

CHAPTER 2015-12

Committee Substitute for Committee Substitute for Senate Bill No. 186

An act relating to alcoholic beverages; amending s. 402.82, F.S.; conforming provisions; prohibiting electronic benefits transfer cards from being used or accepted to purchase an alcoholic beverage; amending s. 561.221, F.S.; providing requirements for a licensed manufacturer of malt beverages to sell such beverages directly to consumers; providing requirements for a licensed manufacturer to obtain a vendor's license; specifying circumstances under which a manufacturer may sell alcoholic beverages under its vendor's license; amending s. 561.42, F.S.; deleting a prohibition against certain entities conducting tastings; revising requirements for promotional displays and advertising; amending s. 561.5101, F.S.; conforming a cross-reference; amending s. 561.57, F.S.; revising restrictions on the vehicle required for use by a vendor who transports alcoholic beverages; modifying provisions related to vehicle permits for vendors; amending s. 562.07, F.S.; conforming provisions; amending s. 562.34, F.S.; providing that possessing and transporting a growler is lawful; amending s. 563.06, F.S.; conforming provisions; providing for a malt beverage container defined as a growler; providing requirements for growlers; creating s. 563.09, F.S.; authorizing a licensed manufacturer, distributor, or importer of malt beverages to conduct a malt beverage tasting; providing requirements and limitations; amending s. 565.03, F.S.; defining the term "branded product"; revising the limitation on the number of containers that may be sold to consumers by craft distilleries; applying such limitation to individual containers for each branded product; prohibiting a craft distillery from shipping or arranging to ship any of its distilled spirits to consumers; limiting the sale and delivery of distilled spirits; revising a restriction on certain craft distillery ownership; requiring the Department of Transportation to install certain directional signs at specified locations upon the request of a craft distillery licensed in this state; requiring the requesting craft distillery to pay specified costs; providing an effective date.

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

Section 1. Paragraph (a) of subsection (4) of section 402.82, Florida Statutes, is amended to read:

402.82 Electronic benefits transfer program.—

(4) Use or acceptance of an electronic benefits transfer card is prohibited at the following locations or for the following activities:

(a) The purchase of an alcoholic beverage as defined in s. 561.01 and sold pursuant to the Beverage Law ~~An establishment licensed under the Beverage Law to sell distilled spirits as a vendor and restricted as to the~~

~~types of products that can be sold under ss. 565.04 and 565.045 or a bottle club as defined in s. 561.01.~~

Section 2. Subsection (2) of section 561.221, Florida Statutes, is amended to read:

561.221 Licensing of manufacturers and distributors as vendors and of vendors as manufacturers; conditions and limitations.—

(2)(a) Notwithstanding s. 561.22, 561.42, or any other provision of the Beverage Law, the division is authorized to issue vendor's licenses to a manufacturer of malt beverages, even if such manufacturer is also licensed as a distributor, for the sale of alcoholic beverages on property consisting of a single complex, which property shall include a brewery and such other structures which promote the brewery and the tourist industry of the state. However, such property may be divided by no more than one public street or highway.

(b) The licensed vendor premises shall be included on the sketch or diagram defining the licensed premises submitted with the manufacturer's license application pursuant to s. 561.01(11). All sketch or diagram revisions by the manufacturer must be approved by the division, verifying that the vendor premises operated by the licensed manufacturer is owned or leased by the manufacturer and is located on the licensed manufacturing premises.

(c) Notwithstanding any other provision of the Beverage Law, a manufacturer holding multiple manufacturing licenses may transfer malt beverages to a licensed facility, as provided in s. 563.022(14)(d), in an amount up to the yearly production amount at the receiving facility. Malt beverages and other alcoholic beverages manufactured by another licensed manufacturer, including any malt beverages that are owned in whole or in part by the manufacturer but are brewed by another manufacturer, must be obtained through a licensed distributor that is not also a licensed manufacturer, a licensed broker or sales agent, or a licensed importer.

(d) A manufacturer possessing a vendor's license under this subsection is not permitted to make deliveries under s. 561.57(1).

(e) The division is authorized to issue up to eight vendor's licenses to a manufacturer of malt beverages pursuant to this subsection.

Section 3. Subsection (14) of section 561.42, Florida Statutes, is amended to read:

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

(14) The division shall adopt reasonable rules governing promotional displays and advertising, which rules shall not conflict with or be more

stringent than the federal regulations pertaining to such promotional displays and advertising furnished to vendors by distributors, manufacturers, importers, primary American sources of supply, or brand owners or registrants, or any ~~broker~~, sales agent, or sales person thereof; however:

(a) If a manufacturer, distributor, importer, brand owner, or brand registrant of malt beverage, or any ~~broker~~, sales agent, or sales person thereof, provides a vendor with expendable retailer advertising specialties such as trays, coasters, mats, menu cards, napkins, cups, glasses, thermometers, and the like, such items ~~may~~ shall be sold only at a price not less than the actual cost to the industry member who initially purchased them, without limitation in total dollar value of such items sold to a vendor.

(b) Without limitation in total dollar value of such items provided to a vendor, a manufacturer, distributor, importer, brand owner, or brand registrant of malt beverage, or any ~~broker~~, sales agent, or sales person thereof, may rent, loan without charge for an indefinite duration, or sell durable retailer advertising specialties such as clocks, pool table lights, and the like, which bear advertising matter.

(c) If a manufacturer, distributor, importer, brand owner, or brand registrant of malt beverage, or any ~~broker~~, sales agent, or sales person thereof, provides a vendor with consumer advertising specialties such as ashtrays, T-shirts, bottle openers, shopping bags, and the like, such items ~~may~~ shall be sold only at a price not less than the actual cost to the industry member who initially purchased them, and ~~but~~ may be sold without limitation in total value of such items sold to a vendor.

(d) A manufacturer, distributor, importer, brand owner, or brand registrant of malt beverage, or any ~~broker~~, sales agent, or sales person thereof, may provide consumer advertising specialties described in paragraph (c) to consumers on any vendor's licensed premises.

~~(e) Manufacturers, distributors, importers, brand owners, or brand registrants of beer, and any broker, sales agent, or sales person thereof, shall not conduct any sampling activities that include tasting of their product at a vendor's premises licensed for off-premises sales only.~~

~~(e)(f) A manufacturer~~ Manufacturers, distributor distributors, importer importers, brand owner owners, or brand registrant registrants of malt beverages beer, and any broker, sales agent, or sales person thereof or contracted third-party, may shall not engage in cooperative advertising with a vendor and may not name a vendor in any advertising for a malt beverage tasting authorized under s. 563.09 vendors.

~~(f)(g) A distributor~~ Distributors of malt beverages beer may sell to a vendor vendors draft equipment and tapping accessories at a price not less than the cost to the industry member who initially purchased them, except there is no required charge, and the a distributor may exchange any parts that which are not compatible with a competitor's system and are necessary

to dispense the distributor's brands. A distributor of malt beverages beer may furnish to a vendor at no charge replacement parts of nominal intrinsic value, including, but not limited to, washers, gaskets, tail pieces, hoses, hose connections, clamps, plungers, and tap markers.

Section 4. Subsection (1) of section 561.5101, Florida Statutes, is amended to read:

561.5101 Come-to-rest requirement; exceptions; penalties.—

(1) For purposes of inspection and tax-revenue control, all malt beverages, except those manufactured and sold by the same licensee, pursuant to s. 561.221(2) or (3) ~~s. 561.221(3)~~, must come to rest at the licensed premises of an alcoholic beverage wholesaler in this state before being sold to a vendor by the wholesaler. The prohibition contained in this subsection does not apply to the shipment of malt beverages commonly known as private labels. The prohibition contained in this subsection shall not prevent a manufacturer from shipping malt beverages for storage at a bonded warehouse facility, provided that such malt beverages are distributed as provided in this subsection or to an out-of-state entity.

