

## CHAPTER 2013-157

### Committee Substitute for Committee Substitute for House Bill No. 347

An act relating to alcoholic beverages; amending s. 565.03, F.S.; providing definitions; revising provisions with respect to the licensure and operation of distilleries; providing requirements for craft distilleries; providing for the sale of distilled spirits by licensed distilleries under certain conditions; providing reporting requirements; prohibiting the shipment of certain distilled spirits; prohibiting the transfer of a distillery license under certain conditions; prohibiting a craft distillery from having its ownership affiliated with another distillery under certain conditions; providing requirements relating to the payment of taxes; providing for applicability; providing rulemaking authority; amending s. 567.01, F.S.; providing that a county commission may order an election on the sale of alcoholic beverages for consumption on premise under certain conditions; amending ss. 561.14, 567.06, and 567.07, F.S.; conforming cross-references; providing legislative intent with respect to the severability or nonseverability of specified amendments made by the act; providing an effective date.

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

Section 1. Section 565.03, Florida Statutes, is amended to read:

565.03 License fees; manufacturers, distributors, brokers, sales agents, and importers of alcoholic beverages; vendor licenses and fees; craft distilleries.—

(1) As used in this section, the term:

(a) “Craft distillery” means a licensed distillery that produces 75,000 or fewer gallons per calendar year of distilled spirits on its premises and has notified the division in writing of its decision to qualify as a craft distillery.

(b) “Distillery” means a ~~Each liquor~~ manufacturer of distilled spirits.

(2)(a) A distillery authorized to do business under the Beverage Law shall pay an annual state license tax for each plant or branch operating he or she operates in the state, as follows:

1. If engaged in the business of manufacturing distilled spirits ~~distilling spirituous liquors and nothing else~~, a state license tax of \$4,000.

2. If engaged in the business of rectifying and blending spirituous liquors and nothing else, a state license tax of \$4,000.

(b) Persons licensed under this section who are hereunder in the business of distilling spirituous liquors may also engage in the business of rectifying

and blending spirituous liquors without the payment of an additional license tax.

(c) A craft distillery licensed under this section may sell to consumers, at its souvenir gift shop, spirits distilled on its premises in this state in factory-sealed containers that are filled at the distillery for off-premises consumption. Such sales are authorized only on private property contiguous to the licensed distillery premises in this state and included on the sketch or diagram defining the licensed premises submitted with the distillery's license application. All sketch or diagram revisions by the distillery shall require the division's approval verifying that the souvenir gift shop location operated by the licensed distillery are owned or leased by the distillery and on property contiguous to the distillery's production building in this state. A craft distillery or licensed distillery may not sell any factory-sealed individual containers of spirits except in face-to-face sales transactions with consumers who are making a purchase of two or fewer individual containers, that comply with the container limits in s. 565.10, per calendar year for the consumer's personal use and not for resale and who are present at the distillery's licensed premises in this state.

1. A craft distillery must report to the division within 5 days after it reaches the production limitations provided in paragraph (1)(a). Any retail sales to consumers at the craft distillery's licensed premises are prohibited beginning the day after it reaches the production limitation.

2. A craft distillery may only ship, arrange to ship, or deliver any of its distilled spirits to consumers within the state in a face-to-face transaction at the distillery property. However, a craft distiller licensed under this section may ship, arrange to ship, or deliver such spirits to manufacturers of distilled spirits, wholesale distributors of distilled spirits, state or federal bonded warehouses, and exporters.

3. Except as provided in subparagraph 4., it is unlawful to transfer a distillery license for a distillery that produces 75,000 or fewer gallons per calendar year of distilled spirits on its premises or any ownership interest in such license to an individual or entity that has a direct or indirect ownership interest in any distillery licensed in this state; another state, territory, or country; or by the United States government to manufacture, blend, or rectify distilled spirits for beverage purposes.

4. A craft distillery shall not have its ownership affiliated with another distillery, unless such distillery produces 75,000 or fewer gallons per calendar year of distilled spirits on its premises.

(3)(2) Distributors authorized to do business under the Beverage Law, unless otherwise provided, shall pay a state license tax of \$4,000 for each and every establishment or branch they may operate or conduct in the state. However, in counties having a population of 15,000 or less according to the latest state or federal census, the state license tax for a restricted license shall be \$1,000, but the holder of such a license shall be permitted to sell only

to vendors and distributors licensed in the same county, and such license shall contain such restrictions. In such counties, licenses without such restrictions may be obtained as in other counties, but the tax for a license without such restrictions shall be the same as in other counties. Warehouses of a licensed distributor used solely for storage and located in the county in which the license is issued to such distributor shall not be construed to be separate establishments or branches.

(4)(3) Each broker or sales agent and each importer of alcoholic beverages, as defined in s. 561.14(4) and (5), respectively, shall pay an annual state license tax of \$500.

(5) A craft distillery making sales under paragraph (2)(c) is responsible for submitting any beverages excise taxes under the Beverage Law in its monthly report to the division with any tax payments due to the state.

(6) The division may adopt rules to administer this section.

Section 2. Section 567.01, Florida Statutes, is amended to read:

567.01 Petition, order, notice of election.—

(1) The board of county commissioners of each county shall order an election to decide whether the sale of intoxicating liquors, wines, or beer shall be prohibited or permitted in that said county and if not prohibited, to decide the method of sale, upon the presentation to said board at a regular or special meeting, of a written application asking for such a determination in the county in which said application is made signed by one-fourth of the registered voters of the county. The signature of each registered voter shall be personally signed to such application; provided, however, a copy of said petition shall be dated and filed with the clerk of the circuit court of the county in which such election is to be held prior to procuring the signature of any registered voter thereon; and such petition must be completed and presented to the board of county commissioners within 120 days from the date said copy of said petition is originally filed with the clerk of the circuit court; and if not so done, said petition shall be held to be invalid.

(2) The election so ordered shall be to decide ~~either:~~

(a) whether the sale of intoxicating liquors, wines, or beer shall be prohibited or permitted in said county, and to decide also whether such sale, if permitted by said election, shall be restricted to sales by the package, as hereinafter defined; ~~or~~

(3)(b) After ~~an a-prior~~ election has authorized the such sale of intoxicating liquors, wines, or beer and has restricted the sales to by the package only, the board of county commissioners shall order an election to decide whether intoxicating liquors, wines, or beer shall be sold by the drink for consumption on premises as provided in s. 567.07(2)(c) by a majority vote of the board of county commissioners or when application is made signed by one-tenth of the registered voters of the county.

~~(4)~~(3) The term “Sales by the package” is defined to mean sales made in sealed containers, for consumption off the premises where sold.

(5)(4) Such an election shall not be ordered oftener than once every 2 years. All orders for such election shall be in writing and shall be entered upon the minutes of the board but this requirement shall be directory only.

~~(6)~~(5) Upon the making of the order for an election as ~~aforsaid~~, the board shall cause its clerk to give at least 30 days’ notice of said election by publishing a copy of the order for election in one newspaper in each and every town in said county in which a newspaper or newspapers be published, and if no newspaper be published within the county, then by posting at least 10 copies of said order in 10 of the most public places in said county, one of which shall be the courthouse door. Proof of publication or proof of posting shall be filed with the board and shall be made as provided by ss. 49.10 and 49.11, for making proof of publication and proof of posting incident to constructive service of process, except that the provisions of said sections for recording shall not apply. All proofs of publication and of posting shall be entered upon the minutes of the board, but this requirement shall be directory only.

