their intend termination action to the distributor, act in good faith, and have good cause for their intended termination action.³²

The manufacturer's required notice must make a statement of their intended termination action, make a statement of the reason for their termination action, and provide the effective date of their termination action.³³

Under current law, good cause will be found to exist when:

- The distributor fails to comply with a reasonable and material provision of the franchise agreement;
- The manufacturer knew of the distributor's failure not more than 18 months before the date of notification is given;
- The distributor is given written notice by the manufacturer of failure to comply with the agreement;
- The distributor is given reasonable opportunity to cure the noncompliance. The distributor must provide a plan of corrective action within 30 days and be given an additional 90 days to cure the noncompliance or sell the distributorship.³⁴

The manufacturer carries the burden of proof that he/she acted in good faith, that the notice requirements were met, and that there was good cause for the termination. Further, under current law, the distributor must provide written consent prior to the expiration of the manufacturers 90 day notice period. Should a distributor not provide this consent, the distribution contract will continue unless the contract is voided by court order or an elevated termination condition occurs, described in s. 563.022(10), F.S., to void the distribution contact.

Under s. 563.022(10), F.S., a manufacturer may terminate a distribution contract with only 15 days written notice, if any of the following occurs:

- The distributor becomes insolvent;
- The distributor's license is revoked for more than 60 days;

³⁰ s. 563.022(5)(b)4., F.S. (emphasis added).

³¹ s. 563.022(5)(b)4., F.S.

³² s. 563.022(6), (9), and (10), F.S.

³³ s. 563.022(9), F.S.

³⁴ s. 563.022(7), F.S.

- The distributor or a partner or individual with 10 percent or more ownership of the distributor has been convicted of a felony unless the convicted individual sells his interest within 15 days of the conviction;
- The distributor acted fraudulently relating to a material matter in dealings with the manufacturer or its products;
- The principle of the distributor intentionally and willfully sells the manufacturer's products outside his exclusive territories in Florida;
- The distributor fails to pay and continues to fail to pay within 15 days after receipt of notice of delinquency and demand for payment;
- The distributor sells, transfers, or assigns the franchise or control without written consent of the manufacturer.³⁵

At any point during the 90 day notice period or during the 15 day period provided in case of malpractice on the part of the distributor, either party may bring action in the appropriate circuit court to shorten the notice period or extend it pending a final determination of proceedings on the merits. The court has the authority to grant temporary, preliminary, and final injunctive relief.³⁶

Finally, a manufacturer may terminate, cancel, not renew, or discontinue a franchise agreement with not less than 30 days written notice if the manufacturer discontinues production or distribution in Florida of all brands sold by the manufacturer to the distributor. This doesn't prohibit the manufacturer from doing test marketing of new brands of beer, provided the manufacturer has notified the Division in writing of the test marketing.³⁷

Distributors are required to "devote such efforts and resources, as required in the [franchise] agreement..., to sales and distribution of all the manufacturer's products which the distributor has been granted the right and has agreed to sell and distribute..."³⁸

Currently, a manufacturer who terminates, cancels, fails to renew or discontinues a franchise agreement without good cause, or who unreasonably withholds consent to any assignment, transfer, or sale of a distributor's business assets or voting stock or other equity securities, must pay the distributor "reasonable compensation" for the diminished value of the distributor's business. If the manufacturer and distributor cannot agree to the "reasonable compensation," the matter may be submitted to an arbitrator selected by the parties and the claim settled in accordance with rules provided by the American Arbitration Association. Arbitration costs are to be shared.³⁹

Any person who is injured by a violation of s. 563.022, F.S., may bring action in circuit court and, if successful, shall recover damages sustained and may bring an action to obtain a declaratory judgment that the act violates the section to enjoin a manufacturer or distributor who has violated the section.⁴⁰

When a distributor maintains an inventory because of a franchise agreement, and that agreement is terminated, the manufacturer is required to repurchase inventory of the manufacturer's product possessed by the distributor within 60 days and pay the actual distributor cost, including freight and reasonable storage and handling cost, during repurchase.⁴¹ The manufacturer is not required to repurchase any inventory which the distributor desires to keep, provided the distributor has a contractual right to do so, any inventory ordered after notification of a manufacturer's termination action, or any inventory acquired by the distributor from a source other than the manufacturer.⁴²

³⁵ s. 563.022(10), F.S.

³⁶ s. 563.022(18)(a) and (b), F.S.

³⁷ s. 563.022(11), F.S.

³⁸ s. 563.022(12), F.S.

³⁹ s. 563.022(17), F.S.

⁴⁰ s. 563.022(18), F.S.

⁴¹ s. 563.022(20)(e), F.S.

⁴² s. 563.022(20)(d), F.S.

Current law provides stability in the malt beverage distribution system by helping to ensure long term contractual relationships between manufacturers and distributors. These regulations appear to have been designed to protect distributors and the distribution system from disruption that could result from the untimely termination of a contract with a large manufacturer.

Today there are more than 2,700 manufacturers and fewer than 1,000 distributors in the United States. A significant number of manufacturers are considered "craft breweries," smaller breweries that specialize in brewing craft beer, who produce 6 million barrels of beer or less and who are generally independently owned from an alcoholic beverage industry member.⁴³

There are currently 98 malt beverage manufacturers located within Florida and 383 malt beverage distributors licensed in Florida.⁴⁴ Nearly all of the 383 distributors have diversified the manufacturers they distribute for. Consequently, the loss of a single manufacturer contract, in most cases, would not have a significant impact on the distributor.

Effect of the Bill

The bill changes the definition of "franchise" to "franchise agreement" and requires that the contract be written for a definite period of time. The references to a franchise agreement are corrected throughout the bill language. Additionally, the term "primary manufacturer" is added to the definitions. "Primary manufacturer" means a manufacturer that provides more than 50 percent by volume of the malt beverages purchased by and delivered to a distributor per calendar year.

The bill provides that each franchise agreement shall:

- Be negotiated and executed in good faith by both parties;
- Include exclusive territorial assignments;
- Provide a maximum term of 5 years for non-primary manufacturers, and provide that agreements made before July 1, 2015 expire on June 30, 2015;
- Be substantially similar in terms with other franchise agreements of the manufacturer;
- Include provisions for recovery of actual damages by the distributor if the manufacturer terminates or cancels the agreement before expiration of the term of the agreement without good cause. Damages are not available for failure to renew an agreement by a non-primary manufacturer;
- State that the manufacturer's trademarks are the manufacturer's exclusive property to be used in accordance with the manufacturer's standards and direction;
- Permit modification of the agreement during the term of the agreement with both party's consent.

The bill repeals language providing that a person who violates a provision of s. 563.022, F.S., is not subject to criminal penalties set forth in the Beverage Law.

The bill removes the prohibition against non-primary manufacturers failing to renew or discontinue a franchise agreement. The bill reduces the notice requirement of s. 563.022(9), F.S., for a manufacturer to terminate or cancel an agreement to 30 days, from 90 days in current law.

The bill provides that a primary manufacturer is still prohibited from terminating, canceling, failing to renew, or discontinuing a franchise agreement upon the expiration of the term of the franchise agreement.

⁴³ BREWERS ASSOCIATION, *Craft Brewer Defined*, <http://www.brewersassociation.org/statistics/craft-brewer-defined/> (last visited Feb. 6, 2015).

⁴⁴ Email from Dan Olson, Director of Legislative Affairs, Department of Business and Professional Regulation, RE: number of licensed manufacturers and distributors (Jan. 14, 2015).

The bill provides that nonrenewal of a franchise agreement by a primary manufacturer without good cause constitutes an unfair termination or cancellation for any time period specified in the agreement.

The requirements for good cause are not amended other than to modify a reference. However the burden of proof for each good faith termination or cancellation by a manufacturer, or termination, cancellation, failure to renew or discontinuance by a primary manufacturer has been amended to require that the manufacturer provide prima facie evidence that it has acted in good faith, that the notice requirements have been met, and there was good cause for the termination, cancellation, nonrenewal, or discontinuance. After the manufacturer provides such prima facie evidence, the burden of proof shifts to the distributor to prove the manufacturer has not met statutory and contractual requirements.

The bill removes the 15 day notice requirement for the elevated termination provisions of a franchise agreement by a manufacturer in s. 563.022, F.S., and allows a manufacturer to immediately terminate a franchise agreement under the circumstances provided.

The bill amends the amount of compensation required by a manufacturer to a distributor for termination or cancellation by a manufacturer without good cause, or termination, cancellation, failure to renew, or discontinuance by a primary manufacturer without good cause from "reasonable compensation" for the diminished value of the distributor's business to actual damages incurred by the distributor because of the termination action.

Additionally, the bill repeals the ability of any person injured by a violation of s. 563.022, F.S., to bring action in circuit court to obtain a declaratory judgment that an act violates the section and enjoin a manufacturer or distributor who has violated the section.

The bill requires that manufacturers repurchase inventory following a termination, cancellation, failure to renew, or discontinuance of the agreement by paying fair market value for the inventory being repurchased and 100 percent of the actual distributor cost, including freight and reasonable storage and handling costs, for all unsold beer. The manufacturer is not required to repurchase any inventory the distributor desires to keep, any inventory ordered after receipt of the notification of a termination action, any inventory acquired from a source other than the manufacturer, or any expired inventory.

Limited Malt Beverage Self-Distribution

Current Situation

Currently manufacturers may ship malt beverages between manufacturing locations pursuant to an exception in s. 563.022(14)(d), F.S., which permits a manufacturer to ship products between its licensed manufacturing premises without a distributor's license. Further, manufacturers of malt beverages may only sell their product to a distributor except under certain exceptions where they are permitted to sell directly to consumers at its manufacturing premises.

Effect of the Bill

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 10,000 total kegs of malt beverages per year directly to vendors. The manufacturer is required to use its own vehicles to deliver malt beverages to licensed vendors.

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.⁴⁵ It is unclear if a manufacturer can make sales to, or deliver to, a vendor who is within the exclusive sales territory of a distributor contracted with the manufacturer, but it is unlikely that a manufacturer could do so without violating the franchise agreement.

The manufacturer is responsible for keeping records and paying excise taxes for the malt beverages it sells or gives to vendors. The reports shall distinguish between malt beverages the manufacturer self-distributed and those sold directly to consumers by the manufacturer pursuant to s. 561.221(2), F.S.

Craft Distilleries

Current Situation

As noted above, there are some exceptions to the three-tier regulatory system. In 2013, s. 565.03, F.S., was amended to create another exception to the three-tier regulatory system regarding the manufacture and sale of distilled spirits.⁴⁶ “Distillery” is defined as “a manufacturer of distilled spirits.” “Craft distillery” is defined as a licensed distillery that produces 75,000 or fewer gallons of distilled spirits on its premises and notifies the Division of the desire to operate as a craft distillery.⁴⁷ A craft distillery is permitted to sell the distilled spirits it produces to consumers for off-premise consumption. Sales of the spirits must be made on “private property” contiguous to the distillery premises at a souvenir gift shop operated by the distillery. Once a craft distillery’s production limitations have been surpassed (75,000 gallons), the craft distillery is required to notify the Division within five days and immediately cease sales to consumers.

Craft distilleries are prohibited from selling distilled spirits except in face-to-face transactions with consumers making the purchases for personal use and caps the total sales to each consumer at two or less containers per customer per calendar year. In addition, the craft distilleries are prohibited from shipping their distilled spirits to consumers.

Effect of the Bill

The bill amends the definition of “distillery” to mean “a manufacturer that distills ethyl alcohol or ethanol to create distilled spirits. Additionally, the bill permits craft distilleries to sell unlimited distilled spirits in face-to-face transactions with consumers making the purchases for personal use.

B. SECTION DIRECTORY:

Section 1 amends s. 402.82, 2 F.S., prohibiting electronic benefits transfer cards from being used or accepted to purchase an alcoholic beverage.

Section 2 amends s. 561.221, F.S., modifying exceptions to the three-tier system.

Section 3 amends s. 561.42, F.S., deleting a prohibition against certain entities conducting malt beverage tastings.

Section 4 amends s. 561.5101, F.S., conforming a cross-reference.

Section 5 amends s. 561.57, F.S., deleting restrictions on the vehicle required of a vendor to transport alcoholic beverages.

Section 6 amends s. 562.07, F.S., conforming provisions.

⁴⁵ Testimony, Workshop on Craft Brewers Business Development Regulatory Issues, Business & Professional Regulation Subcommittee (Oct. 9, 2013).

⁴⁶ ch. 2013-157, Laws of Fla.

⁴⁷ s. 565.03(1)(a), F.S.

Section 7 amends s. 562.34, F.S., providing that possessing and transporting a growler is lawful.

Section 8 amends s. 563.022, F.S., revising requirements for franchise agreements between malt beverage manufacturer and distributors.

Section 9 amends s. 563.06, F.S., providing requirements for growlers.

Section 10 creates s. 563.09, F.S., authorizing a licensed distributor or manufacturer of malt beverages to conduct a malt beverage tasting and providing requirements and limitations.

Section 11 amends s. 565.03, F.S., deleting restrictions on the sale of individual containers to consumers in a face-to-face transaction at a craft brewery.

Section 12 repeals s. 565.04, F.S., repealing the provision regulating alcoholic beverage package stores.

Section 13 provides construction and severability.

Section 14 provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Vehicle Permits:

According to the Department, the elimination of the required permit and associated fee will result in a small reduction in revenue collections. The fee is a one-time fee, not an annual fee. In FY 2013-14 total fees collected for vehicle permits were \$675.

Package Stores:

According to the Department, it is possible that 645 licenses will no longer be needed by large retailers for package stores. Revenue reduction is estimated at \$252,840 recurring (645 licenses x \$392 maximum license fee = \$252,840).

2. Expenditures:

Reductions in Expenditures:

The potential loss of licensing revenue related to the repeal of the package store regulation would be offset by the reduction in General Revenue service charge of \$20,227 (0.08 x \$252,842).

The repeal of the package store regulation would also be offset by a reduction of the share of license fees payable to the county of \$55,837 (0.24 x [\$252,842 - \$20,227]).

The repeal of the package store regulation would also be offset by a reduction of the share of license fees payable to the municipalities of \$88,393 (0.38 x [\$252,842 - \$20,227]).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Package Stores:

It is possible that 645 licenses will no longer be needed by large retailers. Due to the reduction in licenses and associated fees, cities and counties could lose up to \$88,393 and \$55,827, respectively, for a total annual loss of \$144,219 recurring.

- 2. Expenditures:
None anticipated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Growlers: The bill may help generate additional revenue by authorizing taprooms and other licensees to begin selling growlers or to add the 64 ounce size growler.

Package Stores: Some alcoholic beverage licensees may be able to increase profits by selling additional merchandise, or smaller licensees may have a decrease in sales. The price of quota licenses may increase. Additionally, some businesses currently required to obtain multiple licenses for multiple stores will be able to save money by obtaining one license to conduct business rather than multiple licenses by combining their package store with a larger store location.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Division will likely need to amend applications for licensure, requiring the rule adopting the form to undergo the rulemaking process. Otherwise, there is no mandatory rulemaking or rulemaking authority in the bill.

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. 402.82,
 3 F.S.; conforming provisions; prohibiting electronic
 4 benefits transfer cards from being used or accepted to
 5 purchase an alcoholic beverage; amending s. 561.221,
 6 F.S.; providing requirements for a licensed
 7 manufacturer of malt beverages to sell such beverages
 8 directly to consumers; providing operation
 9 requirements for a taproom; prohibiting a manufacturer
 10 from holding a vendor's license at specified premises;
 11 providing requirements for a licensed manufacturer to
 12 obtain a vendor's license; specifying circumstances
 13 under which a manufacturer may sell alcoholic
 14 beverages under its vendor's license; requiring a
 15 manufacturer to complete certain reports; providing
 16 applicability; providing requirements for a brewpub to
 17 be licensed as a manufacturer or vendor; providing
 18 requirements for a brewpub to sell alcoholic beverages
 19 to consumers; amending s. 561.42, F.S.; deleting a
 20 prohibition against certain entities conducting
 21 tastings; amending s. 561.5101, F.S.; conforming a
 22 cross-reference; amending s. 561.57, F.S.; deleting
 23 restrictions on the vehicle required of a vendor to
 24 transport alcoholic beverages; requiring a vendor or
 25 authorized person who transports alcoholic beverages
 26 to have a specified invoice or sales ticket; deleting

27 provisions related to vehicle permits for vendors;
 28 amending s. 562.07, F.S.; conforming provisions;
 29 amending s. 562.34, F.S.; providing that possessing
 30 and transporting a growler is lawful; amending s.
 31 563.022, F.S.; revising the definition of the term
 32 "franchise agreement"; defining the term "primary
 33 manufacturer"; requiring a franchise agreement to
 34 include specified terms and provisions; providing
 35 standards by which manufacturers may not renew
 36 franchise agreements; prohibiting a primary
 37 manufacturer from discontinuing or failing to renew a
 38 franchise agreement without meeting certain
 39 requirements; revising requirements for the burden of
 40 proof during an action related to certain
 41 terminations, cancellations, nonrenewals, or
 42 discontinuances of franchise agreements; providing
 43 notice requirements for certain terminations,
 44 cancellations, nonrenewals, or discontinuances of a
 45 franchise agreement; authorizing limited self-
 46 distribution for specified manufacturers; providing
 47 requirements for such self-distribution; requiring a
 48 manufacturer to pay compensation after cancellation or
 49 termination of an agreement; deleting the remedy of
 50 declaratory judgment for an action brought under s.
 51 563.022; revising provisions related to the repurchase
 52 of inventory upon termination of an agreement;

53 amending s. 563.06, F.S.; defining the term "growler";
 54 providing requirements for growlers; creating s.
 55 563.09, F.S.; authorizing a licensed distributor or
 56 manufacturer of malt beverages to conduct a malt
 57 beverage tasting; providing requirements and
 58 limitations; amending s. 565.03, F.S.; revising the
 59 definition of the term "distillery"; deleting
 60 restrictions on the sale of individual containers to
 61 consumers in a face-to-face transaction; repealing s.
 62 565.04, F.S., relating to restrictions on the sale by
 63 certain licensed alcoholic beverage vendors of
 64 merchandise other than specifically authorized types
 65 of merchandise and restrictions on direct access to
 66 such a vendor's place of business; providing
 67 construction and severability; providing an effective
 68 date.

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

72 Section 1. Paragraph (a) of subsection (4) of section
 73 402.82, Florida Statutes, is amended to read:

74 402.82 Electronic benefits transfer program.—

75 (4) Use or acceptance of an electronic benefits transfer
 76 card is prohibited at the following locations or for the
 77 following activities:

78 (a) The purchase of an alcoholic beverage as defined in s.

79 | 561.01 and sold pursuant to the Beverage Law ~~An establishment~~
 80 | ~~licensed under the Beverage Law to sell distilled spirits as a~~
 81 | ~~vendor and restricted as to the types of products that can be~~
 82 | ~~sold under ss. 565.04 and 565.045 or a bottle club as defined in~~
 83 | ~~s. 561.01.~~

84 | Section 2. Subsections (2) and (3) of section 561.221,
 85 | Florida Statutes, are amended to read:

86 | 561.221 Retail exceptions to manufacturing licenses;
 87 | brewing exceptions to vendor licenses ~~Licensing of manufacturers~~
 88 | ~~and distributors as vendors and of vendors as manufacturers;~~
 89 | conditions and limitations.-

90 | (2) A manufacturer of malt beverages that is licensed and
 91 | engaged in the manufacture of malt beverages in this state may
 92 | sell directly to consumers in face-to-face transactions, which,
 93 | notwithstanding s. 561.57(1), requires the physical presence of
 94 | the consumer to make payment for and take receipt of the
 95 | beverages on the licensed manufacturing premises, as follows:

96 | (a) At a taproom, a manufacturer may sell malt beverages
 97 | brewed by the manufacturer to consumers for on-premises or off-
 98 | premises consumption without obtaining a vendor's license. A
 99 | manufacturer of malt beverages shall comply with the following
 100 | requirements related to a taproom:

101 | 1. The taproom must be a room or rooms located on the
 102 | licensed manufacturing premises consisting of a single complex
 103 | that includes a brewery. Such premises may be divided by no more
 104 | than one public street or highway. The taproom shall be included

105 on the sketch or diagram defining the licensed premises
 106 submitted with the manufacturer's license application pursuant
 107 to s. 561.01(11). All sketch or diagram revisions by the
 108 manufacturer must be approved by the division, verifying that
 109 the taproom operated by the licensed manufacturer is owned or
 110 leased by the manufacturer and is located on the licensed
 111 manufacturing premises.

112 2. At least 70 percent by volume of the malt beverages
 113 sold or given to consumers per calendar year in the taproom must
 114 be brewed on the licensed manufacturing premises. No more than
 115 30 percent by volume of the malt beverages sold or given per
 116 calendar year to consumers in the taproom may be brewed by the
 117 manufacturer at other manufacturing premises and shipped to the
 118 licensed manufacturing premises pursuant to s. 563.022(14) (d).

119 3. Malt beverages may be sold to consumers in the taproom
 120 for off-premises consumption in authorized containers pursuant
 121 to s. 563.06(6) and (7).

122 4. A manufacturer of malt beverages is responsible for
 123 paying applicable excise taxes to the division and submitting
 124 applicable reports pursuant to ss. 561.50 and 561.55 with
 125 respect to the amount of malt beverages sold or given to
 126 consumers in the taproom each month.

127 5. This paragraph does not preclude a licensed
 128 manufacturer of malt beverages that operates a taproom from
 129 holding a permanent public food service establishment license
 130 under chapter 509 at the taproom.

131 6. A manufacturer may not hold a vendor's license at a
132 licensed manufacturing premises that operates a taproom pursuant
133 to this paragraph.

134 (b) In lieu of a taproom, on or after July 1, 2015, the
135 division ~~may is authorized to~~ issue vendor's licenses to a
136 manufacturer of malt beverages at no more than two licensed
137 manufacturing premises for which the manufacturer has an
138 interest, directly or indirectly, in the license if the
139 manufacturer meets the following requirements:

140 1. A licensed manufacturer may obtain one vendor's license
141 at no more than two of the licensed manufacturing premises for
142 which the manufacturer has an interest, directly or indirectly,
143 in the license. Any additional licensed manufacturing premises,
144 for which the manufacturer has an interest, directly or
145 indirectly, in the license, may operate a taproom without a
146 vendor's license pursuant to paragraph (a).

147 2. The vendor's license must be located on the licensed
148 manufacturing premises consisting of a single complex that
149 includes a brewery. Such premises may be divided by no more than
150 one public street or highway. The licensed vendor premises shall
151 be included on the sketch or diagram defining the licensed
152 premises submitted with the manufacturer's license application
153 pursuant to s. 561.01(11). All sketch or diagram revisions by
154 the manufacturer must be approved by the division, verifying
155 that the vendor premises operated by the licensed manufacturer
156 is owned or leased by the manufacturer and is located on the

157 | licensed manufacturing premises.
 158 | 3. The manufacturer may sell alcoholic beverages under its
 159 | vendor's license as follows:
 160 | a. Malt beverages manufactured on the licensed
 161 | manufacturing premises or at another licensed manufacturing
 162 | premises for which the manufacturer has an interest, directly or
 163 | indirectly, in the license for:
 164 | (I) On-premises consumption.
 165 | (II) Off-premises consumption in authorized containers
 166 | pursuant to s. 563.06(6).
 167 | (III) Off-premises consumption in growlers pursuant to s.
 168 | 563.06(7).
 169 | b. Malt beverages manufactured exclusively by other
 170 | manufacturers for:
 171 | (I) On-premises consumption.
 172 | (II) Off-premises consumption in authorized containers
 173 | pursuant to s. 563.06(6).
 174 | (III) Off-premises consumption in growlers pursuant to s.
 175 | 563.06(7).
 176 | c. Any wine or liquor for on-premises or off-premises
 177 | consumption as authorized under its vendor's license.
 178 | 4. A manufacturer of malt beverages pursuant to this
 179 | paragraph is responsible for paying applicable excise taxes to
 180 | the division and submitting applicable reports pursuant to ss.
 181 | 561.50 and 561.55 with respect to the amount of malt beverages
 182 | manufactured and sold pursuant to its vendor's license or given

183 to consumers.

184 5. This paragraph does not preclude a licensed
 185 manufacturer of malt beverages with a vendor's license from
 186 holding a permanent public food service establishment license
 187 under chapter 509 on the licensed manufacturing premises.

188 6. An entity that applies for a manufacturer's and
 189 vendor's license at more than two licensed manufacturing
 190 premises pursuant to this paragraph before March 15, 2015, or
 191 that is issued a manufacturer's and vendor's license at more
 192 than two licensed manufacturing premises pursuant to this
 193 paragraph before July 1, 2015, may maintain the licenses
 194 previously obtained or received based on such application, but
 195 may not obtain or apply for an additional vendor's license.
 196 However, except as to the allowance for manufacturers holding a
 197 vendor's license at more than two licensed manufacturing
 198 premises before July 1, 2015, a vendor's license held by a
 199 manufacturer of malt beverages pursuant to this paragraph,
 200 regardless of when first obtained, is subject to subparagraphs
 201 1.-5.

202 7. An entity with direct or indirect interests in vendor
 203 licenses issued to not more than two licensed manufacturing
 204 premises under this paragraph may not be related, directly or
 205 indirectly, to any other entity with direct or indirect interest
 206 in other vendor licenses issued to other separate manufacturing
 207 premises. This subparagraph prohibits the creation of a chain of
 208 more than two vendor licensed manufacturing premises under

209 common control of entities with direct or indirect interests in
 210 such vendor licensed manufacturing premises. This subparagraph
 211 does not prohibit the purchase or ownership of stock in a
 212 publicly traded corporation where the licensee does not have and
 213 does not obtain a controlling interest in the corporation. An
 214 entity lawfully operating more than two licensed manufacturing
 215 premises with vendor licenses pursuant to subparagraph 6. may
 216 exceed the limit of two licenses with the actual number of
 217 manufacturing premises with vendor licenses operated by the
 218 entity, even if such manufacturer is also licensed as a
 219 distributor, for the sale of alcoholic beverages on property
 220 consisting of a single complex, which property shall include a
 221 brewery and such other structures which promote the brewery and
 222 the tourist industry of the state. However, such property may be
 223 divided by no more than one public street or highway.

224 (3) The division may issue a manufacturer's license and a
 225 vendor's license to a brewpub. To operate as a brewpub, the
 226 following requirements must be met:

227 (a) ~~Notwithstanding other provisions of the Beverage Law,~~
 228 ~~any vendor licensed in this state may be licensed as a~~
 229 ~~manufacturer of malt beverages upon a finding by the division~~
 230 ~~that:~~

231 ~~1.~~ The brewpub must ~~vendor will~~ be engaged in brewing malt
 232 beverages at the licensed brewpub premises ~~a single location and~~
 233 in an amount that does ~~which will~~ not exceed 10,000 kegs per
 234 calendar year. For purposes of this paragraph ~~subsection~~, the

235 term "keg" means 15.5 gallons.