Section 5. Subsections (3), (4), (5), and (6) of section 561.57, Florida Statutes, are amended to read:

561.57 Deliveries by licensees.—

(3) A licensed vendor may transport alcoholic beverage purchases from a distributor's place of business to the vendor's licensed premises or off-premises storage, if the vehicle used to transport the alcoholic beverages is owned or leased by the vendor or any person who has been disclosed on a license application filed by the vendor and approved by the division ~~and a valid vehicle permit has been issued for such vehicle~~. A vehicle owned or leased by a person disclosed on a license application filed by the vendor and approved by the division under this subsection must be operated by such person when transporting alcoholic beverage purchases from a distributor's place of business to the vendor's licensed premises or off-premises storage.

~~(4) A vehicle permit may be obtained by a licensed vendor or any person authorized in subsection (3) upon application and payment of a fee of \$5 per vehicle to the division. The signature of the person authorized in subsection (3) must be included on the vehicle permit application. Such permit remains valid and does not expire unless the vendor or any person authorized in subsection (3) disposes of his or her vehicle, or the vendor's alcoholic beverage license is transferred, canceled, not renewed, or is revoked by the division, whichever occurs first. The division shall cancel a vehicle permit issued to a vendor upon request from the vendor. The division shall cancel a vehicle permit issued to any person authorized in subsection (3) upon request from that person or the vendor. By acceptance of a vehicle permit, the vendor or any person authorized in subsection (3) agrees that such vehicle is always subject to inspection and search without a search warrant, for the purpose of~~

~~ascertaining that all provisions of the alcoholic beverage laws are complied with, by authorized employees of the division and also by sheriffs, deputy sheriffs, and police officers during business hours or other times that the vehicle is being used to transport or deliver alcoholic beverages. A vehicle permit issued under this subsection and invoices or sales tickets for alcoholic beverages purchased and transported must be carried in the vehicle used by the vendor or any person authorized in subsection (3) when the vendor's alcoholic beverages are being transported or delivered.~~

~~(4)(5) Nothing contained in this section shall prohibit deliveries by the licensee from his or her permitted storage area or deliveries by a distributor from the manufacturer to his or her licensed premises; nor shall a pool buying agent be prohibited from transporting pool purchases to the licensed premises of his or her members with the licensee's owned or leased vehicles, and in such cases, no vehicle permit shall be required in the transporting of such alcoholic beverages. In addition, a licensed salesperson of wine and spirits is authorized to deliver alcoholic beverages in his or her vehicle on behalf of the distributor without having to obtain a vehicle permit.~~

~~(5)(6) Common carriers may are not required to have vehicle permits to transport alcoholic beverages.~~

Section 6. Subsections (2), (3), (4), and (5) of section 562.07, Florida Statutes, are amended to read:

562.07 Illegal transportation of beverages.—It is unlawful for alcoholic beverages to be transported in quantities of more than 12 bottles except as follows:

(2) In the owned or leased vehicles of licensed vendors or any persons authorized in s. 561.57(3) transporting alcoholic beverage purchases from the distributor's place of business to the vendor's licensed place of business or off-premises storage and to which said vehicles are carrying a permit and ~~invoices or sales tickets~~ for alcoholic beverages purchased and transported as provided for in the alcoholic beverage law;

(3) By individuals who possess such beverages not for resale within the state;

(4) By licensed manufacturers, distributors, or vendors transporting ~~delivering~~ alcoholic beverages pursuant to s. 561.57 ~~away from their place of business in vehicles which are owned or leased by such licensees; and~~

(5) By a vendor, distributor, pool buying agent, or salesperson of wine and spirits as outlined in s. 561.57(4) ~~s. 561.57(5)~~.