(7)(6) It is the purpose and intent of the Legislature that ~~the such~~ election shall obviate the necessity for holding two separate elections, except as provided in s. 567.07(2)(c), by determining in one election:

(a) Whether the sale of intoxicating liquors, wines, or beer shall be prohibited or permitted, and

(b) If such sales are determined to be permitted, to further determine whether the sales so made shall be limited to sales by the package as herein before defined, or whether sales by the drink on the premises, as well as sales by the package, may be permitted.

A majority of those legally voting at such election must cast their votes for selling intoxicating liquors, wines, or beer in order that the results of the election on the second question shall be effective and binding.

Section 3. Subsection (1) of section 561.14, Florida Statutes, is amended to read:

561.14 License and registration classification.—Licenses and registrations referred to in the Beverage Law shall be classified as follows:

(1) Manufacturers licensed to manufacture alcoholic beverages and distribute the same at wholesale to licensed distributors and to no one else within the state, unless authorized by statute. Persons engaged in the business of distilling, rectifying, or blending spirituous liquors licensed under s. ~~565.03(2)~~ ~~565.03(1)(a)1.~~ ~~and (b)~~ shall sell and distribute such beverages at wholesale only to other manufacturers and to licensed distributors and to no one else within this state.

Section 4. Subsection (3) of section 567.06, Florida Statutes, is amended to read:

567.06 Form of ballot; canvassing votes.—

(3) However, for a local option election authorized by s. 567.01(3) ~~567.01(2)(b)~~ on the sole question of whether intoxicating liquors, wines, or beer may be sold by the drink for consumption on premises, ballot instructions shall be presented in the following form:

INSTRUCTIONS: Local Option Election on the Following Question:

THE QUESTION BEFORE THE ELECTORATE is to decide whether intoxicating liquors, wines, or beer, containing more than 6.243 percent of alcohol by volume, may be sold by the drink for consumption on premises in ( ) County, Florida.

For Sales by the Drink:

followed by the word “yes” and also by the word “no,” and shall be styled in such a manner that a “yes” vote will indicate approval of the question and a “no” vote will indicate rejection.

Section 5. Paragraph (c) of subsection (2) of section 567.07, Florida Statutes, is amended to read:

567.07 Results of election.—

(2) If a majority of those legally voting at any such election cast their votes “For Selling Intoxicating Liquors, Wines, or Beer” on question number 1 and a majority of votes legally cast on question number 2 be cast “For Sales by the Package Only,” then:

(c) After the expiration of 2 years, an election pursuant to s. 567.01(3) ~~567.01(2)(b)~~ may be held to determine the sole question of whether intoxicating liquors, wines, or beer may be sold by the drink for consumption on premises. If a majority of those legally voting cast their votes for selling intoxicating liquors, wines, or beer by the drink for consumption on premises, such alcoholic beverages may be sold as otherwise provided by law in that county until otherwise determined in an election, which shall not be held oftener than once every 2 years. If a majority of those legally voting cast their vote against the sale of intoxicating liquors, wines, or beer by the drink for consumption on premises, sales by the package only shall continue.

Section 6. (1) The Legislature declares that it would not have enacted individually the amendments to ss. 565.03 and 561.14, Florida Statutes, and expressly finds the amendments to those provisions not to be severable. If a court of competent jurisdiction determines any provision of those sections as amended by this act to be in conflict with any law of this state, a federal law or regulation, the State Constitution, or the United States Constitution, or to be otherwise invalid for any reason, it is the intent of the Legislature that the

amendments to ss. 565.03 and 561.14, Florida Statutes, shall be void, that such invalidity shall void only those changes made by this act to ss. 565.03 and 561.14, Florida Statutes, and that no other law be affected.

(2) If a provision of s. 567.01, s. 567.06, s. or 567.07, Florida Statutes, as amended by this act, or if the application of those sections as amended by this act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the amendments to ss. 567.01, 567.06, and 567.07, Florida Statutes, are severable.

Section 7. This act shall take effect July 1, 2013.

Approved by the Governor June 12, 2013.

Filed in Office Secretary of State June 12, 2013.