236 (b) A brewpub may sell the following alcoholic beverages

237 in a face-to-face transaction with a consumer:

238 1. Malt beverages manufactured on the licensed brewpub

239 premises for:

240 a. On-premises consumption.

241 b. Off premises consumption in growlers, pursuant to s.

242 563.06(7).

243 2. Malt beverages manufactured by other manufacturers for:

244 a. On-premises consumption.

245 b. Off premises consumption in growlers if the brewpub

246 holds a valid quota license pursuant to s. 563.06(7).

247 3. Wine or liquor for on-premises consumption as

248 authorized under its vendor's license.

249 (c) A brewpub may not ship malt beverages to or between

250 licensed brewpub premises owned by the licensed entity. A

251 brewpub is not a manufacturer for the purposes of s.

252 563.022(14)(d).

253 (d) A brewpub may not distribute malt beverages.

254 (e) A brewpub must hold a permanent public food service

255 establishment license under chapter 509.

256 ~~2. The malt beverages so brewed will be sold to consumers~~

257 ~~for consumption on the vendor's licensed premises or on~~

258 ~~contiguous licensed premises owned by the vendor.~~

259 (f)(b) As a manufacturer, a brewpub is ~~Any vendor which is~~

260 ~~also licensed as a manufacturer of malt beverages pursuant to~~

261 ~~this subsection shall be responsible for payment of applicable~~
 262 ~~excise taxes to the division and applicable reports pursuant to~~
 263 ~~ss. 561.50 and 561.55 with respect to the amount of malt~~
 264 ~~beverages beverage manufactured each month and shall pay~~
 265 ~~applicable excise taxes thereon to the division by the 10th day~~
 266 ~~of each month for the previous month.~~

267 ~~(g)(e) A It shall be unlawful for any~~ licensed distributor
 268 of malt beverages or any officer, agent, or other representative
 269 thereof ~~may not~~ ~~to~~ discourage or prohibit a brewpub ~~any vendor~~
 270 ~~licensed as a manufacturer~~ under this subsection from offering
 271 malt beverages brewed for consumption on the licensed premises
 272 of the brewpub ~~vendor~~.

273 ~~(h)(d) A It shall be unlawful for any~~ manufacturer of malt
 274 beverages or any officer, agent, or other representative thereof
 275 ~~may not~~ ~~to~~ take any action to discourage or prohibit a any
 276 distributor of the manufacturer's product from distributing such
 277 product to a brewpub ~~licensed vendor which is also~~ ~~licensed as a~~
 278 ~~manufacturer of malt beverages~~ pursuant to this subsection.

279 Section 3. Paragraph (e) of subsection (14) of section
 280 561.42, Florida Statutes, is amended to read:

281 561.42 Tied house evil; financial aid and assistance to
 282 vendor by manufacturer, distributor, importer, primary American
 283 source of supply, brand owner or registrant, or any broker,
 284 sales agent, or sales person thereof, prohibited; procedure for
 285 enforcement; exception.-

286 (14) The division shall adopt reasonable rules governing

287 promotional displays and advertising, which rules shall not
 288 conflict with or be more stringent than the federal regulations
 289 pertaining to such promotional displays and advertising
 290 furnished to vendors by distributors, manufacturers, importers,
 291 primary American sources of supply, or brand owners or
 292 registrants, or any broker, sales agent, or sales person
 293 thereof; however:

294 ~~(e) Manufacturers, distributors, importers, brand owners,~~
 295 ~~or brand registrants of beer, and any broker, sales agent, or~~
 296 ~~sales person thereof, shall not conduct any sampling activities~~
 297 ~~that include tasting of their product at a vendor's premises~~
 298 ~~licensed for off-premises sales only.~~

299 Section 4. Subsection (1) of section 561.5101, Florida
 300 Statutes, is amended to read:

301 561.5101 Come-to-rest requirement; exceptions; penalties.-

302 (1) For purposes of inspection and tax-revenue control,
 303 all malt beverages, except those manufactured and sold by the
 304 same licensee, pursuant to s. 561.221(2) or (3) ~~s. 561.221(3)~~,
 305 must come to rest at the licensed premises of an alcoholic
 306 beverage wholesaler in this state before being sold to a vendor
 307 by the wholesaler. The prohibition contained in this subsection
 308 does not apply to the shipment of malt beverages commonly known
 309 as private labels. The prohibition contained in this subsection
 310 shall not prevent a manufacturer from shipping malt beverages
 311 for storage at a bonded warehouse facility, provided that such
 312 malt beverages are distributed as provided in this subsection or

313 | to an out-of-state entity.

314 | Section 5. Subsections (3) and (4) of section 561.57,
 315 | Florida Statutes, are amended to read:

316 | 561.57 Deliveries by licensees.-

317 | (3) A licensed vendor may transport alcoholic beverage
 318 | purchases from a distributor's place of business to the vendor's
 319 | licensed premises or off-premises storage permitted by the
 320 | division, ~~if the vehicle used to transport the alcoholic~~
 321 | ~~beverages is owned or leased by the vendor or any person who has~~
 322 | ~~been disclosed on a license application filed by the vendor and~~
 323 | ~~approved by the division and a valid vehicle permit has been~~
 324 | ~~issued for such vehicle. A vehicle owned or leased by a person~~
 325 | ~~disclosed on a license application filed by the vendor and~~
 326 | ~~approved by the division under this subsection must be operated~~
 327 | ~~by such person when transporting alcoholic beverage purchases~~
 328 | ~~from a distributor's place of business to the vendor's licensed~~
 329 | ~~premises or off-premises storage.~~

330 | (4) Any vendor or a person who is authorized by a vendor
 331 | to transport alcoholic beverages under this subsection shall
 332 | possess an invoice or sales ticket that meets the requirements
 333 | of s. 561.55 and related administrative rules when possessing
 334 | such beverages in a vehicle and transporting the alcoholic
 335 | beverages. ~~A vehicle permit may be obtained by a licensed vendor~~
 336 | ~~or any person authorized in subsection (3) upon application and~~
 337 | ~~payment of a fee of \$5 per vehicle to the division. The~~
 338 | ~~signature of the person authorized in subsection (3) must be~~

339 ~~included on the vehicle permit application. Such permit remains~~
340 ~~valid and does not expire unless the vendor or any person~~
341 ~~authorized in subsection (3) disposes of his or her vehicle, or~~
342 ~~the vendor's alcoholic beverage license is transferred,~~
343 ~~anceled, not renewed, or is revoked by the division, whichever~~
344 ~~occurs first. The division shall cancel a vehicle permit issued~~
345 ~~to a vendor upon request from the vendor. The division shall~~
346 ~~cancel a vehicle permit issued to any person authorized in~~
347 ~~subsection (3) upon request from that person or the vendor. By~~
348 ~~acceptance of a vehicle permit, the vendor or any person~~
349 ~~authorized in subsection (3) agrees that such vehicle is always~~
350 ~~subject to inspection and search without a search warrant, for~~
351 ~~the purpose of ascertaining that all provisions of the alcoholic~~
352 ~~beverage laws are complied with, by authorized employees of the~~
353 ~~division and also by sheriffs, deputy sheriffs, and police~~
354 ~~officers during business hours or other times that the vehicle~~
355 ~~is being used to transport or deliver alcoholic beverages. A~~
356 ~~vehicle permit issued under this subsection and invoices or~~
357 ~~sales tickets for alcoholic beverages purchased and transported~~
358 ~~must be carried in the vehicle used by the vendor or any person~~
359 ~~authorized in subsection (3) when the vendor's alcoholic~~
360 ~~beverages are being transported or delivered.~~

361 Section 6. Section 562.07, Florida Statutes, is amended to
362 read:

363 562.07 Illegal transportation of beverages.—It is unlawful
364 for alcoholic beverages to be transported in quantities of more

365 than 12 bottles except as follows:

366 (1) By common carriers;

367 ~~(2) In the owned or leased vehicles of licensed vendors or~~
 368 ~~any persons authorized in s. 561.57(3) transporting alcoholic~~
 369 ~~beverage purchases from the distributor's place of business to~~
 370 ~~the vendor's licensed place of business or off-premises storage~~
 371 ~~and to which said vehicles are carrying a permit and invoices or~~
 372 ~~sales tickets for alcoholic beverages purchased and transported~~
 373 ~~as provided for in the alcoholic beverage law;~~

374 (2)~~(3)~~ By individuals who possess such beverages not for
 375 resale within the state;

376 (3)~~(4)~~ By licensed manufacturers, distributors, or vendors
 377 transporting ~~delivering~~ alcoholic beverages under s. 561.57 ~~away~~
 378 ~~from their place of business in vehicles which are owned or~~
 379 ~~leased by such licensees; and~~

380 (4)~~(5)~~ By a vendor, distributor, pool buying agent, or
 381 salesperson of wine and spirits as outlined in s. 561.57(5).

382 Section 7. Subsections (1) and (3) of section 562.34,
 383 Florida Statutes, are amended to read:

384 562.34 Containers; seizure and forfeiture.—

385 (1) A ~~It shall be unlawful for any person~~ may not ~~to~~ have
 386 in her or his possession, custody, or control any cans, jugs,
 387 jars, bottles, vessels, or any other type of containers which
 388 are being used, are intended to be used, or are known by the
 389 possessor to have been used to bottle or package alcoholic
 390 beverages; however, this subsection does ~~provision shall not~~

391 apply to a any person properly licensed to bottle or package
 392 such alcoholic beverages, a ~~or to any~~ person intending to
 393 dispose of such containers to a person, firm, or corporation
 394 properly licensed to bottle or package such alcoholic beverages,
 395 or a person who has in her or his possession, custody, or
 396 control one or more growlers as defined in s. 563.06(7).

397 (3) A ~~It shall be unlawful for any person may not to~~
 398 transport any cans, jugs, jars, bottles, vessels, or any other
 399 type of containers intended to be used to bottle or package
 400 alcoholic beverages; however, this subsection does ~~section shall~~
 401 not apply to a any firm or corporation holding a license to
 402 manufacture or distribute such alcoholic beverages; a and shall
 403 ~~not apply to any~~ person transporting such containers to a any
 404 person, firm, or corporation holding a license to manufacture or
 405 distribute such alcoholic beverages; or a person transporting
 406 one or more growlers as defined in s. 563.06(7).

407 Section 8. Section 563.022, Florida Statutes, is amended
 408 to read:

409 563.022 Relations between beer distributors and
 410 manufacturers.-

411 (1) LEGISLATIVE FINDINGS AND INTENT.-

412 (a) Regulation of business relations between beer
 413 distributors and manufacturers is necessary and appropriate in
 414 the public interest.

415 (b) This section is enacted pursuant to authority of the
 416 state under the provisions of the Twenty-First Amendment to the

417 United States Constitution to promote the public's interest in
 418 fair, efficient, and competitive distribution of malt beverage
 419 products by regulation and encouragement of manufacturers and
 420 distributors to conduct their business relations toward these
 421 ends by:

422 1. Assuring that the beer distributor is free to manage
 423 its business enterprise, including the distributor's right to
 424 independently establish its selling prices;

425 2. Assuring the manufacturer and the public of service
 426 from a distributor who will devote reasonable efforts and
 427 resources to sales and distribution of the manufacturer's
 428 products, which distributor has been granted the right to sell
 429 and distribute and to maintain a satisfactory sales level; and

430 3. Establishing and maintaining an orderly system of
 431 distribution of beer to the public.

432 (c) This section shall govern all relations between
 433 manufacturers and their distributors to the full extent
 434 consistent with the constitutions and laws of this state and the
 435 United States.

436 (d) In order to promote the intention and policies
 437 announced herein, the provisions of this section shall be
 438 liberally construed.

439 (2) DEFINITIONS.—In construing this section, unless the
 440 context otherwise requires, the word, phrase, or term:

441 (a) "Designated member" means the spouse, child,
 442 grandchild, parent, brother, or sister of a deceased individual

443 who owned an interest in a distributor, who is entitled to
444 inherit the deceased individual's ownership interest in the
445 distributor under the terms of the deceased individual's will or
446 other testamentary device, or who is entitled to inherit such
447 ownership interest under the laws of intestate succession of
448 this state. With respect to an incapacitated individual owning
449 an ownership interest in a distributor, the term means the
450 person appointed by a court as the conservator of such
451 individual's property. The term also includes the appointed and
452 qualified personal representative and the testamentary trustee
453 of a deceased individual owning an ownership interest in a
454 distributor.

455 (b) "Distributor" or "wholesaler" means any person, firm,
456 association, corporation, or company which is a distributor
457 licensed to sell and distribute beer at wholesale to persons who
458 are licensed to sell beer.

459 (c) "Franchise agreement" or "agreement" means a written
460 contract or agreement, ~~either expressed or implied, whether oral~~
461 ~~or written,~~ for a definite ~~or indefinite~~ period of time in which
462 a manufacturer grants to a beer distributor the right to
463 purchase, resell, and distribute a specified ~~any~~ brand or brands
464 offered by the manufacturer.

465 (d) "Franchisee" means a beer distributor to whom a
466 franchise is offered or granted.

467 (e) "Franchisor" means a beer manufacturer who grants a
468 franchise to a beer distributor.

469 (f) "Fraud" includes actual fraud or constructive fraud as
 470 normally defined, in addition to the following:

471 1. A misrepresentation in any manner, whether
 472 intentionally false or arising from gross negligence, of a
 473 material fact.

474 2. A promise or representation not made honestly and in
 475 good faith.

476 3. An intentional failure to disclose a material fact.

477 4. Any artifice employed to deceive another.

478 (g) "Good faith" means honesty in fact in the conduct or
 479 transaction concerned as defined and interpreted under s.
 480 671.201(20).

481 (h) "Manufacturer" means any person who manufactures or
 482 imports beer for distribution to distributors licensed in
 483 Florida.

484 (i) "Person" means a natural person, corporation,
 485 association, partnership, trust, or other business entity and,
 486 in case of a business entity, shall include any other entity in
 487 which it has a majority interest or it effectively controls, as
 488 well as the individual officers, directors, and other persons in
 489 active control of the activities of each such entity. The term
 490 also includes heirs, assigns, personal representatives, and
 491 guardians.

492 (j) "Primary manufacturer" means a manufacturer that
 493 provides more than 50 percent by volume of the malt beverages
 494 purchased by and delivered to a distributor per calendar year.

495 ~~(k)~~~~(j)~~ "Reasonable qualifications" means the standard of
 496 the reasonable criteria established and consistently used by the
 497 respective manufacturer for Florida distributors that entered
 498 into, continued, or renewed an agreement with the manufacturer
 499 during a period of 24 months prior to the proposed transfer of
 500 the distributor's business, or for Florida distributors that
 501 have changed managers or designated managers during a period of
 502 24 months prior to the proposed change in manager or successor
 503 manager of the distributor's business.

504 ~~(l)~~~~(k)~~ "Retaliatory action" includes, but is not limited
 505 to, the refusal of a primary manufacturer to continue an
 506 agreement or a material reduction in the quality of service or
 507 quantity of products available to a distributor under an
 508 agreement which refusal or reduction is not made in good faith.

509 ~~(m)~~~~(l)~~ "Sale" includes the issuance, transfer, agreement
 510 for transfer, exchange, pledge, hypothecation, or mortgage in
 511 any manner or form, whether by transfer in trust or otherwise,
 512 of beer or of any franchise related thereto for a consideration
 513 and any option, subscription, or other contract, or
 514 solicitation, looking to a sale, or offer or attempt to sell in
 515 any form, whether in oral or written form, for a consideration.

516 ~~(n)~~~~(m)~~ "Transfer of a distributor's business" means the
 517 voluntary sale, assignment, or other transfer of the business or
 518 control of the business of the distributor, including the sale
 519 or other transfer of stock or assets by merger, consolidation,
 520 or dissolution.

521 (3) FRANCHISE REQUIREMENTS.—Each franchise agreement
 522 entered into between a manufacturer and distributor shall:
 523 (a) Be negotiated and executed in good faith by both
 524 parties such that obligations and considerations are met during
 525 the term of the agreement. The agreement shall provide that the
 526 distributor and manufacturer agree with respect to all aspects
 527 of the agreement, that both parties will act in good faith
 528 during the course of the agreement, and that the distributor
 529 agrees to not unfairly allocate its resources and efforts to a
 530 competitor brand.
 531 (b) Include all territorial assignments.
 532 (c) Have a term of no more than 5 years if the
 533 manufacturer is not the primary manufacturer for the
 534 distributor. An agreement entered into before July 1, 2015, that
 535 has no definite term shall expire on June 30, 2020.
 536 (d) Be substantially similar with regard to terms and
 537 conditions to all other franchise agreements between the
 538 manufacturer and its other distributors.
 539 (e) Include provisions for the recovery of actual damages
 540 by the distributor pursuant to subsection (18), if the
 541 manufacturer terminates or cancels the agreement before
 542 expiration of the term of the agreement without good cause as
 543 defined in subsections (8) and (11). Damages shall not be
 544 awarded for failure to renew an agreement upon completion of the
 545 term of the previous agreement if the manufacturer is not a
 546 primary manufacturer.

547 (f) Explicitly state that the manufacturer's trademarks
 548 are the manufacturer's exclusive property and shall be used in
 549 accordance with the manufacturer's standards and under the
 550 manufacturer's direction, and that the use of such a trademark
 551 by the distributor provides no rights beyond those expressly
 552 provided in the agreement.

553 (g) Permit modification of the agreement at any time
 554 during the term of the agreement if both the manufacturer and
 555 distributor agree, provide such modification in writing, and
 556 sign the modified agreement.

557 (4)(3) APPLICATION.—A Any person who engages directly or
 558 indirectly in purposeful franchise agreements ~~or contracts~~ in
 559 connection with the sale of beer to beer distributors within
 560 this state shall be subject to the provisions of this section
 561 and shall be subject to the jurisdiction of the courts of this
 562 state for violations of this section in accordance with the
 563 provisions of the laws of this state.

564 (5)(4) UNLAWFUL ACTS AND PRACTICES.—Unfair methods of
 565 competition and unfair or deceptive acts or practices in the
 566 conduct of the manufacturing, importing, distribution, sale,
 567 wholesaling, and franchising of beer, as defined in subsection
 568 (6) (5), are declared to be unlawful. ~~Any person who violates~~
 569 ~~any provision of this section shall not be subject to the~~
 570 ~~criminal penalties set forth in the Beverage Law on account of~~
 571 ~~such violation.~~

572 (6)(5) UNFAIR AND PROHIBITED ACTS.—

573 (a) It shall be deemed a violation of subsection (5) ~~(4)~~
 574 for any manufacturer or distributor to engage in any action
 575 which is in bad faith or unconscionable and which causes damage
 576 in terms of law or equity to any of the parties or to the
 577 public.

578 (b) It shall be deemed a violation of subsection (5) ~~(4)~~
 579 for a manufacturer or officer, agent, or other representative
 580 thereof:

581 1. To coerce or compel, or attempt to coerce or compel,
 582 any beer distributor to order or accept delivery of any beer or
 583 any other commodity or commodities which such beer distributor
 584 has not voluntarily ordered.

585 2. To refuse to deliver in reasonable quantities and
 586 within a reasonable time after receipt of the distributor's
 587 order to any distributor having a franchise ~~or contractual~~
 588 agreement for the distribution and sale of beer sold by such
 589 manufacturer, beer covered by such franchise agreement ~~or~~
 590 ~~contract~~. However, the failure to deliver any such beer shall
 591 not be considered a violation of this section if such failure is
 592 due to prudent and reasonable restriction on extension of credit
 593 by the manufacturer to the distributor, an act of God, work
 594 stoppage or delay due to a strike or labor difficulty, a bona
 595 fide shortage of materials, freight embargo, or other cause over
 596 which the manufacturer, or any agent thereof, shall have no
 597 control whatsoever.

598 3. To coerce or compel, or attempt to coerce or compel, a

599 | beer distributor to enter into any agreement, ~~whether written or~~
 600 | ~~oral~~, supplementary to an existing franchise with such
 601 | manufacturer or officer, agent, or other representative thereof,
 602 | or to do any other act prejudicial to such distributor, by
 603 | threatening to cancel any franchise ~~or any contractual~~ agreement
 604 | existing between such manufacturer and such distributor.
 605 | However, notice in good faith to a beer distributor of such
 606 | distributor's violation or breach of any terms or provisions of
 607 | such franchise ~~or contractual~~ agreement shall not constitute a
 608 | violation of this section if such notice is in writing, is
 609 | mailed by registered or certified mail to such distributor at
 610 | his or her current business address, and contains the specific
 611 | facts as to the distributor's violation or breach of such
 612 | franchise ~~or contractual~~ agreement.

613 | 4. To terminate or, ~~cancel, fail to renew, or refuse to~~
 614 | ~~continue~~ the franchise ~~or selling~~ agreement of any such
 615 | distributor without good cause as defined in subsections (8) ~~(7)~~
 616 | and (11) ~~(10)~~. The nonrenewal of a franchise ~~or selling~~
 617 | ~~agreement without good cause shall constitute an unfair~~
 618 | ~~termination or cancellation regardless of the specified time~~
 619 | ~~period of such franchise or selling agreement.~~

620 | 5. If the manufacturer is a primary manufacturer for the
 621 | distributor, to fail to renew, or refuse to continue the
 622 | franchise agreement of any such distributor, without good cause
 623 | as defined in subsections (8) and (11). Such nonrenewal of a
 624 | franchise agreement constitutes an unfair termination or

625 cancellation for any time period specified in such franchise
 626 agreement. If the manufacturer is not a primary manufacturer for
 627 the distributor, the manufacturer is not required to renew or
 628 continue the franchise agreement following the term of the
 629 franchise agreement.

630 6.5. To willfully discriminate, either directly or
 631 indirectly, in price offered to franchisees where the effect of
 632 such discrimination is likely to substantially lessen
 633 competition.

634 7.6. To prevent or attempt to prevent, by agreement
 635 ~~contract~~ or otherwise, any beer distributor from changing the
 636 capital structure of his or her distributorship or the means by
 637 or through which he or she finances the operation of his or her
 638 distributorship, provided that the distributor at all times
 639 meets capital standards which are reasonable in light of
 640 generally accepted capital standards within the manufacturer's
 641 beer distribution system. Nothing in this subparagraph
 642 diminishes the right of a manufacturer to prohibit public
 643 ownership of its franchises.

644 8.7. To prevent or attempt to prevent, by agreement
 645 ~~contract~~ or otherwise, any beer distributor or any officer,
 646 member partner, or stockholder of any beer distributor from
 647 selling or transferring any part of the interest of any of them
 648 to any other person or persons or party or parties. However, no
 649 distributor, officer, partner, or stockholder shall have the
 650 right to sell, transfer, or assign the franchise or power of

651 management or control thereunder without the written consent of
652 the manufacturer, distributor, or wholesaler, except that such
653 consent shall not be unreasonably withheld.

654 a. No manufacturer shall unreasonably withhold or delay
655 its approval of any assignment, sale, or transfer of the stock
656 of a distributor or of all or any portion of a distributor's
657 assets, a distributor's voting stock, the voting stock of any
658 parent corporation, or the beneficial ownership or control of
659 any other entity owning or controlling a distributor, including
660 the distributor's rights and obligations under the terms of an
661 agreement, whenever the person or persons to be substituted meet
662 reasonable qualifications. Upon the death of one of the partners
663 of a partnership operating the business of a distributor, no
664 manufacturer shall deny the surviving partner or partners of
665 such partnership the right to become a successor-in-interest to
666 the agreement between the manufacturer and such partnership,
667 provided that the survivor has been active in the management of
668 the partnership and is otherwise capable of carrying on the
669 business of the partnership, and provided further that such
670 right is consistent with the rights and desires of the heirs or
671 devisees of the deceased partner.

672 b. Notwithstanding the provisions of subparagraph a., upon
673 the death of a distributor, no manufacturer shall deny approval
674 for any transfer of ownership to a designated member of the
675 family of an owner of a distributor; provided, however, that any
676 subsequent transfer of such ownership by such designated member

677 shall thereafter be subject to the provisions of subparagraph a.

678 ~~9.8.~~ To obtain money, goods, services, anything of value,
 679 or any other benefit from any person in exchange for having
 680 coerced or compelled a beer distributor to do business with such
 681 other person.

682 ~~10.9.~~ To require a beer distributor to assent to a
 683 release, assignment, novation, waiver, or estoppel which would
 684 relieve any person from liability imposed by this section.

685 ~~11.10.~~ To restrict or inhibit, directly or indirectly, the
 686 right of free association among manufacturers or distributors of
 687 beer for any lawful purpose.

688 ~~12.11.~~ To fix or maintain the price at which a distributor
 689 may resell beer.

690 ~~13.12.~~ To coerce or attempt to coerce any distributor to
 691 accept delivery of any beer or other commodity ordered by a
 692 distributor if the order was properly canceled by the
 693 distributor.

694 ~~14.13.~~ To change a distributor's quota of a brand or
 695 brands if the change is not made in good faith.

696 ~~15.14.~~ To require a distributor, by any means, to
 697 participate in or contribute to any local or national
 698 advertising fund controlled directly or indirectly by a
 699 manufacturer.

700 ~~16.15.~~ To take any retaliatory action against a
 701 distributor that files a complaint regarding an alleged
 702 violation by the manufacturer of state or federal law or an

703 administrative rule.

704 ~~17.16.~~ To require or prohibit, without good cause provided
 705 in writing, any change in the manager or successor manager of
 706 any distributor who has been approved by the manufacturer as of
 707 June 4, 1987. Should a distributor change an approved manager or
 708 successor manager, a manufacturer shall not require or prohibit
 709 the change unless the person fails to meet the reasonable
 710 written standards for Florida distributors of the manufacturer
 711 which standards have been provided to the distributor.

712 ~~(7)(6)~~ MANUFACTURER'S GOOD FAITH DISTRIBUTOR'S
 713 ~~RESIGNATION,~~ CANCELLATION, TERMINATION, FAILURE TO RENEW, OR
 714 REFUSAL TO CONTINUE.—

715 ~~(a) Notwithstanding any agreement and except as otherwise~~
 716 ~~provided for in this section,~~ A manufacturer shall not ~~cause a~~
 717 ~~distributor to resign from an agreement, or cancel or~~
 718 ~~terminate, fail to renew, or refuse to continue under an~~
 719 ~~agreement unless the manufacturer has complied with all of the~~
 720 ~~following:~~

721 ~~1.(a) Has~~ Satisfied the applicable notice requirements of
 722 subsection ~~(10); (9).~~

723 ~~2.(b) Has~~ Acted in good faith; ~~and.~~

724 ~~3.(c) Has~~ Good cause for the cancellation ~~or,~~ termination,
 725 nonrenewal, discontinuance, ~~or forced resignation.~~

726 (b) If a manufacturer is a primary manufacturer for the
 727 distributor, the manufacturer shall not discontinue or fail to
 728 renew an agreement with the distributor unless the manufacturer

729 has:

730 1. Satisfied the applicable notice requirements of
 731 subsection (10);

732 2. Acted in good faith; and

733 3. Good cause for the discontinuance or nonrenewal.