Section 7. Subsection (6) of section 562.34, Florida Statutes, is created to read:

562.34 Containers; seizure and forfeiture.—

(6) Notwithstanding the provisions of this section, it shall not be unlawful for any person to have in her or his possession, custody, or control a growler as described in s. 563.06(7), either full or empty, or to transport such growler.

Section 8. Subsections (1) and (6) of section 563.06, Florida Statutes, are amended, present subsection (7) is redesignated as subsection (8), and a new subsection (7) is added to that section, to read:

563.06 Malt beverages; imprint on individual container; size of containers; exemptions.—

(1) ~~On and after October 1, 1959,~~ All taxable malt beverages packaged in individual containers possessed by any person in the state for the purpose of sale or resale in the state, except operators of railroads, sleeping cars, steamships, buses, and airplanes engaged in interstate commerce and licensed under this section, shall have imprinted thereon in clearly legible fashion by any permanent method the word “Florida” or “FL” and no other state name or abbreviation of any state name in not less than 8-point type. The word “Florida” or “FL” shall appear first or last, if imprinted in conjunction with any manufacturer’s code. A facsimile of the imprinting and its location as it will appear on the individual container shall be submitted to the division for approval.

(6) With the exception of growlers as described in subsection (7), all malt beverages packaged in individual containers sold or offered for sale by vendors at retail in this state shall be in individual containers containing no more than 32 ounces of such malt beverages; provided, however, that nothing contained in this section shall affect malt beverages packaged in bulk, or in kegs, or in barrels or in any individual container containing 1 gallon or more of such malt beverage regardless of individual container type.

(7) Notwithstanding any other provision of the Beverage Law, a malt beverage may be packaged in a growler, which is an individual container that holds 32, 64, or 128 ounces of such malt beverage if it is filled at the point of sale.

(a) A growler may be filled or refilled by any of the following:

1. A licensed manufacturer of malt beverages holding a vendor’s license under s. 561.221(2).

2. A vendor holding a quota license under s. 561.20(1) or s. 565.02(1)(a) that authorizes the sale of malt beverages.

3. A vendor holding a license under s. 563.02(1)(b)-(f), s. 564.02(1)(b)-(f), or s. 565.02(1)(b)-(f), unless such license restricts the sale of malt beverages to sale for consumption only on the premises of such vendor.

(b) A growler must include an imprint or label that provides information specifying the name of the manufacturer, the brand, and the anticipated

percentage of alcohol by volume of the malt beverage. The container must have an unbroken seal or be incapable of being immediately consumed.

(c) A licensee authorized to fill or refill growlers may not use growlers for the purposes of distribution or sale outside of the licensed manufacturing premises or licensed vendor premises.

(d) A person, firm, or corporation, including its agents, officers, or employees, which violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and the license held by the person, firm, or corporation, if any, is subject to revocation or suspension by the division. A person, firm, or corporation, including its agents, officers, or employees, which violates paragraph (b), may be subject to a fine by the division of up to \$250.

Section 9. Section 563.09, Florida Statutes, is created to read:

563.09 Malt beverage tastings by distributors and manufacturers.—

(1) A manufacturer, distributor, or importer of malt beverages, or any contracted third-party agent thereof, may conduct sampling activities that include the tasting of malt beverage products on:

(a) The licensed premises of a vendor authorized to sell alcoholic beverages by the drink for consumption on premises; or

(b) The licensed premises of a vendor authorized to sell alcoholic beverages only in sealed containers for consumption off premises if:

1. The licensed premises is at an establishment with at least 10,000 square feet of interior floor space exclusive of storage space not open to the general public; or

2. The licensed premises is a package store licensed under s. 565.02(1)(a).

(2) A malt beverage tasting conducted under this section must be limited to and directed toward the general public of the age of legal consumption.

