

1 A bill to be entitled
2 An act relating to the Beverage Law; amending s.
3 561.42, F.S.; providing an exemption from provisions
4 relating to the tied house evil for specified
5 financial transactions between a manufacturer or
6 importer of malt beverages and a licensed vendor;
7 providing conditions for the exception; providing
8 penalties; authorizing a distributor of malt beverages
9 to give specified glassware to vendors licensed to
10 sell malt beverages for on-premises consumption;
11 requiring specified glassware to bear certain
12 branding; providing an annual limit on the amount of
13 glassware that may be given by a distributor to a
14 vendor; prohibiting a vendor from selling the
15 glassware or returning it to the distributor;
16 providing that malt beverage-branded glassware is
17 intended to be used only to serve the brand
18 advertised; providing for future legislative review
19 and repeal of the exemption; amending s. 561.57, F.S.;
20 including an electronic order as a type of order
21 construed as a sale made at a vendor's licensed place
22 of business; authorizing a manufacturer, distributor,
23 or vendor to make certain deliveries in a third-party
24 vehicle under certain circumstances; requiring that
25 the recipient's identity and age be verified and

26 | documented at the time of delivery; requiring that
 27 | deliveries comply with s. 562.11, F.S.; repealing s.
 28 | 564.05, F.S., relating to limitations on the size of
 29 | individual wine containers; repealing s. 564.055,
 30 | F.S., relating to limitations on the size of
 31 | individual cider containers; amending s. 564.09, F.S.;
 32 | revising provisions authorizing a restaurant to allow
 33 | a patron to remove bottles of wine from a restaurant
 34 | for off-premises consumption; amending s. 565.02,
 35 | F.S.; exempting operators of railroads or sleeping
 36 | cars from certain liquor bottle size restrictions;
 37 | providing effective dates.

38 |
 39 | Be It Enacted by the Legislature of the State of Florida:

40 |
 41 | Section 1. Subsection (1) of section 561.42, Florida
 42 | Statutes, is amended to read:

43 | 561.42 Tied house evil; financial aid and assistance to
 44 | vendor by manufacturer, distributor, importer, primary American
 45 | source of supply, brand owner or registrant, or any broker,
 46 | sales agent, or sales person thereof, prohibited; procedure for
 47 | enforcement; exception.—

48 | (1) No manufacturer, distributor, importer, primary
 49 | American source of supply, or brand owner or registrant of any
 50 | of the beverages herein referred to, whether licensed or

51 | operating in this state or out-of-state, nor any broker, sales
52 | agent, or sales person thereof, shall have any financial
53 | interest, directly or indirectly, in the establishment or
54 | business of any vendor licensed under the Beverage Law; nor
55 | shall such manufacturer, distributor, importer, primary American
56 | source of supply, brand owner or brand registrant, or any
57 | broker, sales agent, or sales person thereof, assist any vendor
58 | by any gifts or loans of money or property of any description or
59 | by the giving of any rebates of any kind whatsoever. No licensed
60 | vendor shall accept, directly or indirectly, any gift or loan of
61 | money or property of any description or any rebates from any
62 | such manufacturer, distributor, importer, primary American
63 | source of supply, brand owner or brand registrant, or any
64 | broker, sales agent, or sales person thereof; provided, however,
65 | that this does not apply to any bottles, barrels, or other
66 | containers necessary for the legitimate transportation of such
67 | beverages or to advertising materials and does not apply to the
68 | extension of credit, for liquors sold, made strictly in
69 | compliance with the provisions of this section. A brand owner is
70 | a person who is not a manufacturer, distributor, importer,
71 | primary American source of supply, brand registrant, or broker,
72 | sales agent, or sales person thereof, but who directly or
73 | indirectly owns or controls any brand, brand name, or label of
74 | alcoholic beverage. Nothing in this section shall prohibit the
75 | ownership by vendors of any brand, brand name, or label of

76 | alcoholic beverage.

77 | (a) A manufacturer or importer of malt beverages and a
78 | vendor may enter into a written agreement for brand naming
79 | rights, including the right to advertise cooperatively,
80 | negotiated at arm's length for no more than fair market value
81 | if:

82 | 1. The vendor operates places of business where
83 | consumption on the premises is permitted, which premises are
84 | located within a theme park complex comprised of at least 25
85 | contiguous acres owned and controlled by the same business
86 | entity and which contains permanent exhibitions and a variety of
87 | recreational activities and has a minimum of 1 million visitors
88 | annually through a controlled entrance to and exit from the
89 | theme park complex.

90 | 2. Such brand naming rights agreement does not involve,
91 | either in whole or in part, the sale or distribution of malt
92 | beverages between the manufacturer or importer, or its
93 | distributor, and a vendor.

94 | 3. The vendor does not give preferential treatment to, and
95 | the manufacturer or importer does not solicit or otherwise
96 | attempt to obtain preferential treatment from, the alcoholic
97 | beverage brand or brands of the manufacturer or importer with
98 | whom the vendor has entered into a naming rights agreement.

99 | 4. Such brand naming rights agreement does not limit,
100 | either directly or indirectly, the sale of alcoholic beverages

101 of another manufacturer, importer, or distributor.

102 5. A distributor does not, directly or indirectly, provide
103 any portion of the payment of the brand naming rights agreement.

104 6. Within 10 days of the execution of a written agreement
105 for brand naming rights, the vendor files with the division a
106 description of the agreement which includes the location, dates,
107 and the name of the manufacturer or importer that entered into
108 the agreement.

109 (b)1. Any person, vendor, manufacturer, or importer who,
110 through coercion or other illegal means, induces, directly or
111 indirectly, a distributor to provide any portion of the payment
112 of the brand naming rights agreement shall be guilty of a
113 misdemeanor of the of the second degree, punishable as provided
114 in s. 775.082 or s. 775.083; and shall be punished by
115 imprisonment in the county jail for a period not to exceed 6
116 months, or by a fine in an amount equal to the total value of
117 the naming rights agreement plus \$10,000, or by both
118 imprisonment and fine.

119 2. For each violation of paragraph (a), a vendor,
120 manufacturer, distributor, or importer shall be subject to
121 license suspension for 7 days, a fine in an amount not less than
122 the value of the brand naming rights agreement and, if
123 applicable, suspension of its brand registration within the
124 state for 30 days for the brand that is the subject of the brand
125 naming rights agreement.

126 Section 2. Effective October 1, 2018, paragraph (a) of
 127 subsection (14) of section 561.42, Florida Statutes, is amended
 128 to read:

129 561.42 Tied house evil; financial aid and assistance to
 130 vendor by manufacturer, distributor, importer, primary American
 131 source of supply, brand owner or registrant, or any broker,
 132 sales agent, or sales person thereof, prohibited; procedure for
 133 enforcement; exception.—

134 (14) The division shall adopt reasonable rules governing
 135 promotional displays and advertising, which rules shall not
 136 conflict with or be more stringent than the federal regulations
 137 pertaining to such promotional displays and advertising
 138 furnished to vendors by distributors, manufacturers, importers,
 139 primary American sources of supply, or brand owners or
 140 registrants, or any sales agent or sales person thereof;
 141 however:

142 (a)1. If a manufacturer, distributor, importer, or brand
 143 owner, or brand registrant of malt beverage, or any broker,
 144 sales agent, or sales person thereof, provides a vendor licensed
 145 to sell malt beverages for on-premises consumption with branded,
 146 expendable retailer advertising specialties such as trays,
 147 coasters, mats, menu cards, napkins, cups, glassware glasses,
 148 thermometers, and the like, such items may be sold only at a
 149 price not less than the actual cost to the industry member who
 150 initially purchased them, without limitation in total dollar

151 value of such items sold to a vendor.

152 2. A distributor that has received glassware at no direct
153 or indirect charge from a manufacturer, importer, or brand owner
154 or registrant of malt beverage, or any broker, sales agent, or
155 sales person thereof, may give such glassware to a vendor
156 licensed to sell malt beverages for on-premises consumption.
157 Each piece of glassware given to a vendor by a distributor must
158 bear a permanent brand name intended to prominently advertise
159 the brand. A distributor may not give a vendor more than 15
160 cases of glassware per calendar year per licensed premises. As
161 used in this paragraph, the term "case" means a box containing
162 up to 24 pieces of glassware and the term "glassware" means a
163 single-service glass container that can hold no more than 23
164 ounces of liquid volume. A vendor that receives a gift of such
165 glassware from a distributor may not sell the glassware or
166 return it to the distributor for cash, credit, or replacement.
167 Malt beverage-branded glassware used at any licensed premises is
168 intended to be used only to serve consumers the brand advertised
169 on the glassware. This subparagraph shall stand repealed on June
170 30, 2021, unless reviewed and saved from repeal through
171 reenactment by the Legislature.

172 Section 3. Subsections (1) and (2) of section 561.57,
173 Florida Statutes, are amended, and subsection (6) is added to
174 that section, to read:

175 561.57 Deliveries by licensees.—

176 (1) Vendors shall be permitted to make deliveries away
 177 from their places of business of sales actually made at the
 178 licensed place of business; provided, telephone, electronic, or
 179 mail orders received at vendor's licensed place of business
 180 shall be construed as a sale actually made at the vendor's
 181 licensed place of business.

182 (2) Deliveries made by a manufacturer, distributor, or
 183 vendor away from his or her place of business may be made only
 184 in vehicles that ~~which~~ are owned or leased by the licensee.
 185 Alternatively, such deliveries may be made in a third-party
 186 vehicle pursuant to a contract with a third party with whom the
 187 licensee has contracted to make deliveries, including, but not
 188 limited to, common carriers. Any ~~By acceptance of an alcoholic~~
 189 ~~beverage license and the use of such vehicles, The licensee~~
 190 ~~agrees that such vehicle~~ used to make such deliveries is shall
 191 ~~always be~~ subject to inspections and searches ~~be inspected and~~
 192 ~~searched~~ without a search warrant, for the purpose of
 193 ascertaining that all provisions of the alcoholic beverage laws
 194 are complied with, by authorized employees of the division and
 195 also by sheriffs, deputy sheriffs, and police officers when
 196 ~~during business hours or other times~~ the vehicle is being used
 197 to transport or deliver alcoholic beverages.

198 (6) Valid proof of the recipient's identity and age shall
 199 be verified and documented at the time of delivery. Deliveries
 200 made pursuant to this section must comply with s. 562.11.

201 Section 4. Section 564.05, Florida Statutes, is repealed.
 202 Section 5. Section 564.055, Florida Statutes, is repealed.
 203 Section 6. Section 564.09, Florida Statutes, is amended to
 204 read:
 205 564.09 Restaurants; off-premises consumption of wine.—
 206 Notwithstanding any other provision of law, a restaurant
 207 licensed to sell wine on the premises may permit a patron to
 208 remove one unsealed bottle of wine for consumption off the
 209 premises if the patron has purchased a ~~full-course~~ meal
 210 ~~consisting of a salad or vegetable, entree, a beverage, and~~
 211 ~~bread~~ and consumed a portion of the bottle of wine ~~with such~~
 212 ~~meal~~ on the restaurant premises. A partially consumed bottle of
 213 wine that is to be removed from the premises must be securely
 214 resealed by the licensee or its employees before removal from
 215 the premises. The partially consumed bottle of wine shall be
 216 placed in a bag or other container that is secured in such a
 217 manner that it is visibly apparent if the container has been
 218 subsequently opened or tampered with, and a dated receipt for
 219 the bottle of wine and ~~full-course~~ meal shall be provided by the
 220 licensee and attached to the container. If transported in a
 221 motor vehicle, the container with the resealed bottle of wine
 222 must be placed in a locked glove compartment, a locked trunk, or
 223 the area behind the last upright seat of a motor vehicle that is
 224 not equipped with a trunk.
 225 Section 7. Paragraph (a) of subsection (2) of section

226 565.02, Florida Statutes, is amended to read:

227 565.02 License fees; vendors; clubs; caterers; and
 228 others.—

229 (2) An operator of railroads or sleeping cars, or a vendor
 230 in a railroad transit station, in this state may obtain a
 231 license to keep for sale and to sell the beverages mentioned in
 232 the Beverage Law upon the payment of an annual license tax of
 233 \$2,500 to the division. A municipality or county may not require
 234 an additional license or levy a tax for the privilege of selling
 235 such beverages.

236 (a) Operators of railroads or sleeping cars in this state
 237 are authorized to keep for sale and to sell all beverages
 238 mentioned in the Beverage Law for consumption upon any dining,
 239 club, parlor, buffet, or observation car of a passenger train in
 240 which certified copies of the licenses issued to the operators
 241 are posted. Certified copies of such licenses shall be issued by
 242 the division upon the payment of a \$10 fee. A license for the
 243 sale of alcoholic beverages on a passenger train shall be good
 244 throughout the state. Except for alcoholic beverages sold within
 245 the licensed premises of a railroad transit station, or sold
 246 within the licensed premises of an operator, it is unlawful for
 247 such licensees to purchase or sell any liquor on a passenger
 248 train except in miniature bottles of not more than 2 ounces.

249 Section 8. Except as otherwise expressly provided in this
 250 act, this act shall take effect July 1, 2018.