734 (8)~~(7)~~ GOOD CAUSE.—Notwithstanding any agreement, good
 735 cause shall exist for the purposes of a termination,
 736 cancellation, nonrenewal, or discontinuance under subsection (7)
 737 ~~paragraph (6)(e)~~ when all of the following occur:

738 (a) There is a failure by the distributor to comply with a
 739 provision of the agreement which is both reasonable and of
 740 material significance to the business relationship between the
 741 distributor and the manufacturer.

742 (b) The manufacturer first acquired knowledge of the
 743 failure described in paragraph (a) not more than 18 months
 744 before the date notification was given pursuant to subsection
 745 (10)~~(6)~~.

746 (c) The distributor was given written notice by the
 747 manufacturer of failure to comply with the agreement.

748 (d) The distributor was afforded a reasonable opportunity
 749 to assert good faith efforts to comply with the agreement within
 750 the time limits provided for in paragraph (e).

751 (e) The distributor has been afforded 15 ~~30~~ days in which
 752 to submit a plan of corrective action to comply with the
 753 agreement and an additional 30 ~~90~~ days to cure such
 754 noncompliance in accordance with the plan or to sell his or her

755 distributorship consistent with the provisions of this section.

756 ~~(9)(8)~~ BURDEN OF PROOF.—For each good faith termination
 757 or cancellation by a manufacturer, or nonrenewal, or
 758 discontinuance by a primary manufacturer of the distributor, the
 759 manufacturer shall provide prima facie evidence ~~have the burden~~
 760 ~~of~~ showing that it has acted in good faith, that the notice
 761 requirements under this section have been complied with, and
 762 that there was good cause for the termination, cancellation,
 763 nonrenewal, or discontinuance. After the manufacturer provides
 764 such prima facie evidence, the burden of proof is shifted to the
 765 distributor to prove that the manufacturer has not met statutory
 766 and contractual requirements.

767 ~~(10)(9)~~ NOTICE.—Notwithstanding any agreement and except
 768 as otherwise provided in this section, for each good faith
 769 termination or cancellation by a manufacturer, or nonrenewal or
 770 discontinuance by a primary manufacturer of the distributor, the
 771 manufacturer shall furnish written notice ~~of the termination,~~
 772 ~~cancellation, nonrenewal, or discontinuance of an agreement to~~
 773 the distributor at least 30 ~~not less than 90~~ days before the
 774 effective date of the termination, cancellation, nonrenewal, or
 775 discontinuance; in no event shall the contractual term of any
 776 such franchise ~~or selling~~ agreement expire without the written
 777 consent of the beer distributor involved before ~~prior to the~~
 778 expiration of at least 30 ~~90~~ days after ~~following~~ such written
 779 notice. The notice shall be by certified mail and shall contain
 780 all of the following:

781 (a) A statement of intention to terminate, cancel, not
782 renew, or discontinue the agreement.

783 (b) A statement of the reason for the termination,
784 cancellation, nonrenewal, or discontinuance.

785 (c) The date on which the termination, cancellation,
786 nonrenewal, or discontinuance takes effect.

787 (11)~~(10)~~ CONDITIONS AND NOTICE REQUIRED.—Notwithstanding
788 subsections (7)~~(6)~~ and (10)~~(9)~~, a manufacturer may terminate,
789 cancel, fail to renew, or discontinue an agreement for good
790 cause immediately without notice ~~after not less than 15 days'~~
791 ~~written notice given in the manner and containing the~~
792 ~~information required by subsection (9)~~, if any of the following
793 occur:

794 (a) Insolvency of the distributor, the filing of any
795 petition by or against the distributor under any bankruptcy or
796 receivership law, or the dissolution or liquidation of the
797 wholesaler which materially affects the distributor's ability to
798 remain in business.

799 (b) Suspension or revocation of the distributor's license
800 by the division or by the Federal Bureau of Alcohol, Tobacco and
801 Firearms whereby the distributor cannot distribute beer for more
802 than 60 days.

803 (c) The distributor, or a partner or an individual who
804 owns 10 percent or more of the partnership or stock of a
805 corporate distributor, has been convicted of a felony under the
806 United States Code or the laws of any state which reasonably may

807 adversely affect the good will or interest of the distributor or
808 manufacturer. However, an existing stockholder or stockholders,
809 partner or partners, a designated member or members, or the
810 distributor itself, if incorporated, shall have, subject to the
811 provisions of this section, the right to purchase the
812 partnership interest or the stock of the offending partner or
813 stockholder, and if the sale is completed within 15 days of the
814 conviction of the offending partner or stockholder, the right of
815 termination, cancellation, nonrenewal, or discontinuance of the
816 distributorship agreement shall not apply.

817 (d) There was fraudulent conduct on the part of the
818 distributor relating to a material matter in dealings with the
819 manufacturer or its products.

820 (e) The principal of the distributor intentionally and
821 willfully sells the manufacturer's products to a retailer or
822 retailers located outside a distributor's territory, but only if
823 the manufacturer has assigned exclusive territories to its
824 distributors in Florida.

825 (f) The distributor fails to pay for the manufacturer's
826 products ordered and delivered in accordance with terms
827 established with the manufacturer and has continued to fail to
828 make payment within 15 business days after receipt of notice of
829 the delinquency and demand for immediate payment.

830 (g) The distributor sells, transfers, or assigns the
831 franchise or control thereunder without the written consent of
832 the manufacturer.

833 (12)~~(11)~~ DISCONTINUANCE OF PRODUCTION OR DISTRIBUTION.—
 834 Notwithstanding subsections (7), (10), and (11) ~~(6), (9), and~~
 835 ~~(10)~~, a manufacturer may terminate, cancel, not renew, or
 836 discontinue an agreement upon not less than 30 days' prior
 837 written notice if the supplier discontinues production or
 838 discontinues distribution throughout this state of all the
 839 brands sold by the manufacturer to the distributor. Nothing in
 840 this section shall prohibit a manufacturer, upon not less than
 841 30 days' notice, to completely discontinue the distribution
 842 throughout this state of any particular brand or package of
 843 beer. This subsection does not prohibit a manufacturer from
 844 conducting test marketing of a new brand of beer or from
 845 conducting the test marketing of a brand of beer which is not
 846 currently being sold in this state, provided that the
 847 manufacturer has notified the division in writing of its plans
 848 to test market. The notice shall describe the market area in
 849 which the test shall be conducted, the name or names of the
 850 distributor or distributors who will be selling the beer, the
 851 name or names of the brand of beer being tested, and the period
 852 of time during which the testing will take place. A market
 853 testing period shall not exceed 18 months.

854 (13)~~(12)~~ REASONABLE EFFORT REQUIRED.—The distributor shall
 855 devote such efforts and resources, as required in the agreement
 856 between the distributor and the manufacturer, to sales and
 857 distribution of all the manufacturer's products which the
 858 distributor has been granted the right and has agreed to sell

859 and distribute so long as such requirements are reasonable. In
 860 the absence of such an agreement, the distributor shall devote
 861 reasonable efforts and resources.

862 (14)~~(13)~~ WAIVER PROHIBITED.—A distributor shall not waive
 863 any of the rights granted in any provision of this section.
 864 Nothing in this section shall be construed to limit or prohibit
 865 good faith dispute settlements voluntarily entered into by the
 866 parties.

867 (15)~~(14)~~ MANUFACTURER; PROHIBITED INTERESTS.—

868 (a) This subsection applies to:

869 1. A manufacturer;

870 2. Any officer, director, agent, or employee of a
 871 manufacturer; or

872 3. An affiliate of any manufacturer, regardless of whether
 873 the affiliation is corporate or by management, direction, or
 874 control.

875 (b) Except as provided in paragraph (c), no entity or
 876 person specified in paragraph (a) may have an interest in the
 877 license, business, assets, or corporate stock of a licensed
 878 distributor nor shall such entity sell directly to any vendor in
 879 this state other than to vendors who are licensed pursuant to s.
 880 561.221(2).

881 (c) Any entity described in paragraph (a) may financially
 882 assist a proposed distributor in acquiring ownership of the
 883 distributorship through participation in a limited partnership
 884 arrangement in which the entity described in paragraph (a) is a

885 | limited partner and the proposed distributor seeking to acquire
 886 | ownership of the distributorship is the general partner. Such
 887 | limited partnership arrangements may exist for no longer than 8
 888 | years from their creation and shall not be extended or renewed
 889 | by means of a transfer of full ownership to an entity described
 890 | in paragraph (a) followed by the creation of a new limited
 891 | partnership or by any other means. In any such arrangement for
 892 | financial assistance, the federal basic permit and distributor's
 893 | license issued by the division shall be issued in the name of
 894 | the distributor and not in the name of an entity described in
 895 | paragraph (a). If, after the creation of a limited partnership
 896 | pursuant to this paragraph, an entity described in paragraph (a)
 897 | acquires title to the distributorship which was the subject of
 898 | the limited partnership, the entity described in paragraph (a)
 899 | shall divest itself of the distributorship within 180 days, and
 900 | the distributorship shall be ineligible for limited partnership
 901 | financing for 20 years thereafter. No entity described in
 902 | paragraph (a) shall enter into a limited partnership arrangement
 903 | with a licensed distributor whose distributorship existed and
 904 | was operated prior to the creation of such limited partnership
 905 | arrangement.

906 | (d) Nothing in the Beverage Law shall be construed to
 907 | prohibit a manufacturer from shipping products to or between the
 908 | licensed premises of its breweries without a distributor's
 909 | license. A manufacturer that holds a valid manufacturer's
 910 | license may deliver, directly to any licensed vendor, up to

911 10,000 total kegs per calendar year of malt beverages
912 manufactured by the manufacturer and to which it owns the brand
913 rights, subject to the following requirements:

914 1. The manufacturer shall use only its vehicles to deliver
915 malt beverages to a licensed vendor.

916 2. A manufacturer of malt beverages that is permitted
917 limited self-distribution pursuant to this paragraph is
918 responsible for payment of applicable excise taxes to the
919 division and applicable reports pursuant to ss. 561.50 and
920 561.55 with respect to the amount of malt beverages manufactured
921 and sold to vendors. The reports shall clearly distinguish
922 between malt beverages self-distributed by the manufacturer and
923 malt beverages sold directly to consumers by the manufacturer
924 pursuant to s. 561.221(2).

925 (e) Notwithstanding the provisions of paragraph (b), any
926 entity named in paragraph (a) may have an interest in the
927 license, business, assets, or corporate stock of a licensed
928 distributor for a maximum of 180 consecutive days as the result
929 of a judgment of foreclosure against the distributor or for 180
930 consecutive days after acquiring title pursuant to the written
931 request of the licensed distributor. Under either of these
932 circumstances, manufacturer ownership of an interest in the
933 license, business, assets, or corporate stock of a licensed
934 distributor shall only be for 180 days and only for the purpose
935 of facilitating an orderly transfer of the distributorship to an
936 owner not affiliated with a manufacturer.

937 (f) Notwithstanding the provisions of paragraph (b), any
 938 entity named in paragraph (a) may have a security interest in
 939 the inventory or property of its licensed distributors to secure
 940 payment for said inventory or other loans for other purposes.

941 (16)~~(15)~~ AGREEMENTS SUBJECT TO SECTION.—The provisions of
 942 this section shall apply to all written or oral agreements
 943 between a manufacturer and beer distributor in existence on July
 944 1, 2015 ~~June 4, 1987~~, as well as agreements entered into or
 945 renewed after July 1, 2015 ~~June 4, 1987~~.

946 (17)~~(16)~~ AGREEMENTS BINDING ON SUCCESSOR.—A successor to a
 947 manufacturer that continues in business as a manufacturer shall
 948 be bound by all terms and conditions of each agreement of the
 949 manufacturer in effect on the date of succession.

