

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 951 Beverage Law  
**SPONSOR(S):** Jobs & Entrepreneurship Council/Schultz and others  
**TIED BILLS:** **IDEN./SIM. BILLS:**

---

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Jobs & Entrepreneurship Council	14 Y, 0 N, As CS	Livingston/Topp	Thorn
2) Policy & Budget Council			
3)			
4)			
5)			

---

**SUMMARY ANALYSIS**

The Division of Alcoholic Beverages and Tobacco [Division] in the DBPR is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of all alcoholic beverages. Florida's alcoholic beverage law provides for a structured three-tiered distribution system: manufacturer, wholesaler, and retailer. The retailer makes the ultimate sale to the consumer. Alcoholic beverage excise taxes are collected at the wholesale level based on inventory depletions and the state "sales tax" is collected at the retail level.

Activities between the license groups are extensively regulated and constitute the basis for Florida's "Tied House Evil" law. Notwithstanding the overall premise, the Beverage Law contains a series of exceptions to the structured three-tiered distribution system.

This bill prohibits alcohol beverage importers, primary American sources of supply, brand owners or registrants, or any broker, its sales agent or sales person, from obtaining licensure as retail vendors. It includes importers and primary American sources of supply in the current "tied house evil" prohibitions, which currently prohibits licensed manufacturers and distributors from giving gifts or loans to retail vendors.

The bill defines a brand owner as one who directly or indirectly controls any brand, brand name, or label of alcoholic beverage but is not a manufacturer, importer, distributor, primary source of American supply, brand registrant, or broker, its sales agent or sales person.

The department does not anticipate any fiscal impact to the state.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate the House principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present situation

The Division of Alcoholic Beverages and Tobacco (division) in the DBPR is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of all alcoholic beverages. The beverage laws are divided into several chapters: chapter 561, F.S., relates to administration, chapter 562, F.S., relates to enforcement, chapter 563, F.S., relates to beer, chapter 562, F.S., relates to wine, chapter 565, F.S., relates to liquor, chapter 567, F.S., relates to local option elections, and chapter 568, F.S., relates to county prohibitions.

Florida's alcoholic beverage law provides for a structured three-tiered distribution system: manufacturer, wholesaler, and retailer. The retailer makes the ultimate sale to the consumer. Alcoholic beverage excise taxes are collected at the wholesale level based on inventory depletions and the state "sales tax" is collected at the retail level.

Activities between the license groups are extensively regulated and constitute the basis for Florida's "Tied House Evil" law. Among those restrictions, s. 561.42, F.S., prohibits a manufacturer or distributor from having any financial interest, directly or indirectly, in the establishment or business of any retailer. Section 561.22, F.S., provides that no manufacturer, distributor or exporter may be licensed as a retailer. This statute further provides that no retailer may also be licensed as a manufacturer, distributor or exporter. Section 561.24, F.S., provides that no manufacturer, rectifier or distiller of spirituous liquors or wine can be licensed as a distributor or be registered as an exporter. Notwithstanding the overall premise, the beverage law also contains exceptions to the structured three-tiered distribution system.

Sections 564.045 and 565.095, F.S., closely mirror each other relating to "licensure as [a] primary American source of supply" (PAS) for wine and distilled spirits, respectively. The stated purposes of both of these sections are for "tax revenue control."

The PAS provisions require the registration of each brand of wine and distilled spirits sold in Florida and the licensure of that brand's PAS. There is only one PAS for each brand and each brand must be associated with a licensed PAS. Generally, the PAS is either the manufacturer or the source closest to the manufacturer in the channel of commerce from whom the product can be secured. In the case of foreign-produced wine it is often an importer. Licensure as a PAS authorizes the shipment of the beverages to licensed distributors, importers, manufacturers, bonded warehouses, and registered exporters within the state.

##### Effect of proposed changes

The bill amends s. 561.42, F.S., to include licensed importers of all alcoholic beverages, primary American sources of supply for wine or distilled spirits, brand owners or registrants, or any broker, its sales agent or sales person from having any financial interest in any retail vendor or providing any financial aid or assistance to any retail vendor.

The bill subjects importers, primary American sources, brand owners, brand registrants, or any broker, its sales agent or sales person to the "tied house evil" restrictions of s. 561.42, F.S.

The bill clarifies that s. 561.42, F.S., does not prohibit retail vendors from owning any brand, brand name, or label of alcoholic beverage.

The bill defines a brand owner as one who directly or indirectly controls any brand, brand name, or label of alcoholic beverage but is not a manufacturer, importer, distributor, primary American source of supply, brand registrant, or broker, its sales agent or sales person in s. 561.42(1), F.S.

The bill amends s. 561.42(10), F.S., to include importers, primary American source of supply, brand owner, brand registrant, or any broker, its sales agent sales person, from directly or indirectly furnishing any outside sign for any brand of alcoholic beverage.

The bill amends s. 561.42(12), F.S., to include importers, primary American source of supply, brand owner, brand registrant, or any broker, its sales agent or sales person, who sells their products, from providing unauthorized advertising material subject to the restrictions and permissions found within the section.

C. SECTION DIRECTORY:

Section 1. Amends s. 561.42, F.S., to include licensed importers of all alcoholic beverages, primary American sources of supply for wine or distilled spirits, brand owners or registrants, or any broker, its sales agent or sales person from having any financial interest in any retail vendor or providing any financial aid or assistance to any retail vendor under the "tied house evil" restrictions of this section.

Section 2. Effective date - July 1, 2008.

## 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.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The department does not anticipate any fiscal impact to the state.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

NA

C. DRAFTING ISSUES OR OTHER COMMENTS:

None noted.

D. STATEMENT OF THE SPONSOR

No statement submitted.

#### **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On April 15, 2008, the Jobs & Entrepreneurship Council adopted a strike-all amendment and passed the bill favorably, as amended. The amendment differs from the original bill in the following areas.

- Amends only s. 561.42, F.S.
- Includes importers, primary American sources of supply, brand owners, brand registrants, and any broker, its sales agent or sales person, within the tied-house restrictions in this section. The CS deletes the term "licensed" in s. 561.42(1), F.S.
- Defines the term "brand owner" and clarifies that this section does not prohibit the ownership by vendors of any brand, brand name, or label of alcoholic beverage.
- Removes provisions relating to the increase in the license fee.