

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 340

SPONSOR: Committee on Regulated Industries and Senator Gutman

SUBJECT: Alcohol Sales/By the Drink

DATE: March 23, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Guthrie</u>	<u>RI</u>	<u>Favorable/CS</u>
2.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Current law provides for an election to determine both the question of whether a county will allow sales of intoxicating liquors, wines, and beers, and the question of whether such sales, if allowed, will be restricted to package only. There is no authority for a subsequent election addressing only the question of package/off-premises sales versus "by the drink"/on-premises sales. The bill provides such a mechanism. It also provides for the form of the ballot and the results of the election.

This bill substantially amends the following sections of the Florida Statutes: 567.01, 567.06, and 567.07.

II. Present Situation:

The Florida Constitution, at Section 5 of Article VIII, preserves to each county the authority to determine whether to allow sales of intoxicating liquors, wines, or beers in that county. The determination is made at a special election called upon the petition of twenty-five percent of the electors of the county. A subsequent election on the issue cannot be held sooner than two years after the prior election.

The Florida Statutes further provide for these elections. Section 567.01, F.S., provides that upon the presentation of a petition of one-fourth of the registered voters in a county to the board of county commissioners, the board is to order an election. The purpose of the election is to decide whether the sale of intoxicating liquors, wines, or beer should be permitted in that county, and if so, whether such sale should be restricted to package sales or open to on-premise sales, as well. ("Sales by the package" is defined to mean sales made in sealed containers, for consumption off the premises where sold.) The stated legislative purpose is to obviate the necessity of holding two separate elections by determining both questions in one election. For the results of the election on the second question (package or "by the drink") to be binding, a majority of those voting must

vote yes on the first question to allow sales. Such an election may not be held any more often than once every two years.

Section 567.06, F.S., provides the form of the ballot.

Section 567.07, F.S., provides for the results of the election as follows:

- If a majority votes against selling intoxicating liquors, wines, or beers on question number 1, then no such intoxicating beverages may be sold in the county until otherwise determined by a subsequent election, which may not be held more often than once every 2 years.
- If a majority votes in favor of selling intoxicating beverages on question number 1 and a majority votes to restrict sales to package only on question number 2, then no intoxicating liquors, wines, or beer may be sold in the county that are not contained in sealed containers, and no intoxicating liquors, wines, or beer may be consumed on the premises where they were sold or on any other premise under the control, either directly or indirectly, of the licensee, until otherwise determined in an election, which may not be held more often than once every 2 years.
- If a majority votes for selling intoxicating liquors, wines, or beers on question number 1 and a majority votes not to restrict sales to package only on question number 2, then intoxicating liquors, wines, or beer may be sold as otherwise provided by law in that county until otherwise determined in an election, which may not be held more often than once every 2 years.

If the majority votes to allow sales of intoxicating liquors, wines, and beers and to restrict such sales to package only, there is no statutory provision for addressing only the second question at a subsequent election.

Section 567.08, F.S., provides that when a county votes to discontinue permitting the sale of intoxicating liquors, wines, or beer prior to the date of expiration of any license issued by the state for the sale of intoxicating liquors, wines, or beer in such county, the fee for the unexpired and unused portion of the license must be refunded to the licensee. Similarly, s. 567.09, F.S., requires the refund of the unused portion of a license issued by the county and s. 567.10, F.S., requires the refund of the unused portion of a municipal license.

III. Effect of Proposed Changes:

Section 1 amends s. 567.01, F.S. In addition to the existing provision for the two-question election (whether to allow sales in the county and if so, whether to restrict them to package sales), it authorizes a local election solely on the issue of whether to allow sales in that county by the drink for consumption on the premises. The latter election would be held only after a prior election has authorized such sale and has restricted sales to package only.

Section 2 amends s. 567.06, F.S., to provide the form of the ballot for such an election.

Section 3 amends s. 567.07, F.S., to provide that if at an initial election the majority votes to allow sales in the county but to restrict sales to package only, then, after the expiration of 2 years, another election may be held to determine the sole question of whether intoxicating liquors, wines, or beer may be sold by the drink for consumption on premises. If a majority votes in favor of this proposition, then such alcoholic beverages may be sold as otherwise provided by law in that county until otherwise determined in an election, which may not be held more often than once every 2 years. If a majority votes against the sale of intoxicating liquors, wines, or beer by the drink for consumption on premises, then sales by the package only is to continue.

Section 4 provides that the bill takes effect July 1, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Currently, there are seven counties in Florida that remain “dry” -- Hardee, Lafayette, Liberty,

Madison, Santa Rosa, Suwannee and Washington. Four other counties are “wet” for package sales only -- Calhoun, Hamilton, Holmes and Jackson.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
