

CHAPTER 2018-135

Committee Substitute for House Bill No. 961

An act relating to the Beverage Law; amending s. 561.42, F.S.; authorizing a malt beverage distributor to give branded glassware to vendors licensed to sell malt beverages for on-premises consumption; requiring that the glassware bear certain branding; providing an annual limit on the amount of glassware a distributor may give to a vendor; prohibiting a vendor from selling the branded glassware or returning it to a distributor for cash, credit, or replacement; requiring manufacturers, importers, distributors, and vendors to maintain certain records; defining the terms “case” and “glassware”; providing an effective date.

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

Section 1. 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. ~~Such rules may, 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 sales agent or sales person thereof; however:

(a) If a manufacturer, distributor, importer, brand owner, or brand registrant of malt beverage, or any sales agent or sales person thereof, provides a vendor with branded expendable retailer advertising specialties such as trays, coasters, mats, menu cards, napkins, cups, glassware glasses, thermometers, and the like, such items may 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. However, a distributor that receives glassware at no charge on a no-charge invoice from a malt beverage manufacturer or importer may give such glassware to a vendor licensed to sell malt beverages for on-premises consumption. Each piece of glassware given to a vendor by a distributor must bear a permanent brand name intended to prominently advertise the brand. A distributor may not give a vendor more than 10 cases of glassware per calendar year per licensed premises. A vendor that receives a gift of glassware from a distributor may not sell the glassware or return it to a distributor for cash, credit, or replacement. A manufacturer or importer who sells or gives glassware to a distributor, a distributor who sells or gives

glassware to a vendor, and such vendor, must maintain records of such sale or gift of glassware.

1. These records must be maintained for three years by the industry member. The records may be in any format so long as they are available and legible to division personnel upon request during normal business hours. A copy of any record maintained or produced in compliance with this paragraph shall be provided to each industry member who receives such glassware. The copy shall be in a format accessible and readable by the recipient and may not be provided in an electronic format that would require proprietary software unavailable to the recipient. These records must show:

a. The name and address of the recipient, the recipient's employee or agent receiving the glassware;

b. The recipient's license number;

c. The date furnished, or given;

d. The description and quantity of glassware furnished, or given;

e. The cost to the industry member determined by the original purchaser's invoice price;

f. The charges to the recipient for the glassware, if any; and

g. The name, license number, and address of the industry member providing the glassware.

2. As used in this paragraph, the term:

a. "Case" means a box containing up to 24 pieces of glassware.

b. "Glassware" means a single-service glass container that can hold no more than 23 ounces of liquid volume.

(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 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 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 be sold only at a price not less than the actual cost to the industry member who initially purchased them, and 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 sales agent or sales person thereof, may provide consumer advertising specialties described in paragraph (c) to consumers on any vendor’s licensed premises.

(e) A manufacturer, distributor, importer, brand owner, or brand registrant of malt beverages, and any sales agent or sales person thereof or contracted third-party, may 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.

(f) A distributor of malt beverages may sell to a vendor 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 distributor may exchange any parts that are not compatible with a competitor’s system and are necessary to dispense the distributor’s brands. A distributor of malt beverages 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 2. This act shall take effect October 1, 2018.

Approved by the Governor March 30, 2018.

Filed in Office Secretary of State March 30, 2018.