

## CHAPTER 2026-41

### Committee Substitute for House Bill No. 1137

An act relating to deductions for certain losses of alcoholic beverages; creating s. 561.1215, F.S.; authorizing a distributor of vinous, spirituous, or malt beverages to make an excise tax deduction in its monthly tax report for alcoholic beverages that have become unsellable through warehouse breakage, spoliation, evaporation, or expiration or that have become unfit for human consumption; specifying the percentage a distributor may deduct for such alcoholic beverages; requiring that the method of determining breakage for malt beverages be elected annually; providing that the method is effective for a specified timeframe; providing an exception; requiring distributors that distribute more than one type of alcoholic beverage to deduct their gross taxes for products according to those specified in a specified manner; excluding extraordinary losses of vinous, spirituous, or malt beverages from such deductions; defining the term “extraordinary loss”; requiring a distributor to immediately notify the Division of Alcoholic Beverages and Tobacco when an extraordinary loss occurs; authorizing a distributor to deduct the actual gallonage of the extraordinary loss; requiring such distributors to show proof of the extraordinary loss before recovering or crediting any excise tax due to the unsellable alcoholic beverages; specifying the manner in which a distributor may show such proof; requiring a distributor to show proof of the destruction, dumping, or recycling of the alcoholic beverages involved in the extraordinary loss; specifying the manner in which to show such proof; requiring the division to inspect any remaining undamaged invoiced inventory intended to be distributed upon being notified by the distributor; requiring a distributor reporting extraordinary losses to furnish proof that the excise tax has not been recovered from any other source; requiring the distributor to provide the division with copies of all insurance claims and receipts of payment upon request; requiring distributors to record certain information on forms prescribed by the division; requiring the division to retain such forms for a specified timeframe; authorizing the division to adopt rules and forms; providing retroactive application; providing an effective date.

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

Section 1. Section 561.1215, Florida Statutes, is created to read:

561.1215 Deductions for breakage, spoliation, evaporation, expiration, and extraordinary losses.—

(1)(a) Distributors of vinous, spirituous, or malt beverages may make deductions against any excise tax due under s. 563.05, s. 564.06, or s. 565.12 on their monthly tax report for alcoholic beverages that have become unsellable through warehouse breakage, spoliation, evaporation, or

expiration or that have become unfit for human consumption, in an amount equal to the following:

1. For vinous beverage sales, 0.49 percent of gross tax.
2. For spirituous beverage sales, 0.15 percent of gross tax.
3. For malt beverage sales, 0.20 percent of gross tax or the actual breakage or spoliation.

(b) The method of determining breakage for malt beverages, either percentage or actual gallonage, must be elected annually and will be effective for 1 calendar year unless the license is transferred or 100 percent of the stock is sold to a new owner.

(c) Distributors that distribute more than one type of alcoholic beverage shall deduct the gross taxes for their products as prescribed in this subsection for vinous, spirituous, or malt beverages.

(2)(a) Extraordinary losses of vinous, spirituous, or malt beverages are excluded from the deductions in subsection (1). For purposes of this section, the term "extraordinary loss" means an unusual loss resulting from acts of God or nature which are not expected to recur; accidents that occur during interstate or intrastate shipment from manufacturer to distributor, from distributor to distributor, or from distributor to retailer; or products being recalled by a manufacturer and destroyed by a distributor. The term does not include a loss from evaporation, breakage, or spoliation incurred on the licensed premises in the normal course of business which exceeds the standard deductions prescribed in subsection (1).

(b) A distributor shall immediately notify the division when an extraordinary loss occurs. A distributor may deduct the actual gallonage of the extraordinary loss. The distributor shall show proof of the extraordinary loss before recovering or crediting any excise tax due to the unsellable alcoholic beverages by:

1. Providing a copy of a traffic accident investigation report or an incident report from the investigating agency when the loss occurs in transit;
2. Having the extraordinary loss witnessed or documented by an authorized division employee when the extraordinary loss occurs on the premises of the distributor; or
3. Clearly and objectively establishing the extraordinary loss through appropriate documentation as determined by the division.

(c) The distributor shall show proof of the destruction, dumping, or recycling of the alcoholic beverages involved in the extraordinary loss by providing a statement to the division from the distributor, or the distributor's authorized employee or agent, evidencing such destruction, dumping, or recycling. The statement must include a description of the location of the

extraordinary loss; the alcoholic beverages, by gallonage and tax category, which have been destroyed, dumped, or recycled; and the location of the site where the alcoholic beverages were destroyed, dumped, or recycled.

(3)(a) Upon notification by a distributor, the division shall inspect any remaining undamaged invoiced inventory intended to be distributed.

(b)1. A distributor reporting extraordinary losses must furnish proof that the excise tax has not been recovered from any other source. The distributor shall provide the division with copies of all insurance claims and receipts of payment upon request by the division.

2. The distributor shall record on forms prescribed by the division the actual gallonage of breakage, spoliation, or evaporation of alcoholic beverages; the date of product destruction; the quantity destroyed, by tax classification; and a statement signed by the distributor, or the distributor's authorized employee or agent, that the product was destroyed.

3. The division shall retain all completed forms for 3 years.

(4) The division may adopt rules and forms to implement this section.

(5) This section applies retroactively to January 1, 2025.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor April 21, 2026.

Filed in Office Secretary of State April 21, 2026.