950 (18)~~(17)~~ REASONABLE COMPENSATION FOR TERMINATION OR
 951 CANCELLATION WITHOUT GOOD CAUSE.—Upon termination or
 952 cancellation of the agreement without good cause:

953 (a) Any manufacturer which, without good cause, cancels
 954 or, terminates, or fails to renew any agreement, or lawfully
 955 denies approval of, or unreasonably withholds consent to, any
 956 assignment, transfer, or sale of a distributor's business assets
 957 or voting stock or other equity securities, shall pay
 958 compensation for actual damages to such distributor with whom it
 959 has an agreement, and other injured parties. A primary
 960 manufacturer that fails to renew an agreement pursuant to
 961 subparagraph (6)(b)5. shall pay compensation for actual damages
 962 to a distributor with whom it has such agreement, and other

963 injured parties. Actual damages shall reflect damages suffered
 964 by the distributor or injured party, including: a written
 965 contract
 966 1. Lost profits anticipated from prior sales.
 967 2. Incidental and consequential damages.
 968 3. Costs expended and not previously recovered during the
 969 duration of the agreement before cancellation or termination.
 970 ~~reasonable compensation for the diminished value of the~~
 971 ~~distributor's business or of any ancillary business or both~~
 972 ~~which has been negatively affected by the act of the~~
 973 ~~manufacturer. "Ancillary business" means a business owned by a~~
 974 ~~wholesaler, a controlling stockholder of a wholesaler, or a~~
 975 ~~controlling partner of a wholesaler, the assets of which are~~
 976 ~~primarily used in transporting, storing, or marketing the brand~~
 977 ~~or brands of malt beverage of the supplier with whom the~~
 978 ~~wholesaler has an agreement; or a business owned by a~~
 979 ~~wholesaler, a controlling stockholder of a wholesaler, or a~~
 980 ~~controlling partner of a wholesaler which recycles returnable~~
 981 ~~beverage containers; or any other business owned by a~~
 982 ~~wholesaler, a controlling stockholder of a wholesaler, or a~~
 983 ~~controlling partner of a wholesaler, which business is primarily~~
 984 ~~operated to benefit the wholesaler's ability to handle the brand~~
 985 ~~or brands of malt beverage of the supplier with whom the~~
 986 ~~wholesaler has an agreement. "Controlling stockholder" or~~
 987 ~~"controlling partner" shall mean a person with an ownership~~
 988 ~~interest in the wholesaler of 50 percent or more. The value of~~

989 ~~the distributor's business or ancillary business shall include,~~
 990 ~~but not be limited to, its goodwill.~~

991 (b) In the event the manufacturer and the beer distributor
 992 are unable to mutually agree on the ~~reasonable~~ compensation to
 993 be paid for the actual damages ~~value of the distributor's~~
 994 ~~business, as defined herein,~~ the matter may, by agreement of the
 995 parties, be submitted to a neutral arbitrator to be selected by
 996 the parties and the claim settled in accordance with the rules
 997 provided by the American Arbitration Association. Arbitration
 998 costs shall be paid one-half by the distributor and one-half by
 999 the manufacturer. The award of the arbitrator shall be final and
 1000 binding on the parties.

1001 (19)~~(18)~~ REMEDIES.—

1002 (a) During the 30 ~~90~~-day period provided in subsection
 1003 (10) ~~(9)~~ or during the ~~15~~-day period provided in subsection
 1004 ~~(10)~~, either party, in appropriate circumstances, may bring
 1005 action in the appropriate circuit court of this state to shorten
 1006 the notice period so provided or to extend it pending a final
 1007 determination of such proceedings on the merits.

1008 (b) In any action brought under this section, the court
 1009 shall have authority to grant temporary, preliminary, and final
 1010 injunctive relief. If the court grants injunctive relief, bond
 1011 shall not be required to be posted.

1012 (c) In addition to temporary, preliminary, or final
 1013 injunctive relief, any person who shall be aggrieved or injured
 1014 in his or her business or property by reason of anything

1015 forbidden in this section may bring an action therefor in the
 1016 appropriate circuit court of this state and, if successful shall
 1017 recover the damages sustained and the costs of such action,
 1018 including a reasonable attorney's fee.

1019 ~~(d) Without regard and in addition to any other remedy or~~
 1020 ~~relief to which a person is entitled, anyone aggrieved by a~~
 1021 ~~violation of this section may bring an action to obtain a~~
 1022 ~~declaratory judgment that an act, action, or practice violates~~
 1023 ~~this section and to enjoin a manufacturer or distributor who has~~
 1024 ~~violated, is violating, or is otherwise likely to violate this~~
 1025 ~~section.~~

1026 (d)~~(e)~~ When such action is one of common or general
 1027 interest to many persons or when the parties are numerous and it
 1028 is impracticable to bring them all before the court, one or more
 1029 persons may bring a class action for the benefit of the whole,
 1030 including actions for injunctive relief.

1031 (e)~~(f)~~ In an action for money damages, only if a judge or
 1032 jury finds that the defendant acted maliciously, the judge or
 1033 jury may award punitive damages as permitted by Florida law.

1034 (f)~~(g)~~ The remedies provided in this subsection shall be
 1035 in addition to any other civil remedies provided by law or in
 1036 equity. Nothing contained in this subsection shall give rise to
 1037 or foreclose any claim which would otherwise exist against the
 1038 manufacturer or distributor by any proposed purchaser of the
 1039 distributor's business.

1040 (20)~~(19)~~ CONTRACTS AND THE VALIDITY THEREOF.—No

1041 manufacturer shall effect any sale to a distributor in Florida
 1042 except pursuant to a written agreement ~~contract~~ between the
 1043 manufacturer and the distributor which agreement ~~contract~~ is
 1044 consistent with the provisions of this section.

1045 (21) ~~(20)~~ REPURCHASE OF INVENTORY UPON TERMINATION.-

1046 (a) Whenever any beer distributor enters into a franchise
 1047 agreement with a manufacturer wherein the distributor agrees to
 1048 maintain an inventory of beer and the franchise is subsequently
 1049 terminated in accordance with this section and any circuit court
 1050 injunction requested by the distributor has been denied or
 1051 dissolved, the manufacturer shall repurchase the inventory as
 1052 provided in this section. If the distributor has any outstanding
 1053 debts to the manufacturer, then the repurchase amount may be
 1054 credited to the distributor's account.

1055 (b) The manufacturer shall repurchase that inventory
 1056 previously purchased from him or her and held by the distributor
 1057 on the date of termination of the agreement ~~contract~~. The
 1058 manufacturer shall pay fair market value for the inventory being
 1059 repurchased and 100 percent of the actual distributor cost,
 1060 including freight and reasonable storage and handling costs, of
 1061 all unsold beer. For the purposes of this paragraph, the term
 1062 "fair market value" means the amount a willing manufacturer,
 1063 under no compulsion to sell, would be willing to accept, and a
 1064 willing distributor, under no compulsion to purchase, would be
 1065 willing to pay for the malt beverages.

1066 (c) Upon payment within a reasonable time of the

1067 repurchase amount to the distributor, the title and right of
 1068 possession to the repurchased inventory shall be transferred to
 1069 the manufacturer.

1070 (d) The provisions of this section shall not require the
 1071 repurchase from a distributor of:

1072 1. Any inventory which the distributor desires to keep,
 1073 provided the distributor has a contractual right to do so.

1074 2. Any inventory which was ordered by the distributor on
 1075 or after the date of receipt of the notification of termination
 1076 of the franchise ~~or contractual~~ agreement.

1077 3. Any inventory which was acquired by the distributor
 1078 from any source other than the manufacturer.

1079 4. Any inventory which the distributor failed to sell by
 1080 the "best by" date.

1081 (e) If any manufacturer shall fail or refuse to repurchase
 1082 any inventory covered under the provisions of this section
 1083 within 60 days after termination of an agreement ~~a distributor's~~
 1084 ~~contract~~, he or she shall be civilly liable for 100 percent of
 1085 the current wholesale price of the inventory plus any freight
 1086 charges paid by the distributor, the distributor's reasonable
 1087 attorney's fees, court costs, and interest on the current
 1088 wholesale price computed at the legal interest rate provided in
 1089 s. 687.01 from the 61st day after termination.

1090 (22) ~~(21)~~ INDEMNIFICATION.—A manufacturer shall fully
 1091 indemnify and hold harmless its distributor against any losses,
 1092 including, but not limited to, court costs and reasonable

1093 attorney's fees or damages arising out of complaints, claims, or
 1094 lawsuits, including, but not limited to, strict liability,
 1095 negligence, misrepresentation, or express or implied warranty
 1096 where the complaint, claim, or lawsuit relates to the
 1097 manufacture or packaging of beer or other functions by the
 1098 manufacturer which are beyond the control of the distributor.
 1099 The distributor must mail written notice to the manufacturer on
 1100 a prompt and timely basis after receipt of notice of a
 1101 complaint, claim, or lawsuit in order for the manufacturer to be
 1102 liable under this subsection with respect to such complaint,
 1103 claim, or lawsuit.

1104 Section 9. Subsections (1) and (6) of section 563.06,
 1105 Florida Statutes, are amended, present subsection (7) is
 1106 renumbered as subsection (8) and amended, and a new subsection
 1107 (7) is added to that section, to read:

1108 563.06 Malt beverages; imprint on individual container;
 1109 size of containers; growlers; exemptions.-

1110 (1) ~~On and after October 1, 1959,~~ All taxable malt
 1111 beverages packaged in individual containers possessed by any
 1112 person in the state for the purpose of sale or resale in the
 1113 state, except operators of railroads, sleeping cars, steamships,
 1114 buses, and airplanes engaged in interstate commerce and licensed
 1115 under this section, shall have imprinted thereon in clearly
 1116 legible fashion by any permanent method the word "Florida" or
 1117 "FL" and no other state name or abbreviation of any state name
 1118 in not less than 8-point type. The word "Florida" or "FL" shall

1119 appear first or last, if imprinted in conjunction with any
 1120 manufacturer's code. A facsimile of the imprinting and its
 1121 location as it will appear on the individual container shall be
 1122 submitted to the division for approval.

1123 (6) With the exception of growlers as defined in
 1124 subsection (7), all malt beverages packaged in individual
 1125 containers sold or offered for sale by vendors at retail in this
 1126 state shall be in individual containers containing no more than
 1127 32 ounces of such malt beverages; ~~provided, however, that~~
 1128 nothing contained in this section shall affect malt beverages
 1129 packaged in bulk, ~~or~~ in kegs, or in barrels or in any individual
 1130 container containing 1 gallon or more of such malt beverage
 1131 regardless of individual container type.

1132 (7) (a) As used in the Beverage Law, the term "growler"
 1133 means any container between 32 ounces and 128 ounces in size
 1134 that was originally manufactured to hold malt beverages.

1135 (b) A growler may be filled or refilled with:

1136 1. A malt beverage manufactured by a manufacturer that
 1137 holds a valid manufacturer's license and operates a taproom
 1138 pursuant to s. 561.221(2)(a), if the manufacturer filling the
 1139 growler is the same manufacturer that brewed the malt beverage
 1140 and is filling the growler in the taproom.

1141 2. A malt beverage manufactured by a manufacturer that
 1142 holds a valid manufacturer's license and a valid vendor's
 1143 license pursuant to s. 561.221(2)(b) or (3), if the manufacturer
 1144 filling the growler is the same manufacturer that brewed the

1145 malt beverage and is filling the growler pursuant to its
1146 vendor's license.

1147 3. A malt beverage manufactured by a manufacturer, if the
1148 manufacturer filling the growler holds a valid manufacturer's
1149 license pursuant to s. 561.221(2)(b) or (3) and a valid quota
1150 license at that location pursuant to ss. 561.20(1) and
1151 565.02(1)(a)-(f).

1152 4. A malt beverage manufactured by a manufacturer and sold
1153 by a vendor if:

1154 a. The vendor filling the growler holds a valid quota
1155 license at that location pursuant to ss. 561.20(1) and
1156 565.02(1)(a)-(f); or

1157 b. The vendor filling the growler obtains at least 80
1158 percent of its annual gross revenues from the sale of malt
1159 beverages and the vendor does not also hold a manufacturer's
1160 license.

1161 (c) A growler must have an unbroken seal or be incapable
1162 of being immediately consumed.

1163 (d) A growler must be clearly labeled as containing an
1164 alcoholic beverage and provide the name of the manufacturer, the
1165 brand, the volume, the percentage of alcohol by volume, and the
1166 required label information for alcoholic beverages under 27
1167 C.F.R. s. 16.21. If a growler being refilled has an existing
1168 label or other identifying mark from a manufacturer or brand,
1169 that label shall be covered sufficiently to indicate the
1170 manufacturer and brand of the malt beverage placed in the

1171 growler.

1172 (e) A growler must be clean before being filled.

1173 (f) A licensee authorized to fill growlers may not use
 1174 growlers for purposes of distribution or sale outside of the
 1175 licensed manufacturing premises or licensed vendor premises.

1176 (8) ~~(7)~~ A ~~Any~~ person, firm, or corporation or an agent,
 1177 officer, or employee thereof who violates, ~~its agents, officers~~
 1178 ~~or employees, violating any of the provisions of this section~~
 1179 ~~commits, shall be guilty of a misdemeanor of the first degree,~~
 1180 punishable as provided in s. 775.082 or s. 775.083, ~~+~~ and the
 1181 license, if any, shall be subject to revocation or suspension by
 1182 the division.

1183 Section 10. Section 563.09, Florida Statutes, is created
 1184 to read:

1185 563.09 Malt beverage tastings by distributors and
 1186 manufacturers.-

1187 (1) A licensed distributor of malt beverages or a
 1188 manufacturer of malt beverages may conduct a malt beverage
 1189 tasting subject to the following requirements:

1190 (a) Tastings may only be conducted in the interior of a
 1191 licensed vendor premises authorized to sell alcoholic beverages
 1192 as follows:

1193 1. By package, if the premises consists of at least 10,000
 1194 square feet or more of interior space.

1195 2. By package, if the premises is licensed pursuant to s.
 1196 565.02(1)(a), regardless of the interior square footage of the

1197 | premises.

1198 | 3. For consumption on the premises.

1199 | (b) The malt beverage tasting must be limited to and

1200 | directed toward members of the general public who are of the age

1201 | of legal consumption.

1202 | (c) Samples may be:

1203 | 1. No more than 3 ounces for each product sampled.

1204 | 2. Served in a cup, glass, or other open container.

1205 | (d) The manufacturer or distributor may purchase the malt

1206 | beverages used in the tastings from the vendor at no more than

1207 | retail price.

1208 | (e) The manufacturer or distributor conducting the tasting

1209 | shall:

1210 | 1. Provide all of the malt beverages used for the tasting.

