

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 1247 Hillsborough County
SPONSOR(S): Military & Local Affairs Policy Committee and Ambler
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2510

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	11 Y, 1 N, As CS	Noriega	Hoagland
2)	Insurance, Business & Financial Affairs Policy Committee	11 Y, 0 N	Livingston	Cooper
3)	Economic Development & Community Affairs Policy Council	15 Y, 0 N	Noriega	Tinker
4)				
5)				

SUMMARY ANALYSIS

The Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation (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 and the state "sales tax" is collected at the retail level.

This bill authorizes the division to issue a special alcoholic beverage license for use within the Children's Museum of Tampa, Inc. (Museum), and on its adjoining grounds. The bill provides that the Museum must pay the applicable license fee and that this license may only be used for special events.

The license authorized by this bill allows the Museum to sell alcoholic beverages for consumption within Museum grounds, but not off the premises. Further, the bill allows the Museum to transfer the license to qualified applicants authorized by contract with the Museum to provide food services on the premises.

According to the Economic Impact Statement, this bill may result in additional state revenues in the form of alcoholic beverage taxes from an increase in sales by the license holder.

The division has indicated that the provisions of this bill will result in annual revenues of \$1,820 to the agency. In addition, the division has indicated that it can handle the provisions of this bill with existing resources.

This bill has an effective date of upon becoming law.

Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. The provisions of House Rule 5.5(b) appear to apply to this bill.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

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 (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 (vendor). 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.

Florida's retail alcoholic beverage licensing system is generally built around the quota license structure with other retail licenses that allow the sale of liquor enacted as exceptions to the quota limitation. Section 561.20(1), F.S., 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. There are no statutory limitations on the number of retail beer and wine licenses which may be issued in a county.

Section 565.02(1)(b), F.S., specifies the annual fees that a vendor must pay. If a vendor operates a place of business where consumption on the premises is permitted in a county having a population of over 100,000, the fee is \$1,820. Section 186.901, F.S., addresses population census determination.

There are numerous statutory exceptions to the quota limitation which allow for the issuance of liquor licenses to various entities meeting specified conditions, e.g., hotels or motels, civic center authorities, golf clubs, restaurants, etc.

Unless sold by the package for consumption off the licensed premises, the sale and consumption of alcoholic beverages by the drink is limited to the "licensed premises" of a retail establishment over which the licensee has dominion or control. The beverage law does not allow a patron to leave an establishment with an open alcoholic beverage or enter other licensed premises with an alcoholic beverage.

No alcoholic beverage license is currently issued to the Children's Museum of Tampa, Inc., a not-for-profit corporation. Over time, similar legislation has been adopted for the following Tampa Bay area locations:

- the Museum of Science and Industry (MOSI);¹
- the University Area Community Development Corporation (UACDC);²
- the Lowry Park Zoo;³ and
- the Tampa Bay History Center.⁴

Effect of the Proposed Changes

Notwithstanding the limitations contained in the beverage law, this bill authorizes the division to issue a special alcoholic beverage license for use within the Children’s Museum of Tampa, Inc. (Museum), and on its adjoining grounds.

The bill provides that the Museum must pay the applicable license fee provided in s. 565.02, F.S., and that this license may only be used for special events.

The license authorized by this bill allows the Museum to sell alcoholic beverages for consumption within Museum grounds, but not off the premises.

Further, the bill allows the Museum to transfer the license to qualified applicants authorized by contract with the Museum to provide food services on the premises. However, upon termination of a transferee’s authorization or contract, the license automatically reverts to the Museum by operation of law.

According to the University of Florida’s Bureau of Economic and Business Research (BEBR), the April 1, 2009, population estimate for Hillsborough County is 1,196,892. Therefore, the license fee of \$1,820 listed in s. 565.02(1)(b), F.S., would apply to the Museum.

B. SECTION DIRECTORY:

Section 1. Authorizes the division to issue an alcoholic beverage license to the Museum in accordance with s. 561.17, F.S., upon application and payment of the appropriate license fee.

Section 2. Authorizes the sale of alcoholic beverages to be consumed on Museum premises; provides that the license may not permit the sale of alcoholic beverages in sealed containers for consumption off the premises.

Section 3. Authorizes the transfer of the license and provides for subsequent reversion of the license under certain circumstances.

Section 4. Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

¹ Chapter 98-449, Laws of Florida.

² Chapter 2003-355, Laws of Florida.

³ Chapter 94-464, Laws of Florida.

⁴ Chapter 2007-303, Laws of Florida.

IF YES, WHEN? January 25, 2010.

WHERE? The *Tampa Tribune*, a daily newspaper of general circulation published in Hillsborough County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? Not applicable.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement, this bill may result in additional state revenues in the form of alcoholic beverage taxes from an increase in sales by the license holder. In addition, the Museum would have the potential to increase facility rentals to generate revenue for its community programs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

The division has indicated that the provisions of this bill will result in annual revenues of \$1,820 to the agency. In addition, the division has indicated that it can handle the provisions of this bill within existing resources.

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 561.17, F.S.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 10, 2010, the Military & Local Affairs Policy Committee adopted one amendment and reported the bill favorably as a Committee Substitute.

This amendment deleted language allowing the removal of opened, partially consumed containers of alcoholic beverages from Museum premises. This language is inconsistent with local ordinances, so it was deleted to avoid a conflict between state and local laws.

This analysis reflects the amendment adopted by the Military & Local Affairs Policy Committee.