

# CHAPTER 97-165

## House Bill No. 1529

An act relating to alcoholic beverages; amending s. 561.01, F.S.; providing a definition for an entertainment/resort complex; amending s. 561.02, F.S.; providing legislative intent; amending s. 562.14, F.S.; prohibiting certain vendors from allowing licensed premises to be rented, leased, or otherwise used during the hours in which the sale of alcoholic beverages is prohibited; providing exceptions; amending s. 562.45, F.S.; prohibiting counties or incorporated municipalities from adopting certain ordinances with respect to alcoholic beverages; providing exceptions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. A new subsection (18) is added to s. 561.01, Florida Statutes, to read:

561.01 Definitions.—As used in the Beverage Law:

(18) "Entertainment/resort complex" means a theme park comprised of at least 25 acres of land with permanent exhibitions and a variety of recreational activities, which has at least 1 million visitors annually who pay admission fees thereto, together with any lodging, dining, and recreational facilities located adjacent to, contiguous to, or in close proximity to the theme park, as long as the owner(s)/operator(s) of the theme park, or a parent or related company or subsidiary thereof, has an equity interest in the lodging, dining, or recreational facilities or is in privity therewith. Close proximity shall include an area within a five mile radius of the theme park complex.

Section 2. Section 561.02, Florida Statutes, is amended to read:

561.02 Creation and duties of Division of Alcoholic Beverages and Tobacco.—There is created within the Department of Business and Professional Regulation the Division of Alcoholic Beverages and Tobacco, which shall supervise the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of all alcoholic beverages and shall enforce the provisions of the Beverage Law and the tobacco law and rules and regulations of the division in connection therewith. It is the express legislative intent that the state retain primary regulatory authority over the activities of licensees under the Beverage Law within the power of the state and the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation. However, none of the provisions of the Beverage Law shall apply to ethyl alcohol intended for use or used for the following purposes:

- (1) Scientific, chemical, mechanical, industrial, or medicinal purposes;
- (2) Patented, patent, proprietary, medicinal, pharmaceutical, antiseptic, toilet, scientific, chemical, mechanical or industrial preparations, or products unfit for beverage purposes;

(3) Flavoring extracts and syrups, unfit for beverage purposes.

Section 3. Section 562.14, Florida Statutes, is amended to read:

562.14 Regulating the time for sale of alcoholic and intoxicating beverages; prohibiting use of licensed premises.—

(1) Except as otherwise provided by county or municipal ordinance, no alcoholic beverages may be sold, consumed, served, or permitted to be served or consumed in any place holding a license under the division between the hours of midnight and 7 a.m. of the following day. This section shall not apply to railroads selling only to passengers for consumption on railroad cars.

(2) Except as otherwise provided by county or municipal ordinance, no vendor issued an alcoholic beverage license to sell alcoholic beverages for consumption on the vendor's licensed premises and whose principal business is the sale of alcoholic beverages, shall allow the licensed premises, as defined in s. 561.01(11), to be rented, leased, or otherwise used during the hours in which the sale of alcoholic beverages is prohibited. However, this prohibition shall not apply to the rental, lease, or other use of the licensed premises on Sundays after 8 a.m. Further, neither this subsection, nor any local ordinance adopted pursuant to this subsection, shall be construed to apply to a theme park complex as defined in s. 565.02(6) or an entertainment/resort complex as defined in s. 561.01(18).

~~(3)~~(2) The division shall not be responsible for the enforcement of the hours of sale established by county or municipal ordinance.

~~(4)~~(3) Any person violating this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 4. Paragraph (c) is added to subsection (2) of section 562.45, Florida Statutes, to read:

562.45 Penalties for violating Beverage Law; local ordinances; prohibiting regulation of certain activities or business transactions; requiring non-discriminatory treatment; providing exceptions.—

(2)(a) Nothing contained in the Beverage Law shall be construed to affect or impair the power or right of any county or incorporated municipality of the state to enact ordinances regulating the hours of business and location of place of business, and prescribing sanitary regulations therefor, of any licensee under the Beverage Law within the county or corporate limits of such municipality. The division may not issue a change in the series of a license or approve a change of a licensee's location unless the licensee provides documentation of proper zoning from the appropriate county or municipal zoning authorities.

(b) Nothing in the Beverage Law shall be construed to affect or impair the power or right of any county or incorporated municipality of the state to enact ordinances regulating the type of entertainment and conduct permitted in any establishment licensed under the Beverage Law to sell alco-

holic beverages for consumption on the premises, or any bottle club licensed under s. 561.14, which is located within such county or municipality.

(c) A county or municipality may not enact any ordinance that regulates or prohibits those activities or business transactions of a licensee regulated by the Division of Alcoholic Beverages and Tobacco under the Beverage Law. Except as otherwise provided in the Beverage Law, a local government, when enacting ordinances designed to promote and protect the general health, safety and welfare of the public, shall treat a licensee in a nondiscriminatory manner and in a manner that is consistent with the manner of treatment of any other lawful business transacted in this state. Nothing in this section shall be construed to affect or impair the enactment or enforcement by a county or municipality of any zoning, land development or comprehensive plan regulation or other ordinance authorized under ss. 1, 2, and 5, Art. VIII of the State Constitution.

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor May 29, 1997.

Filed in Office Secretary of State May 29, 1997.