1211 | 2. Not pay a vendor a fee or compensation of any kind,

1212 | including the provision of any malt beverage at no or reduced

1213 | cost.

1214 | 3. Be responsible for applicable reports and shall pay

1215 | applicable excise taxes thereon to the division. If the

1216 | manufacturer or distributor contracts with a third party to

1217 | conduct the tasting, the manufacturer or distributor remains

1218 | responsible for the recordkeeping requirements and excise tax

1219 | payments.

1220 | 4. Properly dispose of malt beverages provided for the

1221 | tastings which remain unconsumed after a tasting.

1222 | (2) This section does not preclude a vendor from

1223 conducting a malt beverage tasting on its licensed vendor
 1224 premises using malt beverages from its own inventory.

1225 (3) This section is supplemental to and does not supersede
 1226 any special act or ordinance.

1227 Section 11. Subsections (1) and (2) of section 565.03,
 1228 Florida Statutes, are amended to read:

1229 565.03 License fees; manufacturers, distributors, brokers,
 1230 sales agents, and importers of alcoholic beverages; vendor
 1231 licenses and fees; craft distilleries.-

1232 (1) As used in this section, the term:

1233 (a) "Craft distillery" means a licensed distillery that
 1234 produces 75,000 or fewer gallons per calendar year of distilled
 1235 spirits on its premises and has notified the division in writing
 1236 of its decision to qualify as a craft distillery.

1237 (b) "Distillery" means a manufacturer that distills ethyl
 1238 alcohol or ethanol to create ~~of~~ distilled spirits.

1239 (2)(a) A distillery authorized to do business under the
 1240 Beverage Law shall pay an annual state license tax for each
 1241 plant or branch operating in the state, as follows:

1242 1. If engaged in the business of manufacturing distilled
 1243 spirits, a state license tax of \$4,000.

1244 2. If engaged in the business of rectifying and blending
 1245 spirituous liquors and nothing else, a state license tax of
 1246 \$4,000.

1247 (b) Persons licensed under this section who are in the
 1248 business of distilling spirituous liquors may also engage in the

1249 business of rectifying and blending spirituous liquors without
 1250 the payment of an additional license tax.

1251 (c) A craft distillery licensed under this section may
 1252 sell to consumers, at its souvenir gift shop, spirits distilled
 1253 on its premises in this state in factory-sealed containers that
 1254 are filled at the distillery for off-premises consumption. Such
 1255 sales are authorized only on private property contiguous to the
 1256 licensed distillery premises in this state and included on the
 1257 sketch or diagram defining the licensed premises submitted with
 1258 the distillery's license application. All sketch or diagram
 1259 revisions by the distillery shall require the division's
 1260 approval verifying that the souvenir gift shop location operated
 1261 by the licensed distillery is owned or leased by the distillery
 1262 and on property contiguous to the distillery's production
 1263 building in this state. A craft distillery or licensed
 1264 distillery may not sell any factory-sealed individual containers
 1265 of spirits except in face-to-face sales transactions with
 1266 consumers who are making a purchase of ~~two or fewer~~ individual
 1267 containers, that comply with the container limits in s. 565.10,
 1268 ~~per calendar year~~ for the consumer's personal use and not for
 1269 resale and who are present at the distillery's licensed premises
 1270 in this state.

1271 1. A craft distillery must report to the division within 5
 1272 days after it reaches the production limitations provided in
 1273 paragraph (1)(a). Any retail sales to consumers at the craft
 1274 distillery's licensed premises are prohibited beginning the day

1275 after it reaches the production limitation.

1276 2. A craft distillery may only ship, arrange to ship, or
 1277 deliver any of its distilled spirits to consumers within the
 1278 state in a face-to-face transaction at the distillery property.
 1279 However, a craft distiller licensed under this section may ship,
 1280 arrange to ship, or deliver such spirits to manufacturers of
 1281 distilled spirits, wholesale distributors of distilled spirits,
 1282 state or federal bonded warehouses, and exporters.

1283 3. Except as provided in subparagraph 4., it is unlawful
 1284 to transfer a distillery license for a distillery that produces
 1285 75,000 or fewer gallons per calendar year of distilled spirits
 1286 on its premises or any ownership interest in such license to an
 1287 individual or entity that has a direct or indirect ownership
 1288 interest in any distillery licensed in this state; another
 1289 state, territory, or country; or by the United States government
 1290 to manufacture, blend, or rectify distilled spirits for beverage
 1291 purposes.

1292 4. A craft distillery shall not have its ownership
 1293 affiliated with another distillery, unless such distillery
 1294 produces 75,000 or fewer gallons per calendar year of distilled
 1295 spirits on its premises.

1296 Section 12. Section 565.04, Florida Statutes, is repealed.

1297 Section 13. If any provision of s. 561.221(2), Florida
 1298 Statutes, as amended by this act, is held invalid, or if the
 1299 application of that subsection to any person or circumstance is
 1300 held invalid, the invalidity does not affect other provisions or

HB 107

2015

1301 | applications of this act which can be given effect without the
1302 | invalid provision or application, and to this end s. 561.221(2),
1303 | Florida Statutes, is severable.

1304 | Section 14. This act shall take effect July 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 301 Malt Beverages
SPONSOR(S): Sprowls and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 186

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee		Butler <i>BSB</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 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 certain vendors and manufacturers to package malt beverages at the point of sale in containers of 32, 64, or 128 ounces by volume. 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.

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:

Current 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. Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law.

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.

Container Size

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, and other containers, as well as the shipping equipment to protect and distribute bottles, cans, and kegs based on industry standard sizes. Distributors have created a nationwide distribution system 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 (67.628 ounces) that the consumer can take to a manufacturer/vendor to be filled 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 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.

Effect of the Bill

Container Size

The bill provides that notwithstanding s. 563.06(6), F.S., or any other provision of the Beverage Law, a malt beverage may be packaged in an individual container that holds 32, 64, or 128 ounces by volume, if filled at the point of sale by an allowed vendor or manufacturer.

¹ Testimony, Workshop on Craft Brewers Business Development Regulatory Issues, Business & Professional Regulation Subcommittee (Jan. 9, 2013).

² BeerAdvocate, *The Growler: Beer-To-Go!*, (July 31, 2002) <http://www.beeradvocate.com/articles/384/>.

³ Brew-Tek, *What is a Growler?*, <http://www.brew-tek.com/products/growlers/what-is-a-growler/> (last visited Feb. 6, 2015).

The bill allows manufacturers and vendors with the following licenses to fill individual containers (growlers):

- A manufacturer with any vendor's license;⁴
- A vendor with a quota license that is restricted to package sales only;
- A vendor with a license that permits the sale of malt beverages only for consumption on premises or package sales;
- A vendor with a license that permits the sale of malt beverages and wine for consumption on premises or package sales;
- A vendor with a quota license for consumption on premises or package sales.

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

Growlers must meet the following requirements to be considered an appropriate individual container as allowed by this bill. Each growler, before being sold to the consumer must:

- Include an imprint or label that provides information specifying the manufacturer and the brand of the malt beverage;
- Have an unbroken seal or be incapable of being immediately consumed.

Sale of growlers is restricted by the bill to only licensees authorized to fill growlers. The bill establishes a first degree misdemeanor penalty for any person, firm, or corporation, including its agents, officers, or employees, who sells a growler without one of the authorized license types. In addition, it authorizes the division to suspend or revoke the license and impose a fine up to \$250 for authorized licensees who violate the label or seal requirements for the specified container types.

B. SECTION DIRECTORY:

Section 1 amends s. 563.06, F.S., allowing individual containers containing malt beverages of 32, 64, and 128 ounces by volume to be sold, under certain conditions.

Section 2 provides that the bill will become effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

⁴ The bill authorizes a manufacturer with a vendor license under s. 561.221(2), F.S., referred to as the "tourist exception" but not a vendor with a manufacturer license under s. 561.221(3), F.S., also called a brewpub license.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may help generate additional revenue by authorizing certain licensees to sell 64 ounce growlers.

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. 563.06,
 3 F.S.; authorizing the sale of malt beverages packaged
 4 in individual containers of certain sizes if they are
 5 filled at the point of sale by certain licenseholders;
 6 requiring a container to be imprinted or labeled with
 7 certain information; requiring a container to be
 8 sealed or incapable of being immediately consumed;
 9 providing penalties; providing an effective date.

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

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

15 563.06 Malt beverages; imprint on individual container;
 16 size of containers; exemptions.—

17 (6) All malt beverages packaged in individual containers
 18 sold or offered for sale by vendors at retail in this state
 19 shall be in individual containers containing no more than 32
 20 ounces of such malt beverages; provided, however, that nothing
 21 contained in this section shall affect malt beverages packaged
 22 in bulk or in kegs or in barrels or in any individual container
 23 containing 1 gallon or more of such malt beverage regardless of
 24 individual container type.

25 (a) Notwithstanding any other provision of the Beverage
 26 Law, a malt beverage may be packaged in an individual container

27 that holds 32, 64, or 128 ounces of such malt beverage if it is
 28 filled at the point of sale by any of the following:

29 1. A licensed manufacturer of malt beverages holding a
 30 vendor's license under s. 561.221(2).

31 2. A vendor holding a quota license under s. 561.20(1) or
 32 s. 565.02(1)(a) that authorizes the sale of malt beverages.

33 3. A vendor holding a license under s. 563.02(1)(b)-(f),
 34 s. 564.02(1)(b)-(f), or s. 565.02(1)(b)-(f), unless such license
 35 restricts the sale of malt beverages to sale for consumption
 36 only on the premises of such vendor.

37 (b) A container specified in paragraph (a) must include an
 38 imprint or label that provides information specifying the
 39 manufacturer and the brand of the malt beverage. The container
 40 must have an unbroken seal or be incapable of being immediately
 41 consumed.

42 (c) A person, firm, or corporation, including its agents,
 43 officers, or employees, which violates paragraph (a) commits a
 44 misdemeanor of the first degree, punishable as provided in s.
 45 775.082 or s. 775.083, and the license held by the person, firm,
 46 or corporation, if any, is subject to revocation or suspension
 47 by the division. A person, firm, or corporation, including its
 48 agents, officers, or employees, which violates paragraph (b) may
 49 be subject to a fine by the division of up to \$250.

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



Business & Professions Subcommittee

**Wednesday, February 18, 2015
10:30 AM
404 HOB**

Amendment Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Business & Professions Subcommittee

Start Date and Time: Wednesday, February 18, 2015 10:30 am
End Date and Time: Wednesday, February 18, 2015 01:00 pm
Location: Sumner Hall (404 HOB)
Duration: 2.50 hrs

Consideration of the following bill(s):

HB 107 Malt Beverages by Steube
HB 301 Malt Beverages by Sprowls

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., Tuesday, February 17, 2015.

By request of the Chair, all Business & Professions Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Tuesday, February 17, 2015.

NOTICE FINALIZED on 02/11/2015 16:15 by Ellinor.Martha



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 & Professions
 2 Subcommittee
 3 Representative Steube offered the following:

Amendment (with title amendment)

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

Remove line 2 and insert:

9 An act relating to alcoholic beverages; amending s. 402.82,



Amendment No. 2

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 & Professions
 2 Subcommittee
 3 Representative Steube offered the following:

4
 5 **Amendment**
 6 Remove line 121 and insert:
 7 to s. 563.06(7).



Amendment No. 3

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 & Professions
 2 Subcommittee
 3 Representative Steube offered the following:

Amendment (with directory and title amendments)

Remove lines 294-298 and insert:

7 (a) If a manufacturer, distributor, importer, brand owner,
 8 or brand registrant of malt beverage, or any ~~broker,~~ sales
 9 agent, or sales person thereof, provides a vendor with
 10 expendable retailer advertising specialties such as trays,
 11 coasters, mats, menu cards, napkins, cups, glasses,
 12 thermometers, and the like, such items may ~~shall~~ be sold only at
 13 a price not less than the actual cost to the industry member who
 14 initially purchased them, without limitation in total dollar
 15 value of such items sold to a vendor.

16 (b) Without limitation in total dollar value of such items
 17 provided to a vendor, a manufacturer, distributor, importer,



Amendment No. 3

18 brand owner, or brand registrant of malt beverage, or any
19 ~~broker,~~ sales agent, or sales person thereof, may rent, loan
20 without charge for an indefinite duration, or sell durable
21 retailer advertising specialties such as clocks, pool table
22 lights, and the like, which bear advertising matter.

23 (c) If a manufacturer, distributor, importer, brand owner,
24 or brand registrant of malt beverage, or any ~~broker,~~ sales
25 agent, or sales person thereof, provides a vendor with consumer
26 advertising specialties such as ashtrays, T-shirts, bottle
27 openers, shopping bags, and the like, such items may ~~shall~~ be
28 sold only at a price not less than the actual cost to the
29 industry member who initially purchased them, and ~~but~~ may be
30 sold without limitation in total value of such items sold to a
31 vendor.

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

37 ~~(e) Manufacturers, distributors, importers, brand owners,~~
38 ~~or brand registrants of beer, and any broker, sales agent, or~~
39 ~~sales person thereof, shall not conduct any sampling activities~~
40 ~~that include tasting of their product at a vendor's premises~~
41 ~~licensed for off-premises sales only.~~

42 ~~(f)~~ (e) A manufacturer ~~Manufacturers,~~ distributor
43 ~~distributors,~~ importer ~~importers,~~ brand owner ~~owners,~~ or brand



Amendment No. 3

44 registrant ~~registrants~~ of malt beverages ~~beer~~, and any ~~broker~~,
 45 sales agent, or sales person thereof or contracted third-party,
 46 may shall not engage in cooperative advertising with a vendor
 47 and may not name a vendor in any advertising for a malt beverage
 48 tasting authorized under s. 563.09 ~~vendors~~.

49 ~~(g)~~ (f) A distributor ~~Distributors~~ of malt beverages ~~beer~~
 50 may sell to a vendor ~~vendors~~ draft equipment and tapping
 51 accessories at a price not less than the cost to the industry
 52 member who initially purchased them, except there is no required
 53 charge, and the ~~a~~ distributor may exchange any parts that ~~which~~
 54 are not compatible with a competitor's system and are necessary
 55 to dispense the distributor's brands. A distributor of malt
 56 beverages ~~beer~~ may furnish to a vendor at no charge replacement
 57 parts of nominal intrinsic value, including, but not limited to,
 58 washers, gaskets, tail pieces, hoses, hose connections, clamps,
 59 plungers, and tap markers.

61 -----
 62 **D I R E C T O R Y A M E N D M E N T**

63 Remove lines 279-280 and insert:

64 Section 3. Subsection (14) of section 561.42, Florida
 65 Statutes, is amended to read:
 66

67 -----
 68 **T I T L E A M E N D M E N T**

69 Remove line 21 and insert:



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 107 (2015)

Amendment No. 3

70 tastings; providing new requirements for tastings; amending s.
71 561.5101, F.S.; conforming a



Amendment No. 4

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 & Professions
2 Subcommittee
3 Representative Steube offered the following:

Amendment (with title amendment)

Remove lines 317-360 and insert:

7 (3) A licensed vendor may transport alcoholic beverage
8 purchases from a distributor's place of business to the vendor's
9 licensed premises or off-premises storage. A vendor may
10 transport alcoholic beverage purchases in a vehicle, ~~if the~~
11 ~~vehicle used to transport the alcoholic beverages is owned or~~
12 ~~leased by the vendor or any~~ without a permit. Any person who has
13 been disclosed on a license application filed by the vendor may
14 use a vehicle not owned or leased by the vendor to transport
15 alcoholic beverages ~~and who has been approved by the division~~
16 ~~and if~~ a valid vehicle permit has been issued for such vehicle.
17 A vehicle owned or leased by a person disclosed on a license



Amendment No. 4

18 application filed by the vendor and approved by the division
19 under this ~~sub~~section must be operated by such person when
20 transporting alcoholic beverage purchases from a distributor's
21 place of business to the vendor's licensed premises or off-
22 premises storage.

23 (4) A vehicle permit may be obtained for a vehicle not
24 owned or leased by the vendor by ~~a licensed vendor or any person~~
25 authorized in subsection (3) upon application and payment of a
26 fee of \$5 per vehicle to the division. The signature of the
27 person authorized in subsection (3) must be included on the
28 vehicle permit application. Such permit remains valid and does
29 not expire unless the vendor or any person authorized in
30 subsection (3) disposes of his or her vehicle, or the vendor's
31 alcoholic beverage license is transferred, canceled, not
32 renewed, or is revoked by the division, whichever occurs first.
33 ~~The division shall cancel a vehicle permit issued to a vendor~~
34 ~~upon request from the vendor.~~ The division shall cancel a
35 vehicle permit issued to any person authorized in subsection (3)
36 upon request from that person or the vendor. By acceptance of a
37 vehicle permit, the ~~vendor or any~~ person authorized in
38 subsection (3) who intends to use a vehicle not owned or leased
39 by the vendor, agrees that such vehicle is always subject to
40 inspection and search without a search warrant, for the purpose
41 of ascertaining that all provisions of the alcoholic beverage
42 laws are complied with, by authorized employees of the division
43 and also by sheriffs, deputy sheriffs, and police officers

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Amendment No. 4

44 during business hours or other times that the vehicle is being
45 used to transport ~~or deliver~~ alcoholic beverages. A vehicle
46 permit issued under this subsection ~~and invoices or sales~~
47 ~~tickets for alcoholic beverages purchased and transported~~ must
48 be carried in the vehicle used by the ~~vendor or any person~~
49 authorized in subsection (3) when the vendor's alcoholic
50 beverages are being transported ~~or delivered~~. Any vendor or a
51 person who is authorized by a vendor to transport or deliver
52 alcoholic beverages under this section shall possess an invoice
53 or sales ticket when possessing such beverages in a vehicle and
54 transporting the alcoholic beverages.

55
56 -----
57 **T I T L E A M E N D M E N T**

58 Remove lines 22-27 and insert:
59 cross-reference; amending s. 561.57, F.S.; modifying
60 restrictions on the vehicle required of a vendor to transport
61 alcoholic beverages; requiring a vendor or authorized person who
62 transports alcoholic beverages to have a specified invoice or
63 sales ticket; modifying provisions related to vehicle permits
64 for vendors;



Amendment No. 5

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 & Professions
2 Subcommittee
3 Representative Steube offered the following:

Amendment (with title amendment)

Between lines 381 and 382, insert:

Section 7. Paragraph (c) of subsection (2) of section 562.13, Florida Statutes, is amended to read:

562.13 Employment of minors or certain other persons by certain vendors prohibited; exceptions.—

(2) This section shall not apply to:

(c) Persons under the age of 18 years who are employed in drugstores, grocery stores, department stores, florists, specialty gift shops, or automobile service stations licensed under sections 563.02(1)(a) and 564.02(1)(a), F.S. This exception shall also include any business licensed under section 565.02(1)(a), F.S., whose gross monthly sales of alcoholic



Amendment No. 5

18 beverages do not exceed 30 percent of its total gross sales of
19 products and services ~~which have obtained licenses to sell beer~~
20 ~~or beer and wine, when such sales are made for consumption off~~
21 ~~the premises.~~

22 1. A person 18 years of age or older must personally
23 supervise the sale of any distilled spirits beverage product by
24 verifying the age of the purchaser to be 21 years of age or
25 older and approving the sale.

26

27

28

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

29

Between lines 28 and 29, insert:

30 amending 562.13, F.S.; providing exceptions and requirements for
31 selling alcoholic beverages;



Amendment No. 6

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 & Professions
 2 Subcommittee

3 Representative Steube offered the following:

4

5 **Amendment**

6 Remove lines 911-924 and insert:

7 2,000 total kegs per calendar year of malt beverages
 8 manufactured by the manufacturer and to which it owns the brand
 9 rights, subject to the following requirements:

10 1. Vehicles used to deliver malt beverages to a licensed
 11 vendor must be owned or leased by the manufacturer.

12 2. A manufacturer of malt beverages that is permitted
 13 limited self-distribution pursuant to this paragraph is
 14 responsible for payment of applicable excise taxes to the
 15 division and applicable reports pursuant to ss. 561.50 and
 16 561.55 with respect to the amount of malt beverages manufactured
 17 and sold to vendors. The reports shall clearly distinguish



Amendment No. 6

18 between malt beverages self-distributed by the manufacturer and
19 malt beverages sold directly to consumers by the manufacturer
20 pursuant to s. 561.221(2).

21 3. The manufacturer of malt beverages that is permitted
22 limited self-distribution pursuant to this paragraph may not
23 provide malt beverages to a vendor that is within the exclusive
24 sales territory of a distributor with whom the manufacturer is
25 contracted with.

26 4. The manufacturer of malt beverages that is permitted
27 limited self-distribution pursuant to this paragraph may only
28 distribute malt beverages brewed by the licensed manufacturer
29 and may not have been shipped between manufacturing premises
30 owned by the manufacturer packaged in kegs or barrels containing
31 1 gallon or more to be sold or offered for sale by vendors at
32 retail.



Amendment No. 7

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 & Professions
2 Subcommittee
3 Representative Steube offered the following:

Amendment

Remove lines 1133-1160 and insert:

means a container that is 32, 64, or 128 ounces in volume that was originally manufactured to hold malt beverages.

(b) A growler may be filled or refilled with:

1. A malt beverage manufactured by a manufacturer that holds a valid manufacturer's license and operates a taproom pursuant to s. 561.221(2)(a), if the manufacturer filling the growler is the same manufacturer that brewed the malt beverage and is filling the growler in the taproom.

2. A malt beverage manufactured by a manufacturer that holds a valid manufacturer's license and a valid vendor's license pursuant to s. 561.221(2)(b) or (3), if the manufacturer



Amendment No. 7

18 filling the growler is the same manufacturer that brewed the
19 malt beverage and is filling the growler pursuant to its
20 vendor's license.

21 3. A malt beverage manufactured by a manufacturer, if the
22 manufacturer filling the growler holds a valid manufacturer's
23 license pursuant to s. 561.221(2)(b) or (3) and a valid quota
24 license at that location pursuant to ss. 561.20(1) and
25 565.02(1)(a)-(f).

26 4. A malt beverage manufactured by a manufacturer and sold
27 by a vendor if:

28 a. The vendor filling the growler holds a valid quota
29 license at that location pursuant to ss. 561.20(1) and
30 565.02(1)(a)-(f); or

31 b. The vendor filling the growler, holds a vendor license
32 under s. 563.02(1)(a)-(f) or s. 564.02(1)(a)-(f) and obtains at
33 least 80% of its annual gross revenue from the sale of malt
34 beverages or wine or both and the vendor does not also hold a
35 manufacturer's license. Such a vendor is required to maintain
36 records that demonstrate compliance with this provision for
37 three calendar years.



Amendment No. 8

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 & Professions
 2 Subcommittee

3 Representative Steube offered the following:

4

5 **Amendment (with title amendment)**

6 Remove lines 1187-1226 and insert:

7 (1) A manufacturer, distributor, or importer of malt
 8 beverages, or any contracted third-party agent thereof, may
 9 conduct any sampling activities that include the tasting of malt
 10 beverage products on:

11 (a) The licensed premises of any vendor authorized to sell
 12 alcoholic beverages by the drink for consumption on premises; or

13 (b) The licensed premises of any vendor authorized to sell
 14 alcoholic beverages only in sealed containers for consumption
 15 off premises if:



Amendment No. 8

16 1. The licensed premises is at an establishment with at
17 least 10,000 square feet of interior floor space exclusive of
18 storage space not open to the general public; or

19 2. The licensed premises is a package store licensed under
20 s. 565.02(1)(a).

21 (2) A malt beverage tasting conducted under this section
22 must be limited to and directed toward the general public of the
23 age of legal consumption.

24 (3) For a malt beverage tasting conducted under this
25 section on the licensed premises of a vendor authorized to sell
26 alcoholic beverages for consumption on premises, each serving of
27 a malt beverage to be tasted must be provided to the consumer by
28 the drink in a tasting cup, glass, or other open container and
29 may not be provided by the package in an unopened can or bottle
30 or in any other sealed container.

31 (4) For a malt beverage tasting conducted under this
32 section on the licensed premises of a vendor authorized to sell
33 alcoholic beverages only in sealed containers for consumption
34 off premises, the tasting must be conducted in the interior of
35 the building constituting the vendor's licensed premises and
36 each serving of a malt beverage to be tasted must be provided to
37 the consumer in a tasting cup having a capacity of 3.5 ounces or
38 less.

39 (5) A manufacturer, distributor, or importer, or any
40 contracted third-party agent thereof, may not pay a vendor, and
41 a vendor may not accept, a fee or compensation of any kind,



Amendment No. 8

42 including the provision of any malt beverage at no cost or at a
43 reduced cost, to authorize the conduct of a malt beverage
44 tasting under this section.

45 (6) (a) A manufacturer, distributor, or importer, or any
46 contracted third-party agent thereof, conducting a malt beverage
47 tasting under this section, must provide all of the beverages to
48 be tasted, the total volume of which per tasting may not exceed
49 576 ounces; must have paid all excise taxes on those beverages
50 which are required of the manufacturer or distributor; and must
51 return to the manufacturer's or distributor's inventory all of
52 the malt beverages provided for the tasting that remain
53 unconsumed after the tasting. More than one tasting may be held
54 on the licensed premises each day, but only one manufacturer,
55 distributor, importer, or contracted third-party agent thereof,
56 may conduct a tasting on the premises at any one time.

57 (b) Any samples of malt beverages provided to a vendor by
58 a manufacturer, distributor, or importer, or any contracted
59 third-party agent thereof, in conjunction with or at the time of
60 a tasting conducted under this section on the licensed premises
61 of such vendor are subject to the volume limit for such premises
62 set forth under paragraph (a)

63 (c) This subsection does not preclude a manufacturer,
64 distributor, or importer, or any contracted third-party agent
65 thereof, from buying the malt beverages it provides for the
66 tasting from a vendor at no more than the retail price, but all
67 of the malt beverages so purchased and provided for the tasting

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68 which remain unconsumed after the tasting must be removed from
69 the premises of the tasting and properly disposed of.

70 (7) A manufacturer, distributor, or importer of malt
71 beverages that contracts with a third-party agent to conduct a
72 malt beverage tasting under this section on its behalf is
73 responsible for any violation of this section by such agent.

74 (8) This section does not preclude a vendor from
75 conducting a malt beverage tasting on its licensed premises
76 using malt beverages from its own inventory.

77 (9) This section is supplemental to and does not supersede
78 any special act or ordinance.

79 (10) The division may, pursuant to ss. 561.08 and 561.11,
80 adopt rules to implement, administer, and enforce this section.

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

85

Remove lines 55-56 and insert:

86

563.09, F.S.; authorizing a licensed manufacturer, distributor,

87

or importer of malt beverages to conduct a malt