(3) For a malt beverage tasting conducted under this section on the licensed premises of a vendor authorized to sell alcoholic beverages for consumption on premises, each serving of a malt beverage to be tasted must be provided to the consumer by the drink in a tasting cup, glass, or other open container and may not be provided by the package in an unopened can or bottle or in any other sealed container.

(4) For a malt beverage tasting conducted under this section on the licensed premises of a vendor authorized to sell alcoholic beverages only in sealed containers for consumption off premises, the tasting must be conducted in the interior of the building constituting the vendor's licensed premises and each serving of a malt beverage to be tasted must be provided to the consumer in a tasting cup having a capacity of 3.5 ounces or less.

(5) A manufacturer, distributor, or importer, or any contracted third-party agent thereof, may not pay a vendor, and a vendor may not accept, a fee or compensation of any kind, including the provision of a malt beverage at no cost or at a reduced cost, to authorize the conduct of a malt beverage tasting under this section.

(6)(a) A manufacturer, distributor, or importer, or any contracted third-party agent thereof, conducting a malt beverage tasting under this section, must provide all of the beverages to be tasted; must have paid all excise taxes on those beverages which are required of the manufacturer or distributor; and must return to the manufacturer's or distributor's inventory all of the malt beverages provided for the tasting that remain unconsumed after the tasting. More than one tasting may be held on the licensed premises each day, but only one manufacturer, distributor, importer, or contracted third-party agent thereof, may conduct a tasting on the premises at any one time.

(b) This subsection does not preclude a manufacturer, distributor, or importer, or any contracted third-party agent thereof, from buying the malt beverages that it provides for the tasting from a vendor at no more than the retail price, but all of the malt beverages so purchased and provided for the tasting which remain unconsumed after the tasting must be removed from the premises of the tasting and properly disposed of.

(7) A manufacturer, distributor, or importer of malt beverages that contracts with a third-party agent to conduct a malt beverage tasting under this section on its behalf is responsible for any violation of this section by such agent.

(8) This section does not preclude a vendor from conducting a malt beverage tasting on its licensed premises using malt beverages from its own inventory.

(9) This section is supplemental to and does not supersede any special act or ordinance.

(10) The division may, pursuant to ss. 561.08 and 561.11, adopt rules to implement, administer, and enforce this section.

Section 10. Paragraphs (a) and (b) of subsection (1) of section 565.03, Florida Statutes, are redesignated as paragraphs (b) and (c), respectively, a new paragraph (a) is added to that subsection, paragraph (c) of subsection (2) is amended, and subsection (7) is added to that section, 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) “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.

(2)

(c) A craft distillery licensed under this section may sell to consumers, at its souvenir gift shop, branded products 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 is owned or leased by the distillery and on property contiguous to the distillery’s production building in this state.

~~1.~~ 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 no more than:

a. Two individual containers of each branded product;

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

c. Four individual containers of a single branded product.

~~2.~~ Each container sold in face-to-face transactions with consumers must ~~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.

~~3.1.~~ A craft distillery must report to the division within 5 days after it reaches the production limitations provided in paragraph ~~(1)(b)~~ ~~(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.

~~4.2.~~ A craft distillery may ~~not only ship or, arrange to ship, or deliver~~ any of its distilled spirits to consumers and may sell and deliver only 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.

~~5.3.~~ Except as provided in subparagraph ~~6.4.~~, 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.

6.4. 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 each of its premises in this state or in another state, territory, or country.

(7) Upon the request of a craft distillery licensed in this state, the Department of Transportation shall install directional signs for the craft distillery on the rights-of-way of interstate highways and primary and secondary roads in accordance with Florida's Highway Guide Sign Program as provided in chapter 14-51, Florida Administrative Code. A craft distillery licensed in this state that requests placement of a directional sign through the department's permit process shall pay all associated costs.

Section 11. This act shall take effect July 1, 2015.

Approved by the Governor May 14, 2015.

Filed in Office Secretary of State May 14, 2015.