

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 141 Craft Distilleries
SPONSOR(S): Careers & Competition Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Careers & Competition Subcommittee		Willson	Anstead

SUMMARY ANALYSIS

A “craft distillery” is a licensed distillery that produces 75,000 or fewer gallons of distilled spirits per year. Section 565.03, F.S., authorizes a craft distillery to sell branded product directly to consumers from its souvenir gift shop, subject to certain conditions and restrictions. “Branded product” means any distilled spirits product manufactured on site, which requires a federal certificate and label approval by the Federal Alcohol Administration Act or federal regulations.

Currently, sales by craft distilleries to the public must be made in face-to-face transactions for the consumer’s personal use. A craft distillery may not allow a consumer to purchase, directly from the distillery, more than the following per calendar year:

- Two individual containers of each branded product;
- Three individual containers of a single branded product and up to one individual container of a second branded product; or
- Four individual containers of a single branded product.

The bill allows craft distilleries to sell up to six individual containers of each branded product to a consumer in a calendar year directly to a customer from their souvenir gift shop. The bill does not change any other condition or requirement in current law relating to the direct sale of individual containers to consumers by craft distilleries.

The bill does not have a fiscal impact on state or local government.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Distilleries and Craft Distilleries

Section 565.01, F.S., defines the terms “liquor,” “distilled spirits,” “spirituous liquors,” “spirituous beverages,” or “distilled spirituous liquors” to mean “that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.”

A “distillery” is a manufacturer of distilled spirits,¹ and a “craft distillery” is a licensed distillery that produces 75,000 or fewer gallons of distilled spirits per calendar year on its premises. A craft distillery must notify the Division of Alcoholic Beverages and Tobacco (Division) of the Department of Business and Professional Regulation in writing of its decision to qualify as a craft distillery.²

Distilleries and craft distilleries pay the same amount of state license tax. All distilleries engaged solely in the business of manufacturing distilled spirits, or engaged in the business of blending and rectifying distilled spirits must pay a state license tax of \$4,000 for each plant or branch operating in Florida. Persons who engage in the business of distilling spirits may also rectify and blend spirituous liquors without paying an additional license tax.³

According to the Department of Business and Professional Regulation, 45 of the 46 distilleries in Florida produced fewer than 38,000 gallons of distilled spirits in 2016.⁴

Retail Sales by Craft Distilleries

A craft distillery is allowed to sell to consumers branded products⁵ distilled on the licensed premises. The products must be in factory-sealed containers that are filled at the distillery and sold for off-premises consumption.⁶ The sales must occur at the distillery’s souvenir gift shop located on private property contiguous to the licensed distillery premises, and included on the sketch submitted with the license application.⁷ The Division must approve any subsequent revisions to a craft distillery’s sketch to verify that the retail location operated by the craft distillery is “owned or leased by the craft distillery and on property contiguous to the craft distillery’s production building.”⁸ The craft distillery is not required to obtain, in addition to its manufacturer’s license, a vendor’s license in order to sell distilled spirits to consumers.

Sales must be in face-to-face transactions with consumers⁹ who are making a purchase of no more than:

- Two individual containers of each branded product;

¹ s. 565.03(1)(c), F.S.

² s. 565.03(1)(b), F.S.

³ s. 565.03(3), F.S.

⁴ DBPR, Agency Analysis of 2017 HB 141, p. 3 (Jan. 17, 2017).

⁵ Section 565.03(1)(a), F.S., defines “branded product” to mean “any distilled spirits product manufactured on site, which requires a federal certificate and label approval by the Federal Alcohol Administration Act or federal regulations.”

⁶ s. 565.03(1)(c), F.S.

⁷ *Id.*

⁸ *Id.*

⁹ s. 565.03(1)(c)4., F.S.

- Three individual containers of a single branded product and up to one individual container of a second branded product; or
- Four individual containers of a single branded product.¹⁰

Section 565.03, F.S., imposes the following requirements and prohibitions for craft distilleries:

- A craft distillery may not ship, arrange to ship, or deliver distilled spirits to consumers, but may ship, arrange to ship, or deliver distilled spirits to manufacturers of distilled spirits, wholesale distributors of distilled spirits, state or federal bonded warehouses, and exporters.
- A craft distillery may not transfer its license or any ownership interest to any individual or entity with a direct or indirect interest in another distillery licensed in any other state, territory, or country. However, a craft distillery may be affiliated with another distillery that produces 75,000 or fewer gallons per calendar year of distilled spirits on its premises or in any other state, territory, or country.
- A craft distillery must report to the Division within 5 business days after it has reached the 75,000-gallon production limit and cease making sales to consumers on the day after it reaches the production limit.
- A craft distillery must submit beverage excise taxes on distilled spirits sold to consumers in its monthly report to the Division.
- Containers must comply with the container limits in s. 565.10, F.S., which prohibits the sale and distribution of distilled spirits in any size container in excess of 1.75 liters or 59.18 ounces.

Effect of the Bill

The bill amends s. 565.03(2)(c)1., F.S., to allow craft distilleries to sell up to six individual containers of each branded product to consumers per year from the distiller's souvenir gift shop. The bill does not change any other condition or requirement in current law relating to the direct sale of individual containers to consumers by craft distilleries.

B. SECTION DIRECTORY:

Section 1 Amending s. 565.03, F.S., providing limitations on retail sales by craft distilleries to consumers.

Section 2 Providing for an effective date.

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:

¹⁰ s. 565.03(1)(c)1., F.S.
STORAGE NAME: pcs0141.CCS
DATE: 3/25/2017

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will likely have a positive impact on craft distilleries that sell their branded products directly to consumers from their gift shop.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES