

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1299 Alcoholic Beverage Licenses
SPONSOR(S): Stansel
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2060 by Smith

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Trades, Professions & Reg. Business (Sub)</u>	_____	<u>Morris</u>	<u>Liepshutz</u>
2) <u>Business Regulation</u>	_____	_____	_____
3) <u>Public Safety & Crime Prevention</u>	_____	_____	_____
4) <u>Finance & Tax</u>	_____	_____	_____
5) <u>Commerce & Local Affairs Approp. [Sub]</u>	_____	_____	_____
6) <u>Appropriations</u>	_____	_____	_____

SUMMARY ANALYSIS

This bill amends s. 565.02(2), F.S., to create a new special license classification for a sporting or recreational lodge complex. The license will be an exception to the quota liquor licensing limitations imposed in s. 561.20, i.e., one license for every 7,500 residents in a county.

The bill provides that, upon payment of the appropriate license fee, a liquor license may be issued to a sporting and recreational lodge complex meeting specified criteria. To qualify for the license the complex must:

- Comprise at least 10,000 acres of land.
- Have indoor sleeping facilities with at least 12 rooms.
- Have a restaurant that seats at least 25 persons.
- Have been in continuous existence for at least two years.

The bill provides that the "enclosed area within the complex" shall be considered the licensed premises. Alcoholic beverages may be sold between the hours of 5:00 PM and sunrise and may only be sold for consumption on the licensed premises.

The bill has no fiscal impact on state revenue collections or expenditures and will take effect July 1, 2004.

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

STORAGE NAME: h1299.br
DATE: March 6, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapters 561-565 and 567 and 568, Florida Statutes, comprise Florida's Beverage Law. The Beverage Law requires a person to be licensed prior to engaging in the business of manufacturing, bottling, distributing, selling, or in any way dealing in the commerce of alcoholic beverages. The sale of alcoholic beverages is generally considered to be a privilege and as such, licensees are held to a high standard of accountability. Alcoholic beverage licensees are subject to fine, suspension and/or revocation for violations of the Beverage Law. The Division of Alcoholic Beverages and Tobacco [division] of the Department of Business and Professional Regulation is the state agency given responsibility for enforcement of the Beverage Law.

Florida's retail alcoholic beverage licensing system is generally built around the quota license structure with all other retail licenses that allow the sale of liquor enacted as exceptions to the quota limitation. Unlike retail beer and wine licenses, s. 561.20(1), Florida Statutes, provides for a quota or limitation on the number of liquor licenses which may be issued in a county based on population: one license for each 7,500 residents. Quota limitations were initially enacted in the interest of promoting temperance by limiting the number of retail outlets and, therefore, the availability of alcoholic beverages. A quota liquor license allows the sale of all legal alcoholic beverages, beer, wine and liquor, regardless of alcoholic content. Quota licenses also allow the sale of alcoholic beverages by the package as well as by the drink. Bars/nightclubs and liquor package stores typically operate under the authority of a quota license.

To assure impartiality in granting these liquor licenses, the law provides for an double random lottery-type drawing procedure to establish the order of selection to apply for a license. The division utilizes annual census numbers to determine the availability of quota licenses annually in each county. Since there is limited availability, quota licenses often sell on the private market for thousands of dollars.

There are numerous statutory exceptions to the quota limitation which allow the issuance of liquor licenses to various entities meeting specified conditions, e.g., hotels or motels, civic center authorities, golf clubs and restaurants.¹ To qualify for an SRX license, a restaurant must have 2,500 square feet of service area, be equipped to serve 150 persons full course meals at tables at one time, and derive at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages.

While the state retains primary regulatory authority over the activities of alcoholic beverage licensees, certain areas of responsibility have been delegated to counties or municipalities by statute. Sections 562.45 and 562.14, F.S., grant zoning authority as well as the authority to enact ordinances regulating

¹ See ss. 561.20(2), and 565.02(2), F.S., for authorized exceptions.

the type of entertainment, hours of operation, and conduct permitted in licensed alcoholic beverage establishments to counties and municipalities. Section 562.14(1), F.S., prohibits the sale of alcoholic beverages between the hours of midnight and 7:00 AM of the following day unless different hours of operation have been established by local ordinance.

Summary of Legislation

This bill amends s. 565.02(2), F.S., to create a new special license classification for a sporting or recreational lodge complex. The license will be an exception to the quota liquor licensing limitations imposed in s. 561.20, i.e., one license for every 7,500 residents in a county.

The bill provides that, upon payment of the appropriate license fee, a liquor license may be issued to a sporting and recreational lodge complex meeting specified criteria. To qualify for the license the complex must:

- o Comprise at least 10,000 acres of land.
- o Have indoor sleeping facilities with at least 12 rooms.
- o Have a restaurant that seats at least 25 persons.
- o Have been in continuous existence for at least two years.

The bill provides that the "enclosed area within the complex" shall be considered the licensed premises. Alcoholic beverages may be sold between the hours of 5:00 PM and sunrise and may only be sold for consumption on the licensed premises.

The provisions of the bill allowing the sale of alcoholic beverages between the hours of 5:00 PM and sunrise will supercede any local ordinance established by a county or municipality that has established different hours of operation.

The bill has no fiscal impact on state revenue collections or expenditures and will take effect July 1, 2004.

C. SECTION DIRECTORY:

Section 1. Amends s. 565.02, F.S., to create a new subsection (12) which authorizes the issuance of an alcoholic beverage license to a sporting and recreational lodge complex meeting specified criteria.

Section 2. Provides that the act shall take effect on July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Insignificant.

2. Expenditures:

Insignificant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Insignificant.

2. Expenditures:

Insignificant.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Any sporting and recreational lodge complex qualifying for an alcoholic beverage license under the provisions of this legislation will benefit to the extent the complex can obtain a license that allows the sale of beer, wine and spirits on the licensed premises of the complex rather than attempting to obtain a license in the quota lottery drawing or purchasing a quota license on the open market.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or cities to spend funds or take an action requiring the expenditure of funds; does not reduce the authority that cities or counties have to raise revenues in the aggregate; and does not reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides that the "enclosed area" within the complex will be considered to be the licensed premises. It is unclear if this term includes all buildings and acreage within the 10,000 acre complex, all buildings within the complex, only the restaurant within complex, or some other combination. More specificity may be desirable in order that the Division of Alcoholic Beverages and Tobacco will have a clear indication of Legislative intent.

The bill allows the sale of alcoholic beverages until sunrise each day. Sunrise technically occurs at a different time each day. Depending on the season of the year, sunrise occurs earlier or later than the previous day, but never at the same time as the day before. More specificity may be desirable in order that servers of alcoholic beverages do not inadvertently violate the hours of operation provisions in the bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES