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ALCOHOLIC BEVERAGES AND TOBACCO

BEVERAGE LAW: ADMINISTRATION

TITLE XXXIV

ALCOHOLIC BEVERAGES AND TOBACCO

CHAPTER 561

BEVERAGE LAW: ADMINISTRATION

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561.01 Definitions.—As used in the Beverage Law:

(1) “Division” means the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation.

(2) “Department” means the Department of Business and Professional Regulation.

(3) “State bonded warehouse” means any licensed warehouse used to store alcoholic beverages.

(4)(a) “Alcoholic beverages” means distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume.

(b) The percentage of alcohol by volume shall be determined by measuring the volume of the standard ethyl alcohol in the beverage and comparing it with the volume of the remainder of the ingredients as though said remainder ingredients were distilled water.

(5) “Intoxicating beverage” and “intoxicating liquor” mean only those alcoholic beverages containing more than 4.007 percent of alcohol by volume.

(6) “The Beverage Law” means this chapter and chapters 562, 563, 564, 565, 567, and 568.

(7) “Manufacturer” means all persons who make alcoholic beverages except those who make beer or wine for personal or family consumption pursuant to s. 562.165.

(8)(a) “Tax” means all taxes or payments required under the Beverage Law.

(b) “There shall be paid” means “there is hereby levied and imposed and shall be paid.”

(9) “Sale” and “sell” mean any transfer of an alcoholic beverage for a consideration, any gift of an alcoholic beverage in connection with, or as a part of, a transfer of property other than an alcoholic beverage for a consideration, or the serving of an alcoholic beverage by a club licensed under the Beverage Law.

(10) “Discount in the usual course of business” means a cash or spirituous or vinous beverage merchandise discount given pursuant to an agreement made at the time of sale. However, such agreement shall not result in an accrued, accumulated, or retroactive discount. The same discounts shall be offered to all vendors of the same license series or type buying similar quantities. Any discount which is in violation of this section shall be considered an arrangement for financial assistance by gift.

(11) “Licensed premises” means not only rooms where alcoholic beverages are stored or sold by the licensee, but also all other rooms in the building which are so closely connected therewith as to admit of free passage from drink parlor to other rooms over which the licensee has some dominion or control and shall also include all of the area embraced within the sketch, appearing on or attached to the application for the license involved and designated as such on said sketch, in addition to that included or designated by general law. The area embraced within the sketch may include a sidewalk or other outside area which is contiguous to the licensed premises. When the sketch includes a sidewalk or other outside area, written approval from the county or municipality attesting to compliance with local ordinances must be submitted to the division to authorize inclusion of sidewalks and outside areas in licensed premises. The division may approve applications for temporary expansion of the licensed premises to include a sidewalk or other outside area for special events upon the payment of a \$100 application fee, stipulation of the timeframe for the special event, and submission of a sketch outlining the expanded premises and accompanied by written approval from the county or municipality as required in this subsection. All moneys collected from the fees assessed under this subsection shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund.

(12) “Special airport license” means a vendor license to sell certain alcoholic beverages only on those airport premises which have been designated in the ¹United States National Airport System Plan, 49 U.S.C. s. 1711, as air carrier airports, commuter airports, and reliever airports.

(13) “Airport terminal” means the airport passenger handling facilities or premises publicly owned or leased by a county, municipality, or public authority at airports which have been designated in the ¹United States National Airport System Plan, 49 U.S.C. s. 1711, as air carrier airports, commuter airports, and reliever airports.

(14) “Licensee” means a legal or business entity, person, or persons that hold a license issued by the division and meet the qualifications set forth in s. 561.15.

(15) “Bottle club” means a commercial establishment, operated for a profit, whether or not a profit is actually made, wherein patrons consume alcoholic beverages which are brought onto the premises and not sold or supplied to the patrons by the establishment, whether the patrons bring in and maintain custody of their own alcoholic beverages or surrender custody to the establishment for dispensing on the premises, and which is located in a building or other enclosed permanent structure. This definition does not apply to sporting facilities where events sanctioned by nationally recognized regulatory athletic or sports associations are held, bona fide restaurants licensed by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation whose primary business is the service of full course meals, or hotels and motels licensed by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(16) “Exporter” means any person that sells alcoholic beverages to persons for use outside the state and includes a ship’s chandler and a duty-free shop.

(17) “Performing arts center” means a facility consisting of not less than 200 seats, owned and operated by a not-for-profit corporation qualified as an exempt organization under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1986 or of the corresponding section of a subsequently enacted federal revenue act, which is used and occupied to promote development of any or all of the performing, visual, or fine arts or any or all matters relating thereto and to encourage and cultivate public and professional knowledge and appreciation of the arts through:

(a) The preparation, production, public presentation, or public exhibition of dramatic or musical works, dance, opera, motion pictures, television, music, recordings, or works of fine, performing, or visual arts of any nature;

(b) The conducting of lectures, seminars, classes, or workshops for development of skills or techniques related to the practice or appreciation of any or all of these arts;

(c) The broadcast or telecast of the performing or visual arts through whatever means is desirable, including, but not limited to, television, radio, cable, or the latest state-of-the-art media, equipment, or techniques;

(d) The reproduction of the performing, visual, or fine arts through motion pictures, videotapes, video disks, delayed presentations, sound recordings, or whatever in the future becomes a viable means or state-of-the-art;

(e) The provision of banquet, concession, or other on-premises food and alcoholic and nonalcoholic beverage activities;

(f) The conduct of retail activities reasonably related to the other uses of the facility;

(g) The conduct of fundraising activities reasonably related to the arts;

(h) The provision of auxiliary services for performing or visual artists, educators, students, or the public which are necessary or desirable to promote or facilitate the foregoing uses, including, but not limited to, the publication and dissemination of any or all materials related to the foregoing;

(i) The conduct of rehearsals, conventions, meetings, or commercial or other activities; or

(j) Such other activities for the promotion and development of the arts not described in paragraphs (a)-(i) as the not-for-profit corporation determines, provided that no such activity is inconsistent with or otherwise violates any applicable statute, ordinance, or regulation.

(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 5-mile radius of the theme park complex.

(19) “Common carrier” means any person, firm, or corporation that undertakes for hire, as a regular business, the transportation of persons or commodities from place to place, offering its services to all who choose to employ it and pay its charges.

(20) For purposes of license qualification pursuant to s. 561.20(2)(a)1. the term “historic structure” means a structure that is listed on the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, or is within and contributes to a registered historic district pursuant to 26 U.S.C. s. 48(g)(3)(B), or has been found to meet the criteria of historical significance of the Division of Historical Resources of the Department of State, as certified by that division or by a locally established historic preservation board or commission, or like body, which has been granted authority to designate historically significant properties by the jurisdiction within which the hotel or motel is located.

(21) “Railroad transit station” means a platform or a terminal facility where passenger trains operating on a guided rail system according to a fixed schedule between two or more cities regularly stop to load and unload passengers or goods. The term includes a passenger waiting lounge and dining, retail, entertainment, or recreational facilities within the licensed premises owned or leased by the railroad operator or owner.

History.—s. 13, ch. 16774, 1935; CGL 1936 Supp. 4151(239); s. 1, ch. 18015, 1937; ss. 1, 3A, ch. 19301, 1939; CGL 1940 Supp. 4151(271a,n); s. 1, ch. 21839, 1943; s. 1, ch. 25359, 1949; s. 4, ch. 28149, 1953; s. 1, ch. 29786, 1955; s. 1, ch. 57-420; s. 1, ch. 63-32; s. 1, ch. 67-73; ss. 16, 35, ch. 69-106; s. 213, ch. 71-377; s. 1, ch. 72-230; s. 4, ch. 77-421; s. 1, ch. 78-133; s. 27, ch. 79-4; s. 1, ch. 80-339; s. 2, ch. 80-365; s. 1, ch. 81-158; s. 1, ch. 86-269; s. 1, ch. 90-233; s. 5, ch. 91-60; s. 1, ch. 92-176; s. 1, ch. 92-205; s. 7, ch. 93-220; s. 1, ch. 97-165; s. 7, ch. 97-213; s. 1, ch. 99-216; s. 1, ch. 99-362; s. 3, ch. 2000-191; s. 2, ch. 2016-190; s. 13, ch. 2021-135.

¹**Note.**—49 U.S.C. ss. 1711 et seq., were repealed by Pub. L. No. 97-248, Title V, s. 523(a), 96 Stat. 695.

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 ¹tobacco 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.

History.—s. 1, ch. 16774, 1935; CGL 1936 Supp. 4151(227); s. 1A, ch. 19301, 1939; s. 2, ch. 57-420; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 5, ch. 77-421; s. 212, ch. 94-218; s. 2, ch. 97-165.

¹**Note.**—As enacted by s. 5, ch. 77-421. There is no provision designated as the “tobacco law” in the Florida Statutes.

561.025 Alcoholic Beverage and Tobacco Trust Fund.—There is created within the State Treasury the Alcoholic Beverage and Tobacco Trust Fund. All funds collected by the division under ss. 210.15, 210.40, or under s. 569.003 and the Beverage Law with the exception of state funds collected pursuant to ss. 563.05, 564.06, and 565.12 shall be deposited in the State Treasury to the credit of the trust fund, notwithstanding any other provision of law to the contrary. Moneys deposited to the credit of the trust fund shall be used to operate the division and to provide a proportionate share of the operation of the office of the secretary and the Division of Administration of the Department of Business and Professional Regulation; except that:

- (1) The revenue transfer provisions of ss. 561.32 and 561.342(1) and (2) shall continue in full force and effect, and the division shall cause such revenue to be returned to the municipality or county in the manner provided for in s. 561.32 or s. 561.342(1) and (2); and
- (2) Ten percent of the revenues derived from retail tobacco products dealer permit fees collected under s. 569.003 shall be transferred to the Department of Education to provide for teacher training and for research and evaluation to reduce and prevent the use of tobacco products by children.

History.—s. 21, ch. 86-269; s. 3, ch. 89-293; s. 3, ch. 90-233; s. 10, ch. 92-285; s. 1, ch. 93-134; s. 213, ch. 94-218; s. 20, ch. 94-353; s. 70, ch. 97-190; s. 2, ch. 97-213; s. 6, ch. 2006-162.

561.027 Federal Law Enforcement Trust Fund.—

(1) The Federal Law Enforcement Trust Fund is created within the Department of Business and Professional Regulation. The department may deposit into the trust fund receipts and revenues received as a result of federal criminal, administrative, or civil forfeiture proceedings and receipts and revenues received from federal asset-sharing programs. The trust fund is exempt from the service charges imposed by s. 215.20.

(2) Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.

History.—s. 1, ch. 98-392; s. 2, ch. 2002-157.

561.051 Reporting requirements of director.—The director of the division shall promptly report and remit to the Chief Financial Officer all taxes and fees collected by him or her hereunder.

History.—s. 1, ch. 72-230; s. 15, ch. 79-11; s. 839, ch. 97-103; s. 40, ch. 98-34; s. 731, ch. 2003-261.

561.08 Enforcement of Beverage Law; division to prescribe forms.—The division shall enforce the provisions of the Beverage Law and cigarette tax law and perform such other acts as may be necessary to carry out the provisions thereof, and the division shall prescribe forms of bonds, reports, and other papers, to be used under and in the execution and enforcement of the provisions of the Beverage Law and the cigarette tax law.

History.—s. 1, ch. 16774, 1935; CGL 1936 Supp. 4151(227); s. 1A, ch. 19301, 1939; s. 7, ch. 57-420; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230.

561.11 Power and authority of division.—

(1) The division has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of the Beverage Law.

(2) The division shall have full power and authority to appoint division personnel and provide for the continuous training and upgrading of all such personnel in their respective positions with the division. Notwithstanding any law to the contrary, chiefs, assistant chiefs, regional managers including majors, and district and office managers including captains shall be assigned to the Selected Exempt Service and their salaries and benefits shall be set by the Department of Management Services in accordance with the rules of the Selected Exempt Service under part V of chapter 110. The training shall include the attendance of such personnel at workshops, seminars, or special schools established by the division or other organizations when attendance at such educational programs shall in the opinion of the division be deemed appropriate to the particular position that the employee holds.

History.—s. 1, ch. 16774, 1935; CGL 1936 Supp. 4151(227); s. 2, ch. 18015, 1937; s. 1A, ch. 19301, 1939; CGL 1940 Supp. 4151(271b); s. 4, ch. 22663, 1945; s. 132, ch. 26869, 1951; s. 9, ch. 57-420; s. 1, ch. 63-26; s. 1, ch. 67-366; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 9, ch. 78-95; s. 16, ch. 79-11; s. 186, ch. 98-200; s. 1, ch. 2017-137.

561.1105 Inspection of licensed premises; coin-operated amusement machines.—In conducting inspections of establishments licensed under the Beverage Law, the division shall determine if each coin-operated amusement machine that is operated on the licensed premises is properly registered with the Department of Revenue. Each month, the division shall report to the Department of Revenue the sales tax registration number of the operator of any licensed premises that has on location a coin-operated amusement machine and that does not have an identifying certificate conspicuously displayed as required by s. 212.05(1)(h).

History.—s. 20, ch. 94-314; s. 5, ch. 95-416; s. 67, ch. 2000-154; s. 12, ch. 2002-48.

561.111 Payment of taxes by electronic funds transfer.—The Secretary of Business and Professional Regulation may require a person who manufactures or distributes alcoholic beverages within the state to remit by electronic funds transfer any tax imposed under chapter 563, chapter 564, or chapter 565 if the taxpayer is subject to tax and if the total of such taxes he or she paid in the prior year amounted to \$50,000 or more.

History.—s. 6, ch. 89-153; s. 30, ch. 89-356; s. 214, ch. 94-218; s. 840, ch. 97-103.

561.121 Deposit of revenue.—

(1) All state funds collected pursuant to ss. 563.05, 564.06, 565.02(9), and 565.12 shall be paid into the State Treasury and disbursed in the following manner:

(a) Two percent of monthly collections of the excise taxes on alcoholic beverages established in ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund to meet the division's appropriation for the state fiscal year.

(b) The remainder of the funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be credited to the General Revenue Fund.

(2) The unencumbered balance in the Alcoholic Beverage and Tobacco Trust Fund at the close of each fiscal year may not exceed \$2 million. These funds shall be held in reserve for use in the event that trust fund revenues are unable to meet the division's appropriation for the next fiscal year. In the event of a revenue shortfall, these funds shall be spent pursuant to subsection (3). Notwithstanding subsection (1), if the unencumbered balance on

June 30 in any fiscal year is less than \$2 million, the department is authorized to retain the difference between the June 30 unencumbered balance in the trust fund and \$2 million from the July collections of state funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9). Any unencumbered funds in excess of reserve funds shall be transferred unallocated to the General Revenue Fund by August 31 of the next fiscal year.

(3) Funds deposited into the Alcoholic Beverage and Tobacco Trust Fund pursuant to subsection (1) shall be used for administration and enforcement of chapters 210, 561, 562, 563, 564, 565, 567, 568, and 569.

History.—s. 21, ch. 94-353; s. 3, ch. 97-213; s. 250, ch. 99-8; s. 15, ch. 99-239; s. 2, ch. 2000-354; s. 4, ch. 2001-380; ss. 15, 79, ch. 2002-402; s. 23, ch. 2003-399; s. 3, ch. 2004-2; s. 5, ch. 2004-269; s. 17, ch. 2006-2; ss. 1, 2, ch. 2006-162; s. 11, ch. 2006-182; s. 16, ch. 2009-20; s. 20, ch. 2016-220.

561.1211 Credit for contributions to eligible nonprofit scholarship-funding organizations.—There is allowed a credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship-funding organization under s. 1002.395 against any tax due under s. 563.05, s. 564.06, or s. 565.12, except excise taxes imposed on wine produced by manufacturers in this state from products grown in this state. However, a credit allowed under this section may not exceed 90 percent of the tax due on the return the credit is taken. For purposes of the distributions of tax revenue under ss. 561.121 and 564.06(10), the division shall disregard any tax credits allowed under this section to ensure that any reduction in tax revenue received that is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund. The provisions of s. 1002.395 apply to the credit authorized by this section.

History.—s. 10, ch. 2010-24.

¹561.1212 Credit for contributions to the New Worlds Reading Initiative.—Beginning January 1, 2022, there is allowed a credit of 100 percent of an eligible contribution made to the New Worlds Reading Initiative under s. 1003.485 against any tax due under s. 563.05, s. 564.06, or s. 565.12, except excise taxes imposed on wine produced by manufacturers in this state from products grown in this state. However, a credit allowed under this section may not exceed 90 percent of the tax due on the return on which the credit is taken. For purposes of the distributions of tax revenue under ss. 561.121 and 564.06(10), the division shall disregard any tax credits allowed under this section to ensure that any reduction in tax revenue received which is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund. The provisions of s. 1003.485 apply to the credit authorized by this section.

History.—s. 8, ch. 2021-193.

¹Note.—Section 12, ch. 2021-193, provides that “[t]he Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under s. 120.54(4), Florida Statutes, for the purpose of implementing provisions related to the New Worlds Reading Initiative Tax Credit created by this act. Notwithstanding any other law, emergency rules adopted under this section are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.”

¹561.1213 Credit for contributions to eligible charitable organizations.—Beginning January 1, 2022, there is allowed a credit of 100 percent of an eligible contribution made to an eligible charitable organization under s. 402.62 against any tax due under s. 563.05, s. 564.06, or s. 565.12, except excise taxes imposed on wine produced by manufacturers in this state from products grown in this state. However, a credit allowed under this section may not exceed 90 percent of the tax due on the return on which the credit is taken. For purposes of the distributions of tax revenue under ss. 561.121 and 564.06(10), the division shall disregard any tax credits allowed under this section to ensure that any reduction in tax revenue received which is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund. The provisions of s. 402.62 apply to the credit authorized by this section.

History.—s. 40, ch. 2021-31.

¹Note.—Section 51, ch. 2021-31, provides that:

“(1) The Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing:

“(a) The amendment made by this act to s. 212.06, Florida Statutes;

- “(b) The provisions related to the Strong Families Tax Credit created by this act; and
- “(c) The provisions related to the Florida Internship Tax Credit Program created by this act.
- “(2) Notwithstanding any other law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.
- “(3) This section shall take effect upon this act becoming a law and expires January 1, 2025.”

1561.14 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) shall sell and distribute such beverages at wholesale only to other manufacturers and to licensed distributors and to no one else within this state.

(2) Distributors licensed to sell and distribute alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages.

(3) Vendors licensed to sell alcoholic beverages at retail only. No vendor shall purchase or acquire in any manner for the purpose of resale any alcoholic beverages from any person not licensed as a vendor, manufacturer, bottler, or distributor under the Beverage Law. Purchases of alcoholic beverages by vendors from vendors shall be strictly limited to purchases between members of a pool buying group for which the initial purchase of the alcoholic beverages was ordered by a pool buying agent as a single transaction. No vendor shall be a member of more than one cooperative or pool buying group at any time. No vendor shall import, or engage in the importation of, any alcoholic beverages from places beyond the limits of the state.

(4) Brokers or sales agents, whether resident or nonresident, licensed to sell, or to cause to be sold, shipped, and invoiced, alcoholic beverages to licensed manufacturers or licensed distributors, and to no one else, in this state. Such licensed brokers or sales agents, except as relates to malt beverages, only shall represent one or more primary American sources of supply, registered as such with the division, and may be compensated on a commission or remuneration basis and shall have no direct or indirect affiliation with any vendor licensed in this state. This license classification does not include manufacturers’ representatives who are registered with the division under the provisions of ss. 564.045(1) and (2) and 565.095(1) and (2).

(5) Importers, whether resident or nonresident, licensed to sell, or to cause to be sold, shipped, and invoiced, alcoholic beverages to licensed manufacturers or licensed distributors, and to no one else, in this state; provided that the provisions of ss. 564.045 and 565.095 are in no way violated by such imports. Such licensed importers shall have no direct or indirect affiliation with any vendor licensed in this state. The holder of an importer’s license shall be considered as having complied with the licensing requirements of a broker or sales agent. This license classification does not include manufacturers’ representatives who are registered with the division under the provisions of ss. 564.045(1) and (2) and 565.095(1) and (2).

(6) Bottle clubs. It is the finding of the Legislature that bottle clubs are susceptible to a distinct and separate classification under the Beverage Law for purposes of regulating establishments permitting the consumption of alcoholic beverages. Any person operating a bottle club must be licensed pursuant to this chapter and may not hold any other alcoholic beverage license for such premises while licensed as a bottle club. Nothing in this subsection shall be construed to permit the purchase at wholesale or retail of alcoholic beverages for supplying or reselling to the patrons pursuant to a license issued under this chapter. Any such business shall be subject to all general, special, and local laws regulating vendors of alcoholic beverages. Bottle club licenses shall be issued at a fee of \$500 annually and shall be renewed in accordance with the schedule set out in ss. 561.26 and 561.27. This subsection shall include bottle clubs in existence on January 1, 1991. The Division of Alcoholic Beverages and Tobacco is hereby authorized to adopt rules to carry out the purposes of this section.

(7) Exporters registered to sell alcoholic beverages.

History.—s. 4, ch. 16774, 1935; CGL 1936 Supp. 4151(230); s. 1, ch. 19499, 1939; s. 2, ch. 25359, 1949; s. 10, ch. 26484, 1951; s. 11, ch. 57-420; s. 1, ch. 63-562; s. 1, ch. 72-230; s. 1, ch. 72-272; s. 5, ch. 79-163; s. 14, ch. 81-158; s. 3, ch. 83-79; s. 1, ch. 85-62; s. 4, ch. 89-361; s. 2, ch. 90-233; s. 6, ch. 91-60; s. 3, ch. 95-346; s. 3, ch. 2013-157.

¹**Note.**—Section 6(1), ch. 2013-157, provides that “[t]he 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.”

¹561.15 Licenses; qualifications required.—

(1) Licenses shall be issued only to persons of good moral character who are not less than 21 years of age. Licenses to corporations shall be issued only to corporations whose officers are of good moral character and not less than 21 years of age. There shall be no exemptions from the license taxes herein provided to any person, association of persons, or corporation, any law to the contrary notwithstanding.

(2) No license under the Beverage Law shall be issued to any person who has been convicted within the last past 5 years of any offense against the beverage laws of this state, the United States, or any other state; who has been convicted within the last past 5 years in this state or any other state or the United States of soliciting for prostitution, pandering, letting premises for prostitution, or keeping a disorderly place or of any criminal violation of chapter 893 or the controlled substance act of any other state or the Federal Government; or who has been convicted in the last past 15 years of any felony in this state or any other state or the United States; or to a corporation, any of the officers of which shall have been so convicted. The term “conviction” shall include an adjudication of guilt on a plea of guilty or nolo contendere or the forfeiture of a bond when charged with a crime.

(3) The division may suspend or revoke the license under the Beverage Law of, or may refuse to issue a license under the Beverage Law to:

(a) Any person, firm, or corporation the license of which under the Beverage Law has been revoked or has been abandoned after written notice that revocation or suspension proceedings had been or would be brought against the license;

(b) Any corporation if an officer, director, or person interested directly or indirectly in the corporation has had her or his license under the Beverage Law revoked or has abandoned her or his license after written notice that revocation or suspension proceedings had been or would be brought against her or his license; or

(c) Any person who is or has been an officer of a corporation, or who was interested directly or indirectly in a corporation, the license of which has been revoked or abandoned after written notice that revocation or suspension proceedings had been or would be brought against the license.

Any license issued to a person, firm, or corporation that would not qualify for the issuance of a new license or the transfer of an existing license may be revoked by the division. However, any company regularly traded on a national securities exchange and not over the counter; any insurer, as defined in the Florida Insurance Code; or any bank or savings and loan association chartered by this state, another state, or the United States which has an interest, directly or indirectly, in an alcoholic beverage license shall not be required to obtain division approval of its officers, directors, or stockholders or any change of such positions or interests. Any such company, insurer, bank, or savings and loan association which has a direct or indirect interest or which has an ownership interest in the business sought to be licensed, but which does not operate that business, may elect to place the license solely in the name of the operator. The operator’s license application shall list the direct, indirect, or ownership interest and the names of the officers, directors, stockholders, or partners of such company, insurer, bank, or association. A shopping center with five or more stores, one or more of which has an alcoholic beverage license and is required under a lease common to all shopping center tenants to pay no more than 10 percent of the gross proceeds of the business holding the license to the shopping center, shall not be considered as having an interest, directly or indirectly, in the license. A performing arts center, as defined in s. 561.01, which has an interest, directly or indirectly, in an alcoholic beverage license is not required to obtain division approval of its volunteer officers or directors or of any change in such positions or interests.

(4) If a corporation is unable to qualify for or continue to hold an alcoholic beverage license because the corporation has been convicted of a felony and the felony conviction is unrelated to any offense against the

beverage laws of this state, any other state, or the United States, such conviction will not constitute an absolute bar to the issuance, renewal, or transfer of an alcoholic beverage license to the corporation, or to the continued holding of an alcoholic beverage license by the corporation, if the corporation can demonstrate to the satisfaction of the division, in a public hearing under ss. 120.569 and 120.57, that the corporation has terminated its relationship with any director, officer, employee, or controlling shareholder whose actions directly contributed to the conviction of the corporation. If a corporation is unable to qualify for or continue to hold an alcoholic beverage license because an officer of the corporation has been convicted of an offense enumerated in subsection (2), such conviction will not constitute an absolute bar to the issuance, renewal, or transfer of a license to the corporation, or to the continued holding of an alcoholic beverage license by the corporation, if the corporation can demonstrate to the satisfaction of the division that the corporation has terminated its relationship with the officer so convicted. If any corporation has received a full pardon or restoration of civil rights pursuant to state law with respect to any conviction of a violation of law, the conviction does not constitute an absolute bar to the issuance, renewal, or transfer of a license or grounds for revocation or suspension of a license. The division shall annually report to the offices of the President of the Senate and the Speaker of the House of Representatives all agency actions taken pursuant to the provisions of this subsection.

History.—s. 3, ch. 16774, 1935; CGL 1936 Supp. 4151(229); s. 12, ch. 57-420; s. 1, ch. 61-219; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 48, ch. 77-121; s. 3, ch. 77-471; s. 1, ch. 80-74; s. 1, ch. 81-166; s. 1, ch. 84-262; s. 2, ch. 85-62; ss. 1, 6, 8, ch. 85-285; s. 1, ch. 89-309; s. 255, ch. 96-410; s. 1178, ch. 97-103; s. 1, ch. 2011-150.

¹**Note.**—As amended by s. 1, ch. 85-285; s. 6, ch. 85-285, in pertinent part provides that “[i]n the event that a federal court of last resort determines that it is unconstitutional for the Federal Government to withhold transportation funds from the state because the legal age of the sale, consumption, or possession of alcoholic beverages is under 21 years of age or if federal legislation is enacted to allow the drinking age to be lowered or modified from 21 years of age, it is the intent of the Legislature that the amendments to [this section] contained in this act shall be null and void and that [this section reverts] to the language existing . . . on June 30, 1985.”

561.17 License and registration applications; approved person.—

(1) Any person, before engaging in the business of manufacturing, bottling, distributing, selling, or in any way dealing in alcoholic beverages, shall file, with the district licensing personnel of the district of the division in which the place of business for which a license is sought is located, a sworn application in the format prescribed by the division. The applicant must be a legal or business entity, person, or persons and must include all persons, officers, shareholders, and directors of such legal or business entity that have a direct or indirect interest in the business seeking to be licensed under this part. However, the applicant does not include any person that derives revenue from the license solely through a contractual relationship with the licensee, the substance of which contractual relationship is not related to the control of the sale of alcoholic beverages. Before any application is approved, the division may require the applicant to file a set of fingerprints electronically through an approved electronic fingerprinting vendor or on forms prescribed by the Florida Department of Law Enforcement for herself or himself and for any person or persons interested directly or indirectly with the applicant in the business for which the license is being sought, when required by the division. If the applicant or any person who is interested with the applicant either directly or indirectly in the business or who has a security interest in the license being sought or has a right to a percentage payment from the proceeds of the business, either by lease or otherwise, is not qualified, the division shall deny the application. However, any company regularly traded on a national securities exchange and not over the counter; any insurer, as defined in the Florida Insurance Code; or any bank or savings and loan association chartered by this state, another state, or the United States which has an interest, directly or indirectly, in an alcoholic beverage license is not required to obtain the division’s approval of its officers, directors, or stockholders or any change of such positions or interests. A shopping center with five or more stores, one or more of which has an alcoholic beverage license and is required under a lease common to all shopping center tenants to pay no more than 10 percent of the gross proceeds of the business holding the license to the shopping center, is not considered as having an interest, directly or indirectly, in the license. A performing arts center, as defined in s. 561.01, which has an interest, directly or indirectly, in an alcoholic beverage license is not required to obtain division approval of its volunteer officers or directors or of any change in such positions or interests.

(2) All applications for any alcoholic beverage license must be accompanied by proof of the applicant's right of occupancy for the entire premises sought to be licensed. All applications for alcoholic beverage licenses for consumption on the premises shall be accompanied by a certificate of the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, the Department of Agriculture and Consumer Services, the Department of Health, the Agency for Health Care Administration, or the county health department that the place of business wherein the business is to be conducted meets all of the sanitary requirements of the state.

(3) A transfer of 10 percent of any financial interest, a change of executive officers or directors, or a divestiture or resignation of such interest or position, in a business holding a vendor's license permitting the sale of any alcoholic beverages regardless of alcoholic content shall be contingent upon the express approval by the division of the persons holding or acquiring such interest or position except for persons exempted in subsection (1).

(4) Any person, before engaging in the business of exporting alcoholic beverages, must file with the district supervisor of the district of the division in which the exporter's business is located, a registration on forms provided to the district supervisor by the division. An exporter may not register unless she or he has complied with all appropriate federal regulations, including federal permitting regulations.

(5) Any person or entity licensed or permitted by the division must provide an electronic mail address to the division to function as the primary contact for all communication by the division to the licensee or permittee.

Licensees and permittees are responsible for maintaining accurate contact information on file with the division.

History.—s. 2, ch. 16774, 1935; CGL 1936 Supp. 4151(228); s. 5, ch. 22663, 1945; s. 4, ch. 25359, 1949; s. 3, ch. 29786, 1955; s. 14, ch. 57-420; s. 1, ch. 59-316; ss. 16, 19, 35, ch. 69-106; s. 1, ch. 72-230; s. 459, ch. 77-147; s. 2, ch. 77-192; s. 2, ch. 81-166; s. 3, ch. 90-17; s. 7, ch. 91-60; s. 215, ch. 94-218; s. 4, ch. 95-346; s. 841, ch. 97-103; s. 251, ch. 99-8; s. 4, ch. 2000-191; s. 41, ch. 2010-106; s. 2, ch. 2011-150; s. 2, ch. 2017-137; s. 14, ch. 2021-135.

561.18 License investigation.—After the application has been filed with the local district office supervisor, the district supervisor shall cause the application to be fully investigated, both as to qualifications of the applicants and a manager or person to be in charge and the premises and location sought to be licensed, except that, in the event of any licenses issued pursuant to s. 561.19(2), the division shall cause only those applications selected by public drawing in the order selected to be fully investigated.

History.—s. 2, ch. 16774, 1935; CGL 1936 Supp. 4151(228); s. 5, ch. 25359, 1949; s. 15, ch. 57-420; s. 2, ch. 59-316; s. 1, ch. 72-230; s. 2, ch. 81-158.

561.181 Temporary initial licenses.—

(1)(a) When any person has filed a properly completed application which does not on its face disclose any reason for denying an alcoholic beverage license, the division shall issue to such person a temporary initial license of the same type and series for which the application has been submitted, to be valid for all purposes under the Beverage Law, except as provided in paragraph (b).

(b) A license issued under this section entitles a vendor to purchase alcoholic beverages for cash only. This paragraph does not apply:

1. If the entity holding the temporary initial license is also the holder of a beverage license authorizing the purchase of the same type of alcoholic beverages as is authorized under the temporary license.

2. To purchases made as part of a single-transaction cooperative purchase placed by a pool buying agent.

(2) A temporary initial license shall expire and shall not be continued or extended beyond the date the division denies the application for license, beyond 14 days after the date the division approves the application for license, or beyond the date the applicant pays the license fee for and the division issues the license applied for, whichever date occurs first. If the department issues a notice of intent to deny the license application for failure of the applicant to disclose the information required by s. 561.15(2) or (4), the initial temporary license expires and shall not be extended during any proceeding for administrative or judicial review pursuant to chapter 120.

(3) Each applicant seeking a temporary initial license shall pay to the division for such license a fee equal to one-fourth of the annual license fee for the type and series of license being applied for or \$100, whichever is greater, which fee shall be deposited into the General Revenue Fund.

History.—s. 2, ch. 84-262; s. 5, ch. 95-346; s. 5, ch. 2000-191.

561.19 License issuance upon approval of division.—

(1) Upon the completion of the investigation of an application, the division shall approve or disapprove the application. If approved, the license shall be issued upon payment to the division of the license tax hereinafter provided.

(2)(a) When beverage licenses become available by reason of an increase in the population of a county, by reason of a county permitting the sale of intoxicating beverages when such sale had been prohibited, or by reason of the cancellation or revocation of a quota beverage license, the division, if there are more applicants than the number of available licenses, shall provide a method of double random selection by public drawing to determine which applicants shall be considered for issuance of licenses. The double random selection drawing method shall allow each applicant whose application is complete and does not disclose on its face any matter rendering the applicant ineligible an equal opportunity of obtaining an available license. After all applications are filed with the director, the director shall then determine by random selection drawing the order in which each applicant's name shall be matched with a number selected by random drawing, and that number shall determine the order in which the applicant will be considered for a license. This paragraph does not prohibit a person holding a perfected lien or security interest in a quota alcoholic beverage license, in accordance with s. 561.65, from enforcing the lien or security interest against the license within 180 days after a final order of revocation or suspension. A revoked quota alcoholic beverage license encumbered by a lien or security interest, perfected pursuant to s. 561.65, may not be issued under this subsection until the 180-day period has elapsed or until such enforcement proceeding is final.

(b) Any portion of the drawing results of a particular county which reveals the rank order of persons not receiving notice of selection is confidential and exempt from the provisions of s. 119.07(1), until such time as all of the licenses from that county's drawing have been issued.

(c) Subject to this selection process, an applicant shall, after a drawing is held, have 45 days from the date the division mails the notice of selection to file an application on forms provided by the division and if such applicant is found by the division to be qualified, a license shall be issued. The application shall be filed pursuant to s. 561.17, and the license shall be issued upon the payment of the applicable license fees. If the applicant is not prepared to use the license at a business location, the license shall be held in an inactive status by the division, and the licensee shall be required to activate the license at a location in accordance with s. 561.29. Nothing contained herein, however, shall prohibit the division from revoking a license issued to a person, firm, or corporation that would not qualify for the issuance of a new license or the transfer of an existing license.

(d) The director shall not include more than one application from any one person, firm, or corporation in the random selection process, nor may she or he consider more than one application for any one person, firm, or corporation when there are fewer applications than available licenses.

(e) Each applicant for inclusion in the drawing shall pay to the division a filing fee of \$100.

(3) In the event that the number of applications does not exceed the number of licenses available, the drawing provided in subsection (2) shall not be held, but the licenses shall be issued in accordance with the provisions of subsection (2).

(4) The issuance of licenses pursuant to subsection (2) or subsection (3) shall not be governed by the provisions of s. 120.60. The issuance of any such license shall occur no later than 180 days after a drawing is held pursuant to notice published in the Florida Administrative Register or, in the event no drawing is held, within 180 days of the final date for filing applications. Any applicant who is not included in the pool for drawing to determine priority shall file, within 30 days of the date of mailing of notice to such applicant, a challenge to such action pursuant to ss. 120.569 and 120.57, or the right to file any action as to such matter shall be forever lost. Any applicant whose name is included in the pool for drawing to determine priority but who is not issued a license shall be entitled to request a hearing on the denial pursuant to ss. 120.569 and 120.57 only on the grounds that the selection process was not conducted in accordance with law or that the licensee selected does not possess the qualifications required by law.

(5) A fee of \$10,750 shall be collected from each person, firm, or corporation that is issued a new liquor license subject to the limitation imposed in s. 561.20(1) as provided in this section. This initial license fee shall not be imposed on any license renewal and shall be in addition to the license fees imposed by s. 565.02. The revenues

collected from the initial license fee imposed by this subsection shall be deposited in the Department of Children and Families' Operations and Maintenance Trust Fund to be used only for alcohol and drug abuse education, treatment, and prevention programs.

(6) The state license tax shall be collected by the division, and the division shall return the county and municipal share pursuant to s. 561.342 to the appropriate county and municipality monthly on or before the 10th day of the month succeeding the beginning of the taxable year and quarterly thereafter.

History.—s. 2, ch. 16774, 1935; CGL 1936 Supp. 4151(228); s. 6, ch. 25359, 1949; s. 16, ch. 57-420; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 9, ch. 78-95; s. 28, ch. 79-4; s. 3, ch. 81-158; s. 3, ch. 84-262; s. 3, ch. 88-308; s. 4, ch. 89-293; s. 1, ch. 92-91; s. 2, ch. 92-176; s. 2, ch. 93-134; s. 6, ch. 95-346; s. 346, ch. 96-406; s. 256, ch. 96-410; s. 1179, ch. 97-103; s. 252, ch. 99-8; s. 1, ch. 2003-20; s. 50, ch. 2013-14; s. 277, ch. 2014-19; s. 15, ch. 2021-135.

561.20 Limitation upon number of licenses issued.—

(1) No license under s. 565.02(1)(a)-(f), inclusive, shall be issued so that the number of such licenses within the limits of the territory of any county exceeds one such license to each 7,500 residents within such county. Regardless of the number of quota licenses issued prior to October 1, 2000, on and after that date, a new license under s. 565.02(1)(a)-(f), inclusive, shall be issued for each population increase of 7,500 residents above the number of residents who resided in the county according to the April 1, 1999, Florida Estimate of Population as published by the Bureau of Economic and Business Research at the University of Florida, and thereafter, based on the last regular population estimate prepared pursuant to s. 186.901, for such county. Such population estimates shall be the basis for annual license issuance regardless of any local acts to the contrary. However, such limitation shall not prohibit the issuance of at least three licenses in any county that may approve the sale of intoxicating liquors in such county.

(2)(a) The limitation of the number of licenses as provided in this section does not prohibit the issuance of a special license to:

1. Any bona fide hotel, motel, or motor court of not fewer than 80 guest rooms in any county having a population of less than 50,000 residents, and of not fewer than 100 guest rooms in any county having a population of 50,000 residents or greater; or any bona fide hotel or motel located in a historic structure, as defined in s. 561.01(20), with fewer than 100 guest rooms which derives at least 51 percent of its gross revenue from the rental of hotel or motel rooms, which is licensed as a public lodging establishment by the Division of Hotels and Restaurants; provided, however, that a bona fide hotel or motel with no fewer than 10 and no more than 25 guest rooms which is a historic structure, as defined in s. 561.01(20), in a municipality that on the effective date of this act has a population, according to the University of Florida's Bureau of Economic and Business Research Estimates of Population for 1998, of no fewer than 25,000 and no more than 35,000 residents and that is within a constitutionally chartered county may be issued a special license. This special license shall allow the sale and consumption of alcoholic beverages only on the licensed premises of the hotel or motel. In addition, the hotel or motel must derive at least 60 percent of its gross revenue from the rental of hotel or motel rooms and the sale of food and nonalcoholic beverages; provided that this subparagraph shall supersede local laws requiring a greater number of hotel rooms;

2. Any condominium accommodation of which no fewer than 100 condominium units are wholly rentable to transients and which is licensed under chapter 509, except that the license shall be issued only to the person or corporation that operates the hotel or motel operation and not to the association of condominium owners;

3. Any condominium accommodation of which no fewer than 50 condominium units are wholly rentable to transients, which is licensed under chapter 509, and which is located in any county having home rule under s. 10 or s. 11, Art. VIII of the State Constitution of 1885, as amended, and incorporated by reference in s. 6(e), Art. VIII of the State Constitution, except that the license shall be issued only to the person or corporation that operates the hotel or motel operation and not to the association of condominium owners;

4. A bona fide food service establishment that has a minimum of 2,000 square feet of service area, is equipped to serve meals to 120 persons at one time, has at least 120 physical seats available for patrons to use during operating hours, holds itself out as a restaurant, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 120-day operating period and the first

12-month operating period thereafter. Subsequent audit timeframes must be based upon the audit percentage established by the most recent audit and conducted on a staggered scale as follows: level 1, 51 percent to 60 percent, every year; level 2, 61 percent to 75 percent, every 2 years; level 3, 76 percent to 90 percent, every 3 years; and level 4, 91 percent to 100 percent, every 4 years. A licensee under this subparagraph may sell or deliver alcoholic beverages in a sealed container for off-premises consumption if the sale or delivery is accompanied by the sale of food within the same order. Such authorized sale or delivery includes wine-based and liquor-based beverages prepared by the licensee or its employee and packaged in a container sealed by the licensee or its employee. This subparagraph may not be construed to authorize public food service establishments licensed under this subparagraph to sell a bottle of distilled spirits sealed by a manufacturer. Any sale or delivery of malt beverages must comply with the container size, labeling, and filling requirements imposed under s. 563.06. Any delivery of an alcoholic beverage under this subparagraph must comply with s. 561.57. An alcoholic beverage drink prepared by the vendor and sold or delivered for consumption off the premises must be placed in a container securely sealed by the licensee or its employees with an unbroken seal that prevents the beverage from being immediately consumed before removal from the premises. Such alcoholic beverage also must be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the alcoholic beverage and food must be provided by the licensee and attached to the bag or container. If transported in a motor vehicle, an alcoholic beverage that is not in a container sealed by the manufacturer must be placed in a locked compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle. It is a violation of the prohibition in s. 562.11 to allow any person under the age of 21 to deliver alcoholic beverages on behalf of a vendor. The vendor or the agent or employee of the vendor must verify the age of the person making the delivery of the alcoholic beverage before allowing any person to take possession of an alcoholic beverage for the purpose of making a delivery on behalf of a vendor under this section. A food service establishment granted a special license on or after January 1, 1958, pursuant to general or special law may not operate as a package store and may not sell intoxicating beverages under such license after the hours of serving or consumption of food have elapsed. Failure by a licensee to meet the required percentage of food and nonalcoholic beverage gross revenues during the covered operating period shall result in revocation of the license or denial of the pending license application. A licensee whose license is revoked or an applicant whose pending application is denied, or any person required to qualify on the special license application, is ineligible to have any interest in a subsequent application for such a license for a period of 120 days after the date of the final denial or revocation;

5. Any caterer, deriving at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages at each catered event, licensed by the Division of Hotels and Restaurants under chapter 509. This subparagraph does not apply to a culinary education program, as defined in s. 381.0072(2), which is licensed as a public food service establishment by the Division of Hotels and Restaurants and provides catering services. Notwithstanding any law to the contrary, a licensee under this subparagraph shall sell or serve alcoholic beverages only for consumption on the premises of a catered event at which the licensee is also providing prepared food, and shall prominently display its license at any catered event at which the caterer is selling or serving alcoholic beverages. A licensee under this subparagraph shall purchase all alcoholic beverages it sells or serves at a catered event from a vendor licensed under s. 563.02(1), s. 564.02(1), or licensed under s. 565.02(1) subject to the limitation imposed in subsection (1), as appropriate. A licensee under this subparagraph may not store any alcoholic beverages to be sold or served at a catered event. Any alcoholic beverages purchased by a licensee under this subparagraph for a catered event that are not used at that event must remain with the customer; provided that if the vendor accepts unopened alcoholic beverages, the licensee may return such alcoholic beverages to the vendor for a credit or reimbursement. Regardless of the county or counties in which the licensee operates, a licensee under this subparagraph shall pay the annual state license tax set forth in s. 565.02(1)(b). A licensee under this subparagraph must maintain for a period of 3 years all records and receipts for each catered event, including all contracts, customers' names, event locations, event dates, food purchases and sales, alcoholic beverage purchases and sales, nonalcoholic beverage purchases and sales, and any other records required by the department by rule to demonstrate compliance with the requirements of this subparagraph. Notwithstanding any law to the contrary, any

vendor licensed under s. 565.02(1) subject to the limitation imposed in subsection (1), may, without any additional licensure under this subparagraph, serve or sell alcoholic beverages for consumption on the premises of a catered event at which prepared food is provided by a caterer licensed under chapter 509. If a licensee under this subparagraph also possesses any other license under the Beverage Law, the license issued under this subparagraph may not authorize the holder to conduct activities on the premises to which the other license or licenses apply that would otherwise be prohibited by the terms of that license or the Beverage Law. This section does not permit the licensee to conduct activities that are otherwise prohibited by the Beverage Law or local law. The Division of Alcoholic Beverages and Tobacco is hereby authorized to adopt rules to administer the license created in this subparagraph, to include rules governing licensure, recordkeeping, and enforcement. The first \$300,000 in fees collected by the division each fiscal year pursuant to this subparagraph shall be deposited in the Department of Children and Families' Operations and Maintenance Trust Fund to be used only for alcohol and drug abuse education, treatment, and prevention programs. The remainder of the fees collected shall be deposited into the Hotel and Restaurant Trust Fund created pursuant to s. 509.072; or

6. A culinary education program as defined in s. 381.0072(2) which is licensed as a public food service establishment by the Division of Hotels and Restaurants.

a. This special license shall allow the sale and consumption of alcoholic beverages on the licensed premises of the culinary education program. The culinary education program shall specify designated areas in the facility where the alcoholic beverages may be consumed at the time of application. Alcoholic beverages sold for consumption on the premises may be consumed only in areas designated under s. 561.01(11) and may not be removed from the designated area. Such license shall be applicable only in and for designated areas used by the culinary education program.

b. If the culinary education program provides catering services, this special license shall also allow the sale and consumption of alcoholic beverages on the premises of a catered event at which the licensee is also providing prepared food. A culinary education program that provides catering services is not required to derive at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages. Notwithstanding any law to the contrary, a licensee that provides catering services under this sub-subparagraph shall prominently display its beverage license at any catered event at which the caterer is selling or serving alcoholic beverages. Regardless of the county or counties in which the licensee operates, a licensee under this sub-subparagraph shall pay the annual state license tax set forth in s. 565.02(1)(b). A licensee under this sub-subparagraph must maintain for a period of 3 years all records required by the department by rule to demonstrate compliance with the requirements of this sub-subparagraph.

c. If a licensee under this subparagraph also possesses any other license under the Beverage Law, the license issued under this subparagraph does not authorize the holder to conduct activities on the premises to which the other license or licenses apply that would otherwise be prohibited by the terms of that license or the Beverage Law. This subparagraph does not permit the licensee to conduct activities that are otherwise prohibited by the Beverage Law or local law. Any culinary education program that holds a license to sell alcoholic beverages shall comply with the age requirements set forth in ss. 562.11(4), 562.111(2), and 562.13.

d. The Division of Alcoholic Beverages and Tobacco may adopt rules to administer the license created in this subparagraph, to include rules governing licensure, recordkeeping, and enforcement.

e. A license issued pursuant to this subparagraph does not permit the licensee to sell alcoholic beverages by the package for off-premises consumption.

However, any license heretofore issued to any such hotel, motel, motor court, or restaurant or hereafter issued to any such hotel, motel, or motor court, including a condominium accommodation, under the general law may not be moved to a new location, such license being valid only on the premises of such hotel, motel, motor court, or restaurant. Licenses issued to hotels, motels, motor courts, or restaurants under the general law and held by such hotels, motels, motor courts, or restaurants on May 24, 1947, shall be counted in the quota limitation contained in subsection (1). Any license issued for any hotel, motel, or motor court under this law shall be issued only to the owner of the hotel, motel, or motor court or, in the event the hotel, motel, or motor court is leased, to the lessee

of the hotel, motel, or motor court; and the license shall remain in the name of the owner or lessee so long as the license is in existence. Any special license now in existence heretofore issued under this law cannot be renewed except in the name of the owner of the hotel, motel, motor court, or restaurant or, in the event the hotel, motel, motor court, or restaurant is leased, in the name of the lessee of the hotel, motel, motor court, or restaurant in which the license is located and must remain in the name of the owner or lessee so long as the license is in existence. Any license issued under this section shall be marked "Special," and nothing herein provided shall limit, restrict, or prevent the issuance of a special license for any restaurant or motel which shall hereafter meet the requirements of the law existing immediately before the effective date of this act, if construction of such restaurant has commenced before the effective date of this act and is completed within 30 days thereafter, or if an application is on file for such special license at the time this act takes effect; and any such licenses issued under this proviso may be annually renewed as now provided by law. Nothing herein prevents an application for transfer of a license to a bona fide purchaser of any hotel, motel, motor court, or restaurant by the purchaser of such facility or the transfer of such license pursuant to law.

(b) Any county in which special licenses were issued under the provisions of s. 561.20(2)(b) in effect prior to the effective date of this act shall continue to qualify for such licenses pursuant to those provisions in effect prior to the effective date of this act, and shall not be affected by the provisions of paragraph (a), except that in such counties, any restaurant located in a specialty center built on governmentally owned land shall be subject to the provisions of paragraph (a).

1. A specialty center means any development having at least 50,000 square feet of leasable area, containing restaurants, entertainment facilities, and specialty shops, and located adjacent to a navigable water body. Alcoholic beverages sold for consumption on the premises by a vendor in a specialty center may be consumed within the specialty center but may not be removed from such premises.

2. A specialty center also means any enclosed development that has at least 170,000 square feet of leasable area that is under the dominion and physical control of the owner or manager of the enclosed development, containing restaurants, entertainment facilities, specialty shops, and a movie theater with at least 18 operating screens. Alcoholic beverages sold for consumption on the premises by a vendor in a specialty center may be consumed only in areas designated pursuant to s. 561.01(11) and may not be removed from the designated area.

(c) In addition to any special licenses that may be issued under the provisions of paragraph (a), the division is authorized to issue special licenses to qualified applicants who own or lease bowling establishments having 12 or more lanes and all necessary equipment to operate them. Any license issued for any bowling establishment under the provisions of this paragraph shall be issued only to the owner of the bowling establishment or, in the event the bowling establishment is leased, to the lessee of the bowling establishment; and the license shall remain in the name of the owner or lessee so long as the license is in existence. Any such license issued under this paragraph shall not be moved to a new location. No license issued pursuant to this paragraph shall permit the licensee to sell alcoholic beverages by the package for off-the-premises consumption. The provisions of this paragraph do not preclude any bowling establishment from holding a beverage license issued pursuant to any other provision of this section.

(d) Any board of county commissioners may be issued a special license which shall be issued in the name of the county and be applicable only in and for facilities which are owned and operated by the county and in which the sale and consumption of alcoholic beverages are not otherwise prohibited. The license may be transferred from one qualified county facility to another upon written notification to the department.

(e) The owner of a hotel, motel, or motor court may lease his or her restaurant operation to another corporation, individual, or business association that, upon meeting the requirements for a restaurant license set forth in this chapter, may operate independently of the hotel, motel, or motor court and be permitted to provide room service for alcoholic and intoxicating beverages within such hotel, motel, or motor court in which the restaurant is located.

(f) In addition to the exceptions set forth in this subsection, no such limitation of the number of licenses as herein provided shall prohibit the issuance of special airport licenses as defined in s. 561.01(12) to restaurants that are a part of, or serve, publicly owned or leased airports. The special airport license provided for herein shall allow

for consumption within designated areas of the airport terminal as defined in s. 561.01(13). Any holder of such special license located at a publicly owned and operated airport may sell and serve alcoholic beverages for consumption on the premises to the general public under such license in not more than four places or locations in control of the holder of such license. Any license so issued may not be transferred to a new location, except that a vendor operating a place of business under a special license may transfer such license when the publicly owned or leased airport at which the vendor operates a place of business under a special license moves its terminal facilities on the same airport premises, or when the airport is required by law to move its entire operation to a new location. Any license so issued shall entitle the vendor operating a place of business under such license to sell to airlines vinous beverages and distilled spirits in sealed miniature containers and other alcoholic beverages for consumption on the aircraft using the facility, but only for consumption by the passengers of the aircraft when such aircraft is airborne.

(g) In addition to any special licenses issued under the Beverage Law, the division may issue a special license for consumption on the premises only to any public fair or exposition which is organized in accordance with chapter 616. No licensee under this special license shall enter into any exclusive contract for its use. The special license may not be used in connection with any youth agricultural activity or during any regularly scheduled public fair or exposition, and such license may be used only in connection with special events held on the premises of the fairgrounds, which premises are considered to be licensed premises under the dominion and control of the public fair or exposition authority at all times. This special license is not transferable.

(h) In addition to any special licenses issued under the Beverage Law, the division may issue a special license for consumption on the premises only to any civic center authority or sports arena authority which is authorized by state law or by a local government ordinance or which civic center or sports arena is otherwise owned by a political subdivision of this state. The license may be transferred to a qualified applicant authorized by contract with the authority to provide food service for the facility. The license shall at all times remain the exclusive property of the authority, and upon termination by any manner of the contract between the authority and the applicant concerning the furnishing of food service, the license shall revert to the authority by operation of law.

(i) The division shall not charge a fee in excess of \$250 for the license authorized by paragraph (g) or paragraph (h).

(j) In addition to any special licenses issued under the Beverage Law, the division may issue a special license for consumption on the premises only to a performing arts center, provided that any consumption of alcoholic beverages under this license, except as part of food and beverage service for banquets or receptions, may occur only in conjunction with an artistic, educational, cultural, promotional, civic, or charitable event occurring on the premises under the authorization of or offered directly by the performing arts center. The license may be transferred to a qualified applicant authorized by contract with the performing arts center to provide food and beverage service for the center. The license shall at all times remain the exclusive property of the performing arts center, and upon termination by any manner of the contract between the performing arts center and the applicant concerning the furnishing of food and beverage service, the license shall revert to the performing arts center by operation of law. The division shall not charge a fee in excess of \$400 for the license authorized by this paragraph.

(3) The limitation upon the number of such licenses to be issued as herein provided does not apply to existing licenses or to the renewal or transfer of such licenses; but upon the revocation of any existing license, no renewal thereof or new license therefor shall be issued contrary to the limitation herein prescribed.

(4) The limitations herein prescribed shall not affect or repeal any existing or future local or special act relating to the limitation by population and exceptions or exemptions from such limitation by population of such licenses within any incorporated city or town or county that may be in conflict herewith. Any license issued under a local or special act relating to the limitation by population shall be subject to all requirements and restrictions contained in the Beverage Law that are applicable to licenses issued under subsection (1).

(5) Provisions of subsections (2) and (4) as amended by chapter 57-773, Laws of Florida, shall take effect January 1, 1958, and shall apply only to those places of business licensed to operate after January 1, 1958, and shall in no manner repeal or nullify any license issued under provisions of law which are now operating or will

operate prior to the effective date January 1, 1958; and all such places of business shall be exempt from the provisions of this law so long as they are in continuous operation.

(6) When additional licenses become available by reason of an increase in population or by reason of a county permitting the sale of intoxicating beverages when such sale has been prohibited, the division may issue the number of new licenses that become available by reason of the last regular population estimate; however, in no event shall any person, firm, or corporation licensed as a vendor under subsection (1) have an interest, directly or indirectly, in more than 30 percent of the number of licenses authorized for issuance in such county.

Notwithstanding the foregoing limitation, any licensed vendor having an interest, directly or indirectly, in more than 30 percent of the licenses authorized for issuance in any one county on July 1, 1981, may continue to qualify for such licenses.

(7)(a) There shall be no limitation as to the number of licenses issued pursuant to s. 565.02(4). However, any licenses issued under this section shall be limited to:

1. Subordinate lodges or clubs of national fraternal or benevolent associations;
2. Golf clubs, tennis clubs, and beach or cabana clubs which are municipally or privately owned or leased;
3. Nonprofit corporations or clubs devoted to promoting community, municipal, or county development or any phase of community, municipal, or county development;
4. Clubs fostering and promoting the general welfare and prosperity of members of showmen and amusement enterprises;
5. Clubs assisting, promoting, and developing subordinate lodges or clubs of national fraternal or benevolent associations; and
6. Clubs promoting, developing, and maintaining cultural relations of people of the same nationality.

(b) Any corporation, partnership, or individual operating a club owning or leasing and maintaining any bona fide regular, standard golf course consisting of at least nine holes, with clubhouse, locker rooms, and attendant golf facilities and comprising in all at least 35 acres of land owned or leased by such club may be issued a license under s. 565.02(4); but failure of such club to maintain the golf course and golf facilities shall be grounds for revocation of the license.

(c) Any corporation, partnership, or individual operating a club owning or leasing and maintaining any bona fide tennis club or four-wall indoor racquetball club consisting of not fewer than 10 regulation-size tennis courts or 10 regulation-size four-wall indoor racquetball courts, or a combination of such courts totaling in the aggregate not fewer than 10 courts, or a combination of 8 such courts and exercise facilities which in square footage total not fewer than the aggregate square foot equivalent of 10 regulation-size courts with clubhouse facilities, pro shop, locker rooms, and attendant tennis or racquetball facilities, all located on a contiguous tract of land owned or leased by such club, may be issued a license under s. 565.02(4); but failure of such club to maintain such courts and facilities shall be grounds for revocation of any such license so issued. Any racquetball or tennis club which has been constructed and completed on or before July 1, 1980, and which contains the requisite number of courts of proper size and attendant facilities may be granted a license without the necessity of securing additional approval from the incorporated municipality or county in which the racquetball or tennis club facility is located. It is intended that this subsection be an exception to s. 562.45(2) preempting the zoning power of local government to the state only in instances involving tennis and racquetball clubs constructed and completed on or before July 1, 1980. Nothing in this paragraph, however, shall be construed to limit the power of incorporated municipalities or counties to enact ordinances regulating hours of business and prescribing sanitary regulations for such racquetball or tennis club facilities.

(d) Any corporation, partnership, or individual operating a club which owns or leases and which maintains any bona fide beach or cabana club consisting of beach facilities, swimming pool, locker rooms or bathroom facilities for at least 100 persons, and a public food service establishment as defined in s. 509.013(5)(a), comprising in all an area of at least 5,000 square feet located on a contiguous tract of land of in excess of 1 acre may be issued a license under s. 565.02(4). The failure of such club to maintain the facilities shall be a ground for revocation of the license.

(8) In addition to any licenses that may be issued to restaurants under the provisions of this section, the division is authorized to issue special licenses to qualified applicants whose applications have been approved by the Inter-American Center Authority for use within the confines of the Inter-American Cultural and Trade Center; however, any such license issued pursuant to this subsection shall not permit the licensee to sell alcoholic beverages by the package for off-premises consumption.

(9) In addition to any licenses that may be issued under the provisions of this chapter, the division is authorized to issue special licenses to any county which has a population of at least 1 million persons according to the latest federal census and which owns and operates airport facilities pursuant to chapters 125 and 332, for transfer to qualified applicants who have secured approval from the board of county commissioners of such county for use within the confines of such airport facilities. Such licenses shall not be valid in any location beyond the confines of the terminal facilities of the airport. In the event of expiration or revocation of such licenses, such licenses shall revert to the board of county commissioners automatically, by operation of law. However, no special license issued pursuant to this subsection shall permit the county or its transferee to sell alcoholic beverages by the package for off-premises consumption.

(10) In addition to any licenses that may be issued under the provisions of this chapter, the division is authorized to issue a special license to any marketing association of horse breeders organized under the laws of the state. Such license shall be applicable only in and for facilities used by the association for public auction of its products. No license issued pursuant to this subsection shall permit the licensee to sell alcoholic beverages by the package for off-premises consumption. The provisions of this subsection do not preclude any cooperative marketing association of horse breeders from holding a license issued pursuant to any other provision of this chapter.

(11) In addition to any licenses that may be issued under the provisions of this chapter, the division is authorized to issue a special license to historic American Legion Posts in Florida which were chartered prior to September 16, 1919, the date on which the United States Congress issued the National Charter for the American Legion. Any holder of a license issued pursuant to this subsection shall, at its option, be permitted to sell alcoholic beverages to resident guests as well as members and nonresident guests for consumption on the premises only. Revenue from the sale of such alcoholic beverages must be used to operate, maintain, or improve said American Legion Post facilities, grounds, or activities and to maintain an emergency fund not to exceed the costs of operation of the American Legion Post for the prior calendar year. Any remaining revenue from the sale of alcoholic beverages shall be donated to local nonprofit charitable organizations on an annual basis. Posts exercising their option under this subsection shall pay an annual license fee of \$500. This section shall not apply to any county which has held an election under s. 567.01 and whose electors have voted to prohibit the sale of alcoholic beverages for consumption on the licensed premises.

(12)(a) In addition to any other licenses issued under the provisions of this chapter, the division is authorized to issue a special license to a person or to an organization for the purpose of authorizing:

1. A sale pursuant to a levy and execution;
2. A sale by an insurance company in possession of alcoholic beverages;
3. A bankruptcy sale;
4. A sale resulting from a license suspension or revocation;
5. A sale of damaged goods by a common carrier;
6. A sale by a bona fide wine collector; or
7. A sale of packaged alcoholic beverages pursuant to part V of chapter 679.

(b) A special license shall be issued under this subsection upon filing an application at the district office and paying a \$25 fee. Such fee shall be deposited in the Alcoholic Beverages and Tobacco Trust Fund.

(c) A special license is valid for 3 days after the time of its effective date and time as set by the division. A license issued pursuant to this subsection does not permit the licensee to sell alcoholic beverages for consumption on the premises.

(d) A distributor may purchase packaged alcoholic beverages at any sale specified in paragraph (a).

(13) Notwithstanding any other provision of law, any license to sell or serve alcoholic beverages issued to a port authority, as defined in s. 315.02, entitles that port authority, or the lessee or lessees which it may choose, to sell

and serve alcoholic beverages at any terminal within the port jurisdictional boundaries upon annual payment to the division of an annual fee equivalent to the annual license fee for each sales or service location. However, any lessees chosen by the port authority shall meet the criteria for licensure for sales and service of alcoholic beverages.

History.—s. 2, ch. 16774, 1935; CGL 1936 Supp. 4151(228); s. 2, ch. 23746, 1947; s. 7, ch. 25359, 1949; s. 1, ch. 28113, s. 1, ch. 28117, 1953; s. 4, ch. 29786, s. 1, ch. 29829, s. 1, ch. 29978, 1955; s. 24, ch. 57-1; s. 1, ch. 57-299; s. 17, ch. 57-420; ss. 1, 2, ch. 57-773; s. 1, ch. 57-837; s. 1, ch. 57-1991; s. 1, ch. 59-370; s. 2, ch. 61-219; ss. 1, 2, 4, ch. 61-300; s. 1, ch. 61-439; s. 1, ch. 67-173; ss. 16, 35, ch. 69-106; s. 1, ch. 71-238; s. 1, ch. 72-61; s. 1, ch. 72-83; s. 1, ch. 72-230; s. 1, ch. 72-260; s. 1, ch. 73-366; s. 1, ch. 73-367; ss. 1, 2, 3, ch. 76-2; s. 1, ch. 76-242; s. 5, ch. 77-471; s. 1, ch. 77-474; s. 1, ch. 78-103; s. 1, ch. 80-232; s. 2, ch. 80-339; s. 4, ch. 81-158; s. 1, ch. 84-95; ss. 1, 3, ch. 84-286; s. 6, ch. 85-161; s. 69, ch. 86-163; s. 2, ch. 86-228; ss. 29, 30, ch. 86-269; s. 3, ch. 87-63; s. 13, ch. 88-308; s. 1, ch. 88-404; s. 1, ch. 89-230; s. 1, ch. 89-248; s. 2, ch. 89-361; s. 9, ch. 90-17; ss. 1, 8, ch. 91-60; s. 3, ch. 92-176; s. 2, ch. 92-205; s. 3, ch. 93-134; s. 842, ch. 97-103; s. 2, ch. 99-216; s. 68, ch. 2000-154; s. 6, ch. 2000-191; s. 278, ch. 2014-19; s. 3, ch. 2016-120; s. 3, ch. 2016-190; s. 3, ch. 2017-137; s. 1, ch. 2021-30; s. 16, ch. 2021-135; s. 1, ch. 2023-65.

561.22 Licensing manufacturers, distributors, and registered exporters as vendors prohibited.—

(1) Except as provided in this section, any applicant may receive a license as a manufacturer or distributor or may be registered as an exporter, but a license or registration may not be issued to a manufacturer, distributor, or exporter as a vendor, and a license or registration may not be issued to a vendor as a manufacturer, distributor, or exporter.

(2)(a) If any applicant for a vendor's license or renewal thereof is an individual, such individual is within the provisions of subsection (1) if he or she is interested or connected, directly or indirectly, with any corporation which is engaged, directly or indirectly, or through any subsidiary or affiliate corporation, including any stock ownership exceeding 0.5 percent owned individually, including a 0.5 percent interest in a blind or revocable trust, as set forth in subsection (3), in manufacturing, distributing, or exporting alcoholic beverages under a license or registration of this state or any state of the United States.

(b) If any applicant for a vendor's license or renewal thereof is a copartnership, such copartnership is within the provisions of subsection (1) if any member of the copartnership is interested or connected, directly or indirectly, with any corporation which is engaged, directly or indirectly, or through any subsidiary or affiliate corporation, including any stock ownership as set forth in subsection (3), in manufacturing, distributing, or exporting alcoholic beverages under a license or registration of this state or any state of the United States.

(3) If any applicant for a vendor's license or the renewal thereof is a corporation, such corporation is within the provisions of subsection (1) if such corporation is affiliated with, directly or indirectly, any other corporation which is engaged in manufacturing, distributing, or exporting alcoholic beverages under a license or registration of this state or any other state of the United States, or if such applicant corporation is controlled by or the majority stock therein owned by another corporation, which latter corporation owns or controls in any way the majority stock or controlling interest in any other corporation that is engaged, directly or indirectly, in manufacturing, distributing, or exporting alcoholic beverages under a license or registration in this state or any other state in the United States.

(4) If any applicant for a manufacturer's or distributor's license or an exporter's registration, or renewal thereof, is an individual or copartnership, such individual or copartnership is within the provisions of subsection (1) if the individual or any member of the copartnership is interested or connected, directly or indirectly, with any corporation which is engaged, directly or indirectly, or through any subsidiary or affiliate corporation, including any stock ownership as set forth in subsection (5) in selling alcoholic beverages as a vendor under a license of this state.

(5) If any applicant for a manufacturer's or distributor's license or an exporter's registration, or the renewal thereof, is a corporation, such corporation is within the provisions of subsection (1) if such corporation is affiliated with, directly or indirectly, any other corporation which is engaged in selling alcoholic beverages as vendor under a license of this state or when such applicant corporation is controlled by, or the majority stock therein owned by another corporation, which latter corporation owns or controls in any way the majority stock or controlling interest in any other corporation that is engaged, directly or indirectly, in selling alcoholic beverages as vendor under a license of this state.

History.—s. 2, ch. 16774, 1935; CGL 1936 Supp. 4151(228); s. 8, ch. 25359, 1949; s. 2, ch. 63-562; s. 1, ch. 72-230; s. 1, ch. 76-288; s. 9, ch. 91-60; s. 843, ch. 97-103.

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

(1)(a) Nothing contained in s. 561.22, s. 561.42, or any other provision of the Beverage Law prohibits the ownership, management, operation, or control of not more than three vendor's licenses for the sale of alcoholic beverages by a manufacturer of wine who is licensed and engaged in the manufacture of wine in this state, even if such manufacturer is also licensed as a distributor; provided that no such vendor's license shall be owned, managed, operated, or controlled by any licensed manufacturer of wine unless the licensed premises of the vendor are situated on property contiguous to the manufacturing premises of the licensed manufacturer of wine.

(b) The Division of Alcoholic Beverages and Tobacco shall issue permits to a certified Florida Farm Winery to conduct tasting and sales of wine produced by certified Florida Farm Wineries at Florida fairs, trade shows, expositions, and festivals. The certified Florida Farm Winery shall pay all entry fees and shall have a winery representative present during the event. The permit is limited to the length of the event.

(2)(a) Notwithstanding s. 561.22, s. 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. 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.

(3)(a) Notwithstanding other provisions of the Beverage Law, any vendor licensed in this state may be licensed as a manufacturer of malt beverages upon a finding by the division that:

1. The vendor will be engaged in brewing malt beverages at a single location and in an amount which will not exceed 10,000 kegs per year. For purposes of this subsection, the term "keg" means 15.5 gallons.

2. The malt beverages so brewed will be sold to consumers for consumption on the vendor's licensed premises or on contiguous licensed premises owned by the vendor.

(b) Any vendor which is also licensed as a manufacturer of malt beverages pursuant to this subsection shall be responsible for applicable reports pursuant to ss. 561.50 and 561.55 with respect to the amount of beverage manufactured each month and shall pay applicable excise taxes thereon to the division by the 10th day of each month for the previous month.

(c) It shall be unlawful for any licensed distributor of malt beverages or any officer, agent, or other representative thereof to discourage or prohibit any vendor licensed as a manufacturer under this subsection from offering malt beverages brewed for consumption on the licensed premises of the vendor.

(d) It shall be unlawful for any manufacturer of malt beverages or any officer, agent, or other representative thereof to take any action to discourage or prohibit any distributor of the manufacturer's product from distributing

such product to a licensed vendor which is also licensed as a manufacturer of malt beverages pursuant to this subsection.

History.—s. 1, ch. 63-11; s. 1, ch. 67-511; s. 1, ch. 72-230; s. 1, ch. 78-187; s. 1, ch. 79-54; s. 1, ch. 84-142; s. 1, ch. 87-63; s. 8, ch. 92-151; s. 1, ch. 94-296; s. 2, ch. 2015-12.

561.23 License display.—All vendors licensed under the Beverage Law shall display their licenses in conspicuous places on their licensed premises.

History.—s. 2, ch. 16774, 1935; CGL 1936 Supp. 4151(228); s. 9, ch. 25359, 1949; ss. 18, 19, ch. 57-420; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 4, ch. 93-134; s. 15, ch. 2012-208.

561.24 Licensing manufacturers as distributors or registered exporters prohibited; procedure for issuance and renewal of distributors' licenses and exporters' registrations.—

(1) A manufacturer, rectifier, or distiller that manufactures, rectifies, or distills spirituous liquors or wine may not be granted a license as a distributor and may not register as an exporter.

(2) A manufacturer, rectifier, or distiller that manufactures, rectifies, or distills spirituous liquors or wine may not be granted a renewal of a license or registration previously held as a distributor or exporter.

(3) If the applicant for a distributor's license or exporter's registration, or renewal thereof, is an individual or copartnership, such individual or copartnership is within the provisions of subsection (1) or subsection (2), as the case may be, if the individual or any member of the copartnership is interested or connected, directly or indirectly, with any corporation which is engaged directly or indirectly or through any subsidiary or affiliate corporation, including any stock ownership as set forth in subsection (4), in manufacturing, rectifying, or distilling spirituous liquors or wine. If any individual or any member of such copartnership within 6 months next preceding the making of an application hereunder has been interested or connected as provided by this subsection, such individual or such member of the copartnership shall be prima facie presumed to be so interested or connected with such corporation at the time of the making of the application, and such prima facie presumption shall continue until overcome by the applicant.

(4) If the applicant for a distributor's license or exporter's registration, or for the renewal thereof, is a corporation, such corporation is within the provisions of subsections (1) and (2), as the case may be, if such corporation is affiliated with, directly or indirectly, any other corporation which is engaged in manufacturing, rectifying, or distilling spirituous liquors or wine or if such applicant corporation is controlled by, or the majority of stock therein is owned by, another corporation, which latter corporation is engaged, directly or indirectly, in manufacturing, rectifying, or distilling spirituous liquors or wine.

(5) Notwithstanding any of the provisions of the foregoing subsections, any corporation which holds a license as a distributor on June 3, 1947, shall be entitled to a renewal thereof, provided such corporation complies with all of the provisions of the Beverage Law of Florida, as amended, and of this section and establishes by satisfactory evidence to the division that, during the 6-month period next preceding its application for such renewal, of the total volume of its sales of spirituous liquors, in either dollars or quantity, not more than 40 percent of such spirituous liquors sold by it, in either dollars or quantity, were manufactured, rectified, or distilled by any corporation with which the applicant is affiliated, directly or indirectly, including any corporation which owns or controls in any way any stock in the applicant corporation or any corporation which is a subsidiary or affiliate of the corporation so owning stock in the applicant corporation. Any manufacturer of wine holding a license as a distributor on the effective date of this act shall be entitled to a renewal of such license notwithstanding the provisions of subsections (1)-(5). This section does not apply to any winery qualifying as a certified Florida Farm Winery under s. 599.004.

(6) Any person, copartnership, or corporation applying for a distributor's license under the provisions of this section shall file a written or printed application therefor with the division. Such application shall be sworn to by the applicant or a member of the copartnership or an officer of the corporation, depending upon whether the applicant is an individual, copartnership, or corporation. Forms for such applications shall be provided by the division. Every such application shall set forth clear and detailed information necessary and sufficient to establish the right of the applicant under the provisions of this section to receive a license. The information herein required

to be set forth shall be in addition to any information required to be set forth by any other provision of applicable law. Any application failing to comply fully with the provisions of this section shall be denied.

(7) No license of any distributor shall be renewed if the license of such distributor and continuations thereof have been revoked or if the qualifications of such distributor have been impaired.

(8) Any maneuver, shift, or device by any applicant whereby any provision of this section, in any manner, is sought to be avoided or evaded constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 2, ch. 16774, 1935; CGL 1936 Supp. 4151(228); s. 1, ch. 23899, 1947; s. 3, ch. 63-562; ss. 16, 35, ch. 69-106; s. 559, ch. 71-136; s. 1, ch. 72-230; s. 5, ch. 81-158; s. 1, ch. 85-203; s. 10, ch. 91-60; s. 4, ch. 97-213; s. 11, ch. 2012-83.

561.25 Officers and employees prohibited from being employed by or engaging in beverage business; penalties; exceptions.—

(1) No officer or employee of the division, and no sheriff or other state, county, or municipal officer with state police power granted by the Legislature, shall be permitted to engage in the sale of alcoholic beverages under the Beverage Law; or shall be employed, directly or indirectly, in connection with the operation of any business licensed under the Beverage Law; or shall be permitted to own any stock or interest in any firm, partnership, or corporation dealing wholly or partly in the sale or distribution of alcoholic beverages, except as provided in this section. The provisions of this subsection shall not be construed to prevent any certified law enforcement officer, except members of the Florida Highway Patrol or its auxiliary, or employees of the division, from being employed in businesses which have obtained licenses only to sell beer or beer and wine for consumption off the premises. However, the written approval of the chief of police, sheriff, or other appropriate department head must be obtained for any such employment.

(2) 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, and shall be automatically removed or suspended from office.

(3) Nothing herein may be construed to prohibit any sheriff or other state, county, or municipal officer with state police power granted by the Legislature from owning, negotiating, or trading any shares of stock, bonds, or other securities which are regulated by and registered with the Securities and Exchange Commission, and which are customarily traded on the major stock exchanges of the United States, or from being employed as an entertainer or from rendering security services when off duty in any business establishment licensed under the beverage laws to sell beverages, provided the written approval of the chief of police, sheriff, or other appropriate department head is obtained for the place and hours of such employment or service. Any officer employed for the purposes of rendering private security services as permitted under this section shall not be paid less than the established prevailing wage.

History.—s. 3, ch. 16774, 1935; CGL 1936 Supp. 4151(229), 7648(4); s. 6, ch. 22663, 1945; s. 20, ch. 57-420; ss. 16, 35, ch. 69-106; s. 1, ch. 70-346; s. 560, ch. 71-136; s. 1, ch. 72-93; s. 1, ch. 72-230; s. 144, ch. 73-333; s. 1, ch. 77-471; s. 1, ch. 79-349; s. 2, ch. 88-404; s. 148, ch. 91-224.

561.26 Term of license.—

(1) Except as provided in s. 561.351, no license shall be issued except an annual license. Licenses shall be renewed annually, and the division shall adopt an appropriate rule establishing the schedule for license renewals, which may provide for a semiannual schedule based on a division of the state into two geographic regions.

(2) Establishments that apply for licenses at times other than the annual renewal date fixed by the division for such establishments shall be required to pay the full annual fee if license issuance occurs more than 6 months before the next renewal date fixed by the division; if such issuance occurs less than 6 months before the next renewal date fixed by the division, the license fee shall be one-half of the annual fee.

History.—s. 5, ch. 16774, 1935; CGL 1936 Supp. 4151(231); s. 10, ch. 25359, 1949; s. 21, ch. 57-420; s. 1, ch. 67-127; s. 3, ch. 71-361; s. 1, ch. 72-230; s. 6, ch. 81-158; s. 46, ch. 91-220; s. 4, ch. 96-419.

561.27 Renewal of license.—

(1) A licensee under the Beverage Law shall be entitled to a renewal of his or her annual license from year to year, as a matter of course, in accordance with a schedule of license renewals as established by the division and by

paying the annual license tax and giving any bond required of such licensee under the Beverage Law.

(2) A license may be renewed subsequent to expiration each year upon payment of a penalty of \$5 for each month or fraction of a month of delinquency, or upon payment of a penalty of 5 percent of the license fee, whichever amount is the greater. Any license not renewed within 60 days of expiration will be canceled by the division unless such license is involved in litigation or an administrative action; however, the division may allow a licensee to renew the license subsequent to the 60-day period after good and sufficient cause for the delinquency has been shown to the division by the licensee.

History.—s. 9, ch. 18015, 1937; CGL 1940 Supp. 4151(271i); s. 11, ch. 25359, 1949; s. 22, ch. 57-420; s. 3, ch. 59-316; s. 4, ch. 61-219; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 7, ch. 81-158; s. 7, ch. 95-346; s. 844, ch. 97-103.

561.29 Revocation and suspension of license; power to subpoena.—

(1) The division is given full power and authority to revoke or suspend the license of any person holding a license under the Beverage Law, when it is determined or found by the division upon sufficient cause appearing of:

(a) Violation by the licensee or his or her or its agents, officers, servants, or employees, on the licensed premises, or elsewhere while in the scope of employment, of any of the laws of this state or of the United States, or violation of any municipal or county regulation in regard to the hours of sale, service, or consumption of alcoholic beverages or license requirements of special licenses issued under s. 561.20, or engaging in or permitting disorderly conduct on the licensed premises, or permitting another on the licensed premises to violate any of the laws of this state or of the United States. A conviction of the licensee or his or her or its agents, officers, servants, or employees in any criminal court of any violation as set forth in this paragraph shall not be considered in proceedings before the division for suspension or revocation of a license except as permitted by chapter 92 or the rules of evidence.

(b) Violation by the licensee or, if a corporation, by any officers thereof, of any laws of this state or any state or territory of the United States.

(c) Maintaining a nuisance on the licensed premises.

(d) Maintaining licensed premises that are unsanitary or are not approved as sanitary by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, the Department of Agriculture and Consumer Services, the county board of health, or the Department of Health, whichever has jurisdiction thereof.

(e) Violation by the licensee, or, if a corporation, by any officer or stockholder thereof, of any rule or rules promulgated by the division in accordance with the provisions of this chapter or of any law referred to in paragraph (a), or a violation of any such rule or law by any agent, servant, or employee of the licensee on the licensed premises or in the scope of such employment.

(f) A determination that a person who is interested directly or indirectly in the license or licensed business authorized to sell spirituous beverages is not qualified.

(g) A determination that any person required to be qualified by the division as a condition for the issuance of the license is not qualified.

(h) Failure by the holder of any license under s. 561.20(1) to maintain the licensed premises in an active manner in which the licensed premises are open for the bona fide sale of authorized alcoholic beverages during regular business hours of at least 6 hours a day for a period of 120 days or more during any 12-month period commencing 18 months after the acquisition of the license by the licensee, regardless of the date the license was originally issued. Every licensee must notify the division in writing of any period during which his or her license is inactive and place the physical license with the division to be held in an inactive status. This paragraph applies to all annual license periods commencing on or after July 1, 1981, but does not apply to licenses issued after September 30, 1988. The division shall, upon written request of the licensee, grant a one-time written waiver or extension of the requirements of this paragraph for a period not to exceed 12 months. Additionally, the division may, upon written request of the licensee, grant a waiver or extension of the requirements of this paragraph for a period not to exceed 12 months if the licensee demonstrates that:

1. The licensed premises has been physically damaged to such an extent that active operation of the business at the premises is impracticable;

2. Construction or remodeling is underway to relocate the license to another location;
3. The licensed premises is prohibited from making sales as the result of an order of a court of competent jurisdiction, or the action or inaction of a governmental entity relating to the permitting, construction, or occupational capacity of the physical location of the licensed premises.

(i) Failure of a licensee having a license issued under s. 561.20(1) after September 30, 1988, to maintain the licensed premises in an active manner in which the licensed premises are open for business to the public for the bona fide retail sale of authorized alcoholic beverages during regular and reasonable business hours for at least 8 hours a day for a period of 210 days or more during any 12-month period commencing 6 months after the acquisition of the license by the licensee. It is the intent of this act that for purposes of compliance with this paragraph, a licensee shall operate the licensed premises in a manner so as to maximize sales and tax revenues thereon; this includes maintaining a reasonable inventory of merchandise, including authorized alcoholic beverages, and the use of good business practices to achieve the intent of this law. Any attempt by a licensee to circumvent the intent of this law shall be grounds for revocation or suspension of the alcoholic beverage license. A licensee shall notify the division in writing of any period during which his or her license is inactive and place the physical license with the division to be held in an inactive status. For the purpose of calculating compliance with the requirements of this paragraph, a license that is acquired in a transaction that is not an arm's length transaction, including transfers from relatives, affiliates, subsidiaries, and other related entities, retains and is subject to the first related transferor's date of acquisition and related periods of operation. The division shall, upon written request of the licensee, grant a one-time written waiver or extension of the requirements of this paragraph for a period not to exceed 12 months. Additionally, the division may, upon written request of the licensee, grant a waiver or extension of the requirements of this paragraph for a period not to exceed 12 months if the licensee demonstrates that:

1. The licensed premises has been physically damaged to such an extent that active operation of the business at the premises is impracticable;
2. Construction or remodeling is underway to relocate the license to another location;
3. The licensed premises has been prohibited from making sales as the result of any order of any court of competent jurisdiction, or any action or inaction of a governmental entity relating to the permitting, construction, or occupational capacity of the physical location of the licensed premises.

(j) Failure of any licensee issued a license under s. 561.20(1) to maintain records of all monthly sales and all monthly purchases of alcoholic beverages and to produce such records for inspection by any division employee within 10 days of written request therefor.

(k) Failure by the holder of any license issued under the Beverage Law to comply with a stipulation, consent order, or final order.

(l) Maintaining a licensed premises that admits a child to an adult live performance in violation of s. 827.11.

1. A violation of this paragraph constitutes an immediate, serious danger to the public health, safety, or welfare for the purposes of s. 120.60(6).

2. The division may issue a \$5,000 fine for a first violation of this paragraph.

3. The division may issue a \$10,000 fine for a second or subsequent violation of this paragraph.

(2) The division, or any employee designated by it, shall have the power and authority to examine into the business, books, records, and accounts of any licensee, to issue subpoenas to said licensee or any other person from whom information is desired, and to take depositions of witnesses within or without of the state. The division, or any employee designated by it, may administer oaths and issue subpoenas. The provisions of the civil law of the state in relation to enforcing obedience to a subpoena lawfully issued by a judge or other person duly authorized to issue subpoenas under the laws of the state, to issue subpoenas in civil cases, shall apply to a subpoena issued by the division, or any employee designated by it, as authorized in this section, and may be enforced by writ of attachment to be issued by the division, or any employee designated by it, for such witness to compel him or her to attend before the division, or any employee designated by it, and give his or her testimony and to bring and produce such books, papers, and documents as may be required for examination; and the division, or any employee designated by it, may punish any willful refusal to so appear or give testimony by citation of any witness before the

circuit court who shall punish such witness for contempt as in cases of refusal to obey the orders and process of the circuit court. The division may in such cases pay such attendance and mileage fees as are permitted to be paid to witnesses in civil cases appearing before the circuit court.

(3) The division may impose a civil penalty against a licensee for any violation mentioned in the Beverage Law, or any rule issued pursuant thereto, not to exceed \$1,000 for violations arising out of a single transaction. If the licensee fails to pay the civil penalty, his or her license shall be suspended for such period of time as the division may specify. The funds so collected as civil penalties shall be deposited in the state General Revenue Fund.

(4) The division may compromise any alleged violations of the Beverage Law, by accepting from the licensee involved an amount not to exceed \$1,000 for violations arising out of a single transaction. All funds so collected are to be deposited in the state General Revenue Fund.

(5) The division may suspend the imposition of any penalty conditioned upon terms the division should in its discretion deem appropriate.

History.—s. 1, ch. 16774, 1935; CGL 1936 Supp. 4151(227); s. 1A, ch. 19301, 1939; s. 4, ch. 21839, 1943; s. 7, ch. 22663, 1945; s. 3, ch. 23746, 1947; s. 5, ch. 29786, 1955; s. 23, ch. 57-420; s. 5, ch. 61-219; s. 1, ch. 61-397; ss. 16, 19, 35, ch. 69-106; s. 1, ch. 69-267; s. 207, ch. 71-377; s. 1, ch. 72-230; s. 460, ch. 77-147; s. 4, ch. 77-471; s. 9, ch. 78-95; s. 29, ch. 79-4; s. 17, ch. 79-11; s. 8, ch. 81-158; s. 3, ch. 81-166; s. 4, ch. 88-308; s. 2, ch. 89-309; s. 216, ch. 94-218; s. 8, ch. 95-346; s. 845, ch. 97-103; s. 253, ch. 99-8; s. 7, ch. 2000-191; s. 4, ch. 2016-190; s. 3, ch. 2023-94.

561.32 Transfer of licenses; change of officers or directors; transfer of interest.—

(1) Licenses issued under the provisions of the Beverage Law shall not be transferable except as follows:

(a) When a licensee has made a bona fide sale of the business which he or she is so licensed to conduct, he or she may obtain a transfer of such license to the purchaser of the business, provided the application of the purchaser is approved by the division in accordance with the same procedure provided for in ss. 561.17, 561.18, 561.19, and 561.65.

(b) A person holding a lien against an alcoholic beverage license may have his or her rights enforced in a judicial proceeding, subject to the rights of lienholders set forth in s. 561.65. However, any person having a security interest in an alcoholic beverage license is deemed to be interested indirectly in such license; and he or she shall be disclosed to the division and shall be subject to the qualifications of the Beverage Law as a precondition to the enforcement of the security interest. The foreclosure of a security interest or judicial transfer of a license shall not prevent the division from suspending the license or imposing a civil penalty against the licensee of record that held the license at the time of the Beverage Law violation. However, should the division obtain a revocation of the license against the previous licensee of record, the revocation shall be effective only to impair the qualifications of the officers, directors, stockholders, or persons having any interest in the license at the time of the revocable offense.

(2)(a) No person is entitled as a matter of right to a transfer of a license or interest in a license to a relative or to any other person or to a change of executive officers or directors:

1. If the division has notified the licensee in writing that a revocation, suspension, or administrative proceeding or a proceeding under s. 561.42 has been or will be brought against the license; or

2. If a licensee, executive officer, director, or person holding an interest in the license or business has been arrested, charged, indicted, or convicted, or has appealed the conviction, of a crime which is disqualifying under the alcoholic beverage laws. Any licensee, executive officer, director, or person holding an interest in a license or business who is arrested, charged, indicted, or convicted, or has appealed the conviction, of a crime which is disqualifying under the alcoholic beverage laws is required to immediately notify the division in writing of such action.

It is unlawful to transfer or attempt to transfer any license or interest in a license or business or change executive officers or directors contrary to the provisions of this section.

(b) The term “relative” with respect to this subsection means an individual who is related to the licensee, executive officer, director, or person holding an interest as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law,

brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepsister, stepbrother, half brother, or half sister.

(c) The transfer of such license or financial interest in such license or the change of executive officers or directors in any such case shall be within the discretion of the division.

(3)(a) Before the issuance of any transfer of license herein provided, the transferee shall pay a transfer fee of 10 percent of the annual license tax to the division, except for those licenses issued pursuant to s. 565.02(1) and subject to the limitation imposed in s. 561.20(1), for which the transfer fee shall be assessed on the average annual value of gross sales of alcoholic beverages for the 3 years immediately preceding transfer and levied at the rate of 4 mills, except that such transfer fee shall not exceed \$5,000; in lieu of the 4-mill assessment, the transferor may elect to pay \$5,000. Further, the maximum fee shall be applied with respect to any such license which has been inactive for the 3-year period. Records establishing the value of such gross sales shall accompany the application for transfer of the license, and falsification of such records shall be punishable as provided in s. 562.45. All transfer fees collected by the division on the transfer of licenses issued pursuant to s. 565.02(1) and subject to the limitation imposed in s. 561.20(1) shall be returned by the division to the municipality in which such transferred license is operated or, if operated in the unincorporated area of the county, to the county in which such transferred license is operated.

(b) Each licensed manufacturer, distributor, broker, sales agent, and importer shall pay a transfer license fee equal to 10 percent of the total state, county, and city, if any, annual license fee.

(4)(a) Except as provided in paragraph (b), a license issued under s. 561.20(1) shall not be transferable in any manner, either directly or indirectly, including by any change in stock, partnership shares, or other form of ownership of any entity holding the license, except by probate or guardianship proceedings, for a period of 3 years from the date of original issuance. Any attempted assignment, sale, or transfer of interest in such license either directly or indirectly in violation of this provision is hereby declared void, and the license shall be deemed abandoned and shall revert to the state to be issued in the manner provided by law for issuance of new licenses.

(b) A license issued under s. 561.20(1) may be transferred as provided by law within the 3-year period only upon payment to the division of a transfer fee in an amount equal to 15 times the annual license fee specified in s. 565.02(1)(b)-(f) in the county in which the license is valid. However, if the county is only authorized for the issuance of liquor licenses for package sales only, the transfer fee shall be in an amount equal to 15 times the annual license fee specified in s. 565.02(1)(a). Subsequent to any such transfer, the transferee shall be subject to the provisions of the beverage laws with respect to the requirement for initial issuance of a license. Any change of ownership in any manner, either directly or indirectly, including any change in stock, partnership shares, or other form of ownership of any entity holding the license shall be considered a transfer and subject to the fees set forth in this paragraph. The transfer fees provided for in this paragraph shall be in addition to any other transfer fee provided for by this section. The funds collected pursuant to this paragraph shall be deposited in the Alcoholic Beverages and Tobacco Trust Fund and shall be used by the division to defray the costs of operation.

(5) The division shall waive the transfer fee and the delinquent penalties, but not the license renewal fee, when the transfer of an interest in an alcoholic beverage license occurs by operation of law because of a death, judicial proceedings, court appointment of a fiduciary, foreclosure or forced judicial sale, bankruptcy proceedings, or seizure of a license by a government agency.

History.—s. 6, ch. 18015, 1937; CGL 1940 Supp. 4151(271f); s. 4, ch. 23746, 1947; s. 12, ch. 25359, 1949; s. 1, ch. 28123, 1953; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 3, ch. 76-288; s. 1, ch. 77-192; s. 9, ch. 81-158; s. 4, ch. 81-166; s. 45, ch. 83-216; s. 5, ch. 89-293; s. 3, ch. 89-361; s. 11, ch. 91-60; s. 9, ch. 95-346; s. 846, ch. 97-103; s. 8, ch. 2000-191; s. 2, ch. 2001-257.

561.33 Licensee moving to new location; changing name of business.—

(1) Any licensee may move his or her place of business and sell at his or her new place of business upon approval by the division of the licensee's application for such change of location. Upon approval of the application, there shall be issued to such licensee a license for the new location upon the payment of a fee of \$35. If the new place of business is in a county having a different license tax year from the county where the original license was

issued, an additional appropriate license tax shall be paid by the licensee before the issuance of the license applied for if the effect of the transfer is an extension of the licensing period for the licensee.

(2) No licensee may change the name of his or her place of business without first giving the division 30 days' notice in writing of such change and paying a fee of \$10.

(3) Nothing in this section shall be construed to permit the transfer or issuance of licenses contrary to the county-by-county limitation on the number of such licenses based on population as provided in s. 561.20(1).

History.—s. 11, ch. 16774, 1935; CGL 1936 Supp. 4151(237); s. 1, ch. 20830, 1941; s. 13, ch. 25359, 1949; s. 24, ch. 57-420; s. 6, ch. 61-219; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 2, ch. 72-260; s. 10, ch. 81-158; s. 46, ch. 83-216; s. 5, ch. 93-134; s. 847, ch. 97-103.

561.331 Temporary license upon application for transfer, change of location, or change of type or series.

(1) Upon the filing of a properly completed application for transfer pursuant to s. 561.32, which application does not on its face disclose any reason for denying an alcoholic beverage license, by any purchaser of a business that possesses a beverage license of any type or series, the purchaser of such business and the applicant for transfer are entitled as a matter of right to receive a temporary beverage license of the same type and series as that held by the seller of such business. The temporary license will be valid for all purposes under the Beverage Law until the application is denied or until 14 days after the application is approved. Such temporary beverage license shall be issued by the district supervisor of the district in which the application for transfer is made without the assessment of any additional fee or tax. A purchaser operating under this subsection is subject to the same rights, privileges, duties, and limitations of a beverage licensee as are provided by law, except that purchases of alcoholic beverages during the term of such temporary license shall be for cash only. However, such cash-only restriction does not apply if the entity holding a temporary license pursuant to this section purchases alcoholic beverages as part of a single-transaction cooperative purchase placed by a pool buying agent or if such entity is also the holder of a state beverage license authorizing the purchase of the same type of alcoholic beverages as authorized under the temporary license.

(2) Upon the filing of an application for change of location pursuant to s. 561.33 by any qualified licensee who possesses a beverage license of any type or series, which application does not on its face disclose any reason for denying an alcoholic beverage license, the licensee is entitled as a matter of right to receive a temporary beverage license of the same series as that license held by the licensee to be valid for all purposes under the Beverage Law until the application is denied or until 14 days after the application is approved. Such temporary license shall be issued by the district supervisor of the district in which the application for change of location is made without the payment of any further fee or tax. A licensee operating under the provisions of this subsection is subject to the same rights, privileges, duties, and limitations of a beverage licensee as are provided by law.

(3) Upon the filing of a properly completed application to change the type or series of a beverage license by any qualified licensee having a beverage license of any type or series, which application does not on its face disclose any reason for denying an alcoholic beverage license, the licensee is entitled as a matter of right to receive a temporary beverage license of the type or series applied for, which temporary license is valid for all purposes under the Beverage Law until the application is denied or until 14 days after the application is approved. Such temporary license shall be issued by the district supervisor of the district in which the application for change of type or series is made without the assessment of any additional fee or tax. If the department issues a notice of intent to deny the license application for failure of the applicant to disclose the information required by s. 561.15(2) or (4), the temporary license for transfer, change of location, or change of type of series expires and shall not be extended during any proceeding for administrative or judicial review pursuant to chapter 120. The holder of a temporary license under this subsection is subject to the same rights, privileges, duties, and limitations of a beverage licensee as are provided by law.

(4) Nothing in this section shall be construed to permit the transfer or issuance of temporary licenses contrary to the county-by-county limitation on the number of such licenses based on population as provided in s. 561.20(1).

History.—s. 1, ch. 71-229; s. 1, ch. 72-230; s. 5, ch. 81-166; s. 1, ch. 83-180; s. 4, ch. 84-262; s. 4, ch. 90-17; s. 12, ch. 91-60; s. 10, ch. 95-346; s. 9, ch. 2000-191; s. 4, ch. 2017-137.

Note.—Former s. 561.321.

561.342 County and municipal license tax.—

(1) Twenty-four percent of the license taxes imposed under ss. 561.14(6), 563.02, 564.02, 565.02(1), (4), and (5), and 565.03 collected within the county shall be returned to the appropriate county tax collector.

(2) Thirty-eight percent of the license taxes imposed under ss. 561.14(6), 563.02, 564.02, 565.02(1), (4), and (5), and 565.03 collected within an incorporated municipality shall be returned to the appropriate municipal officer.

(3) No tax on the manufacture, distribution, exportation, transportation, importation, or sale of such beverages shall be imposed by way of license, excise, or otherwise by any municipality, anything in any municipal charter or special or general law to the contrary notwithstanding.

*History.—*s. 6, ch. 71-361; s. 1, ch. 72-230; s. 15, ch. 81-158; s. 4, ch. 90-233.

561.351 Manufacturers, brokers, sales agents, importers, and passenger common carriers; term of license.—All licenses of manufacturers, brokers, sales agents, importers, and passenger common carriers as provided for under s. 565.02 shall be issued annually and shall run from October 1 to the succeeding September 30; except that, when a manufacturer, broker, sales agent, importer, or passenger common carrier begins business after April 1 in any year, the division may issue a license expiring on the succeeding September 30 upon the payment of one-half the tax for such annual license. However, the division may revise license renewal dates and establish a pro rata fee schedule for initial implementation of the revised renewal dates by rule.

*History.—*s. 1, ch. 72-230; ss. 11, 16, ch. 81-158; s. 5, ch. 96-419.

561.37 Bond for payment of taxes.—Each manufacturer and each distributor shall file with the division a surety bond acceptable to the division in the sum of \$25,000 as surety for the payment of all taxes, provided, however, that when in the discretion of the division the amount of business done by the manufacturer or distributor is of such volume that a bond of less than \$25,000 will be adequate to secure the payment of all taxes assessed or authorized by the Beverage Law, the division may accept a bond in a lesser sum than \$25,000, but in no event shall it accept a bond of less than \$10,000, and it may at any time in its discretion require any bond in an amount less than \$25,000 to be increased so as not to exceed \$25,000; provided, however, that the amount of bond required for a brewer shall be \$20,000, except that where, in the discretion of the division, the amount of business done by the brewer is of such volume that a bond of less than \$20,000 will be adequate to secure the payment of all taxes assessed or authorized by the Beverage Law, the division may accept a bond in a lesser sum than \$20,000, but in no event shall it accept a bond of less than \$10,000, and it may at any time in its discretion require any bond in an amount less than \$20,000 to be increased so as not to exceed \$20,000; provided further that the amount of the bond required for a wine or wine and cordial manufacturer shall be \$5,000, except that, in the case of a manufacturer engaged solely in the experimental manufacture of wines and cordials from Florida products, where in the discretion of the division the amount of business done by such manufacturer is of such volume that a bond of less than \$5,000 will be adequate to secure the payment of all taxes assessed or authorized by the Beverage Law, the division may accept a bond in a lesser sum than \$5,000, but in no event shall it accept a bond of less than \$1,000 and it may at any time in its discretion require a bond in an amount less than \$5,000 to be increased so as not to exceed \$5,000; provided, further, that the amount of bond required for a distributor who sells only beverages containing not more than 4.007 percent of alcohol by volume, in counties where the sale of intoxicating liquors, wines, and beers is prohibited, and to distributors who sell only beverages containing not more than 17.259 percent of alcohol by volume and wines regardless of alcoholic content, in counties where the sale of intoxicating liquors, wines, and beers is permitted, shall file with the division a surety bond acceptable to the division in the sum of \$25,000, as surety for the payment of all taxes; provided, however, that where in the discretion of the division the amount of business done by such distributor is of such volume that a bond of less than \$25,000 will be adequate to secure the payment of all taxes assessed or authorized by the Beverage Law the division may accept a bond in a less sum than \$25,000 but in no event shall it accept a bond less than \$1,000 and it may at any time in its discretion require any bond in an amount less than \$25,000 to be increased so as not to exceed \$25,000; provided, further, that the amount of bond required for a distributor in a county having a population of 15,000 or less who

procures a license by which his or her sales are restricted to distributors and vendors who have obtained licenses in the same county, shall be \$5,000.

History.—s. 5, ch. 16774, 1935; CGL 1936 Supp. 4151(231); s. 2, ch. 19301, 1939; s. 6, ch. 63-562; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 2, ch. 86-269; s. 13, ch. 91-60; s. 848, ch. 97-103.

561.371 Bond for payment of taxes by spirituous liquor distributors.—Each distributor of spirituous liquors shall file with the division a surety bond acceptable to the division in the sum of \$100,000 as surety for the payment of all taxes provided under the provisions of this chapter.

History.—s. 4, ch. 69-49; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230.

561.38 Issuance of license prohibited until bond approved; cancellation or expiration of bond.—A license may not be issued to a manufacturer or distributor until the bond herein provided for has been approved by the division. If at any time the bond is canceled or expires, the licensee is enjoined from making any further purchases, sales, distribution, or exportation of alcoholic beverages until a new bond is secured and approved by the division.

History.—s. 5, ch. 18774, 1935; CGL 1936 Supp. 4151(231); s. 2, ch. 19301, 1939; s. 7, ch. 61-219; s. 7, ch. 63-562; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 14, ch. 91-60.

561.41 Maintenance and designation of principal office by manufacturers, distributors, importers, and exporters.—Each licensed manufacturer, distributor, and importer and each registered exporter must have within this state an office designated as its principal office within this state and may maintain branch offices within or without this state. The principal and branch offices of each manufacturer, distributor, and importer within this state must, during regular defined business hours, be kept open for the inspection of authorized employees of the division. Each registered exporter must provide access to authorized employees of the division to all business premises, inventories, and records, including all records of transporters, warehouses, and exporters required by the Federal Government, for the purpose of conducting semiannual audits and inventories.

History.—s. 4, ch. 16774, 1935; CGL 1936 Supp. 4151(230); s. 27, ch. 57-420; s. 8, ch. 63-562; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 15, ch. 91-60; s. 82, ch. 2013-18.

561.411 Qualifications for distributors.—No distributor's license shall be issued to or held by any person or business which does not meet and maintain the following qualifications with respect to its warehouse inventory and sales.

(1) The distributor must maintain warehouse space which is either owned or leased by the distributor, or dedicated to the distributor's use in a public warehouse, which is sufficient to store at one time:

(a) An inventory of alcoholic beverages which is equal to at least 10 percent of the distributor's annual case sales to licensed vendors within this state or to licensed vendors within the malt beverage distributor's exclusive sales territory; or

(b) An inventory for which the cost of acquisition is not less than \$100,000.

(2) The distributor must maintain at all times, in a warehouse which is either owned or leased by the distributor or in public warehouse space dedicated to the distributor's use, an inventory of alcoholic beverages:

(a) Which consists of not less than 5 percent of the distributor's annual sales to licensed vendors within this state or within the malt beverage distributor's exclusive sales territory; or

(b) For which the cost of acquisition is not less than \$100,000. The inventory required herein shall be owned by the distributor, not held on consignment, and not acquired pursuant to a prior agreement to sell it to a specific licensee or licensees.

(c) For purposes of calculating inventory or percentage of annual sales as required by paragraphs (a) and (b), the calculation shall not include private label inventory whose label is owned by a vendor.

(3) The distributor must sell alcoholic beverages to licensed vendors generally rather than a selected few licensed vendors. For purposes of this section, a distributor shall be conclusively presumed to be selling to licensed vendors generally, if:

(a) The distributor sells to at least 25 percent of the licensed vendors in the county wherein the distributor's warehouse is located or sells to at least 25 percent of the licensed vendors in the malt beverage distributor's

exclusive sales territory; or

(b) The distributor's total volume of sales to licensed vendors within the state or within the malt beverage distributor's exclusive sales territory during any ongoing 12-month period consists of at least 50 percent of individual sales which are in quantities of 10 cases or less.

History.—s. 6, ch. 96-419.

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.—

(1) No manufacturer, distributor, importer, primary American source of supply, or brand owner or registrant of any of the beverages herein referred to, whether licensed or operating in this state or out-of-state, nor any broker, sales agent, or sales person thereof, shall have any financial interest, directly or indirectly, in the establishment or business of any vendor licensed under the Beverage Law; nor shall such manufacturer, distributor, importer, primary American source of supply, brand owner or brand registrant, or any broker, sales agent, or sales person thereof, assist any vendor by any gifts or loans of money or property of any description or by the giving of any rebates of any kind whatsoever. No licensed vendor shall accept, directly or indirectly, any gift or loan of money or property of any description or any rebates from any such manufacturer, distributor, importer, primary American source of supply, brand owner or brand registrant, or any broker, sales agent, or sales person thereof; provided, however, that this does not apply to any bottles, barrels, or other containers necessary for the legitimate transportation of such beverages or to advertising materials and does not apply to the extension of credit, for liquors sold, made strictly in compliance with the provisions of this section. A brand owner is a person who is not a manufacturer, distributor, importer, primary American source of supply, brand registrant, or broker, sales agent, or sales person thereof, but who directly or indirectly owns or controls any brand, brand name, or label of alcoholic beverage. Nothing in this section shall prohibit the ownership by vendors of any brand, brand name, or label of alcoholic beverage.

(2) Credit for the sale of liquors may be extended to any vendor up to, but not including, the 10th day after the calendar week within which such sale was made.

(3) In cases when payment for sales to a vendor is not made by the 10th day succeeding the calendar week in which such sale was made, the distributor who made such sale shall, within 3 days, notify the division in writing of such fact; and the division, upon receipt of such notice, shall, after compliance with the proceedings hereinafter mentioned, declare in writing to such vendor and to all manufacturers and distributors within the state that all further sales to such vendor are prohibited until such time as the division certifies in writing that such vendor has fully paid for all liquors previously purchased. However, if a distributor received payment within the 3-day period following the 10th day succeeding the calendar week in which the sale was made, the distributor, if notification to the division has not already been made, is not required to notify the division. Payments so made within the 3-day period do not constitute a violation of this section.

(4) Before the division shall so declare and prohibit such sales to such vendor, within 2 days after receipt of such notice the division shall give notice to such vendor by electronic mail of the receipt by the division of such notification of delinquency and such vendor shall be directed to forthwith make payment thereof or, upon failure to do so, to show cause before the division why further sales to such vendor may not be prohibited. Good and sufficient cause to prevent such action by the division may be made by showing payment, failure of consideration, or any other defense which would be considered sufficient in a common-law action. The vendor shall have 5 days after service of such notice via electronic mail within which to show such cause, and he or she may demand a hearing thereon, provided he or she does so in writing within said 5 days, such written demand to be delivered to the division either in person, by electronic mail, or by due course of mail within such 5 days. If no such demand for hearing is made, the division shall thereupon declare in writing to such vendor and to all manufacturers and distributors within the state that all further sales to such vendor are prohibited until such time as the division certifies in writing that such vendor has fully paid for all liquors previously purchased. In the event such prohibition of sales and declaration thereof to the vendor, manufacturers, and distributors is ordered by the division, the

vendor may seek review of such decision by the Department of Business and Professional Regulation within 5 days. In the event application for such review is filed within such time, such prohibition of sales may not be made, published, or declared until final disposition of such review by the department.

(5) Upon receipt by the division from the distributor of the notice of nonpayment provided for by subsection (3), the division shall forthwith notify such delinquent vendor and all distributors in the state that no further purchases or sales of liquor by or to such vendor, except for cash, shall be made until good cause is shown by such vendor as heretofore provided for. No liquor shall be purchased by such vendor or sold to him or her by any distributor, except for cash, from and after such notification by the division and until such cause is shown as is provided for in subsection (4). In the event no good cause is shown, then all further sales, for cash or credit, are hereby prohibited after such declaration in writing by the division is sent to such vendor and distributors and until all delinquent accounts have been paid.

(6) Nothing herein shall be taken to forbid the giving of trade discounts in the usual course of business upon wine and liquor sales.

(7) The extension or receiving of credits in violation of this section shall be considered as an arrangement for financial assistance and shall constitute a violation of the Beverage Law and any maneuver, shift, or device of any kind by which credit is extended contrary to the provisions of this section shall be considered a violation of the Beverage Law.

(8) The division may adopt rules and require reports to enforce, and may impose administrative sanctions for any violation of, the limitations established in this section on credits, coupons, and other forms of assistance.

(9) The term "advertising materials" as used in this section does not include outside signs so located as to be connected with or appertaining to the vendor's licensed premises.

(10) No manufacturer, distributor, importer, primary American source of supply, brand owner, or brand registrant of the beverages referred to herein, or any broker, sales agent, or sales person thereof, shall directly or indirectly give, lend, rent, sell, or in any other manner furnish to a vendor any outside sign, printed, painted, electric, or otherwise; nor shall any vendor display any sign advertising any brand of alcoholic beverages on the outside of his or her licensed premises, on any lot of ground of which the licensed premises are situate, or on any building of which the licensed premises are a part.

(11) A vendor may display in the interior of his or her licensed premises, including the window or windows thereof, neon, electric, or other signs, including window painting and decalcomanias applied to the surface of the interior or exterior of such windows, and posters, placards, and other advertising material advertising the brand or brands of alcoholic beverages sold by him or her, whether visible or not from the outside of the licensed premises, but no vendor shall display in the window or windows of his or her licensed premises more than one neon, electric, or similar sign, advertising the product of any one manufacturer.

(12) Any manufacturer, distributor, importer, primary American source of supply, or brand owner or registrant, or any broker, sales agent, or sales person thereof, may give, lend, furnish, or sell to a vendor who sells the products of such manufacturer, distributor, importer, primary American source of supply, or brand owner or registrant any of the following: neon or electric signs, window painting and decalcomanias, posters, placards, and other advertising material herein authorized to be used or displayed by the vendor in the interior of his or her licensed premises.

(13) A licensee under the Beverage Law may not possess or use, in physical or electronic format, any type of malt beverage coupon or malt beverage cross-merchandising coupon in this state, where:

(a) The coupon is produced, sponsored, or furnished, whether directly or indirectly, by an alcoholic beverage manufacturer, distributor, importer, brand owner, or brand registrant or any broker, sales agent, or sales person thereof; and

(b) The coupon is or purports to be redeemable by a vendor or other person who sells malt beverages to consumers in the state.

(14) The division shall adopt reasonable rules governing promotional displays and advertising. Such rules may 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, 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 3 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.

History.—s. 4, ch. 16774, 1935; CGL 1936 Supp. 4151(230); s. 1, ch. 22078, 1943; s. 6, ch. 23746, 1947; s. 1, ch. 25260, 1949; s. 1, ch. 25340, 1949; s. 10, ch. 26484, 1951; s. 28, ch. 57-420; ss. 16, 35, ch. 69-106; s. 208, ch. 71-377; s. 1, ch. 72-230; s. 1, ch. 75-97; s. 9, ch. 78-95; s. 30, ch. 79-4; s. 3, ch. 84-142; s. 10, ch. 84-262; s. 1, ch. 85-166; s. 1, ch. 87-226; s. 217, ch. 94-218; s. 34, ch. 97-98; s. 849, ch. 97-103; s. 1, ch. 2008-226; s. 1, ch. 2013-145; s. 3, ch. 2015-12; s. 70, ch. 2016-10; s. 1, ch. 2018-135; s. 17, ch. 2021-135.

561.4205 Keg deposits; limited alternative inventory and reconciliation process.—

(1) A distributor selling an alcoholic beverage to a vendor in bulk, by recyclable keg or other similar reusable container, for the purpose of sale in draft form on tap, must charge the vendor a deposit, to be referred to as a “keg deposit,” in an amount not less than that charged to the distributor by the manufacturer for each keg or container of the beverage sold. The deposit amount charged to a vendor for a draft keg or container of a like brand must be uniform. Charges made for deposits collected or credits allowed for empty kegs or containers returned must be shown separately on all sale tickets or invoices. A copy of such sales tickets or invoices must be given to the vendor at the time of delivery.

(2) In lieu of receiving a keg deposit, a distributor selling alcoholic beverages by recyclable keg or other similar reusable container for the purpose of sale in draft form to a vendor identified in s. 561.01(18) or s. 565.02(6) or (7) shall implement an inventory and reconciliation process with such vendor in which an accounting of kegs is completed and any loss or variance in the number of kegs is paid for by the vendor on a per-keg basis equivalent to the required keg deposit. This inventory and reconciliation process may occur twice per year, at the discretion of the distributor, but must occur at least annually. Upon completion of an agreed upon keg inventory and reconciliation, the vendor shall remit payment within 15 days after receiving an invoice from the distributor. The vendor may choose to establish and fund a separate account with the distributor for the purpose of expediting timely payments.

History.—s. 5, ch. 2016-190.

561.421 Temporary convention permits.—In convention halls, coliseums, and similar type buildings where there is an existing beverage license, upon the approval of the incorporated city, town, or board of county commissioners, the director may, in his or her discretion, issue a permit for not more than 5 calendar days for the display by manufacturers or distributors of products licensed under the Beverage Law; and may authorize consumption of such beverages on the premises only.

History.—s. 1, ch. 71-100; s. 1, ch. 72-230; s. 850, ch. 97-103.

561.422 Nonprofit civic organizations, charitable organizations, municipalities, and counties; temporary permits.—Upon the filing of an application, presentation of a local building and zoning permit, and payment of a fee of \$25 per permit, the director of the division may issue a permit authorizing a bona fide nonprofit civic organization, charitable organization, municipality, or county to sell alcoholic beverages for consumption on the premises only, for a period not to exceed 3 days, subject to any state law or municipal or county ordinance regulating the time for selling such beverages. All net profits from sales of alcoholic beverages collected during the permit period by a nonprofit or civic organization must be retained by such organizations. All net profits from sales of alcoholic beverages collected during the permit period by a municipality or county must be donated to a nonprofit civic or charitable organization within 90 days after the permitted event. A municipality or county may only be issued such a temporary permit if it has attempted to solicit a qualified nonprofit civic or charitable organization to conduct such sales but has been unable to find such a qualifying organization in a reasonably practicable manner and timeframe. A nonprofit civic organization, charitable organization, municipality, or county may be issued no more than 12 permits per calendar year. Notwithstanding other provisions of the Beverage Law, a nonprofit civic organization, charitable organization, municipality, or county licensed under this section may purchase alcoholic beverages from a distributor or vendor licensed under the Beverage Law. The division may adopt rules and conduct audits to ensure compliance with this section.

History.—s. 1, ch. 72-380; s. 1, ch. 83-79; s. 5, ch. 84-262; s. 2, ch. 2003-20; s. 6, ch. 2016-190.

561.423 Beer and malt beverages; in-store servicing authorized.—Nothing in s. 561.42 or any other provision of the Beverage Law shall prohibit a distributor of beer or malt beverages from providing in-store servicing of beer or malt beverages. “In-store servicing” as used herein means quality control procedures which include, but are not limited to: rotation of malt beverages on the vendor’s shelves, rotation and placing of malt beverages in vendor’s coolers, proper stacking and maintenance of appearance and display of malt beverages on vendor’s shelves, price-stamping of malt beverages in vendor’s licensed premises, and moving or resetting any product or display in order to display a distributor’s own product when authorized by the vendor.

History.—s. 1, ch. 75-143; s. 2, ch. 85-166.

561.424 Vinous beverages; in-store servicing authorized.—

(1) It is the finding of the Legislature that the in-store servicing of wine by a distributor is a necessary part of a distributor’s function and responsibility to a vendor. It is further the finding of the Legislature that the in-store servicing of wine by a distributor is not intended by the distributor to induce a vendor to purchase wine from the distributor nor does the distributor intend to provide any financial assistance to a vendor by providing such in-store servicing to the vendor. In addition, it is the finding of the Legislature that in-store servicing of wine by a distributor is a normal trade or business practice which has substantially contributed to the increase in sales of wine resulting in a substantial benefit to the state by increased tax revenues resulting from the increased sales, and therefore is not a rendering of financial assistance to a vendor or an inducement to purchase wine.

(2) Nothing in s. 561.42 or any other provision of the alcoholic beverage law shall prohibit a distributor of wine from providing in-store servicing of wine sold by such distributor to a vendor. “In-store servicing” as used herein means: placing the wine on the vendor’s shelves and maintaining the appearance and display of said wine on the vendor’s shelves in the vendor’s licensed premises; placing the wine not so shelved or displayed in a storage area designated by the vendor, which is located in the vendor’s licensed premises; rotation of vinous beverages; and price stamping of vinous beverages in vendor’s licensed premises. This section shall not apply to distilled spirits.

History.—s. 3, ch. 77-192.

561.43 Dry counties; manufacturers’ or distributors’ licenses; exporters’ registrations; exemptions.—

(1) A license may not be issued to a manufacturer or distributor, and a registration may not be issued to an exporter, for the operation of a manufacturing or distributing plant or exporting establishment in any county where the sale of intoxicating liquors, wines, and beers is prohibited, except:

(a) To manufacturers of wines or wines and cordials;

(b) To distillers of alcoholic or spirituous liquors made exclusively from citrus fruits, citrus fruit products or citrus fruit byproducts, agricultural products and byproducts;

(c) To manufacturers of beer whose plants are licensed at the time the county in which such plants are located votes to prohibit the sale of intoxicating beverages therein under the local option provisions of the State Constitution.

(d) To rectifiers and blenders of alcoholic or spirituous liquors mixed exclusively with citrus fruit products or citrus fruit byproducts, agricultural products, or agricultural byproducts.

(2) It shall be lawful for any manufacturer or distiller authorized to be licensed under the provisions of this section to sell its products from its plants only for transportation out of the county.

History.—s. 5, ch. 16774, 1935; CGL 1936 Supp. 4151(231); s. 2, ch. 19301, 1939; s. 8, ch. 22663, 1945; s. 7, ch. 23746, 1947; s. 1, ch. 57-1969; s. 1, ch. 61-438; s. 9, ch. 63-562; s. 1, ch. 72-230; s. 16, ch. 91-60.

561.49 No tax on out-of-state sales.—The excise taxes provided for in this chapter shall be paid as to all such beverages sold within this state. No excise tax shall be required to be paid by manufacturers, distributors, or exporters as to the sale of beverages which are actually delivered by such manufacturer, distributor, or exporter to persons outside the state when such deliveries are actually made outside the state in places where the sale of such beverages is authorized by law to persons authorized by the laws of the places where such delivery is made to purchase and receive such beverages in such places. The burden shall always be on the manufacturer, distributor,

or exporter to show to the satisfaction of the division by bill of lading of a common carrier or other satisfactory evidence that delivery was made outside the state in accordance with the laws of the place of delivery.

History.—s. 9, ch. 16774, 1935; s. 10, ch. 18015, 1937; CGL 1936 Supp. 4151(235); s. 2, ch. 20830, 1941; s. 10, ch. 63-562; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230.

561.495 Legislative findings; cost of regulating imported beverages.—Effective July 1, 1988, the Legislature finds and determines that the authorized transportation and importation into the state of alcoholic beverages described in chapters 564 and 565 require strict enforcement of state statutes regulating and administering the manufacture, distribution, and sale of alcoholic beverages; the costs of regulating and administering such imported alcoholic beverages are greater than for those alcoholic beverages not imported; the production of lower quality alcoholic beverages should be discouraged; and in order to protect the health, safety, welfare, and economic integrity of the state, the costs of ensuring compliance with relevant state laws should be included in the taxes imposed upon said alcoholic beverages.

History.—s. 9, ch. 88-308.

561.50 One state tax payment; reports.—

(1) There shall be only one state tax paid as to each gallon or fraction thereof of beverage sold under the Beverage Law, and no other excise tax shall be levied directly or indirectly. Such tax shall be computed from the reports, books, and records of manufacturers and distributors; and the amount so computed shall be remitted with the report required by s. 561.55 to the division at intervals of 1 month, on or before the 10th of each month, for all beverages sold during the previous calendar month, and such payment of tax shall accompany the report required by s. 561.55. If the monthly tax liability of a manufacturer or distributor exceeds the amount of the bond furnished for payment of taxes, the division, upon a finding based upon substantial and competent evidence that the security of the tax revenue involved is in jeopardy, may require a bond equal to the anticipated tax liability of the manufacturer or distributor. Additionally, the division may increase the frequency of the remittance of the tax when the security of the tax involved is in immediate jeopardy or the financial condition of the manufacturer or distributor is unstable and the potential tax liability exceeds the bond furnished under the Beverage Law. In arriving at a conclusion that the security of the tax revenue involved is in jeopardy, the division shall consider and be guided by the prior history, if any, of the compliance or noncompliance by the manufacturer or distributor with beverage tax obligations; the transient or nontransient nature of the manufacturer or distributorship; the type of inventory, the equity of the manufacturer or distributor therein, and the mobility of such inventory; the financial status of the manufacturer or distributor; and the anticipated tax obligation of the manufacturer or distributor.

(2) Whenever the tax on alcoholic beverages under the Beverage Law is expressed in gallons, the conversion factor of 1 liter being the equivalent of 0.26417 gallons shall be used in determining the applicable tax.

(3) The use of the word “sold” in subsection (1) shall include alcoholic beverages lost, stolen, or other unaccounted for shortages occurring after entry into the state. All lost, stolen, or other unaccounted for shortages occurring outside this state and supported by documentation shall not be subject to the Florida excise tax upon such alcoholic beverages.

History.—s. 9, ch. 16774, 1935; CGL 1936 Supp. 4151(235); s. 10, ch. 18015, 1937; s. 2, ch. 20830, 1941; s. 30, ch. 57-420; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 20, ch. 81-158; s. 5, ch. 88-308.

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), 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.

(2) Any person who is in the business of selling alcoholic beverages and who knowingly and intentionally sells malt beverages in a manner inconsistent with the requirements of subsection (1), whether to a vendor or to an ultimate consumer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 6, ch. 97-213; s. 4, ch. 2015-12.

561.54 Certain deliveries of beverages prohibited.—

(1) It is unlawful for common or permit carriers, operators of privately owned cars, trucks, buses, or other conveyances or out-of-state manufacturers or suppliers to make delivery from without the state of any alcoholic beverage to any person, association of persons, or corporation within the state, except to qualified manufacturers, distributors, and exporters of such beverages so delivered and to qualified bonded warehouses in this state.

(2) Any licensee aggrieved by a violation of this section may bring an action in any court of competent jurisdiction to recover for the state all moneys obtained by common carriers or permit carriers; obtained by operators of privately owned cars, trucks, buses, or other conveyances; or obtained by out-of-state manufacturers or suppliers as a result of the delivery of alcoholic beverages in violation of this section, and may obtain a declaratory judgment that an act or practice violates this section and enjoin any person from violating this section. In addition to such relief, the court may order the confiscation and destruction of any alcoholic beverages delivered in violation of this section. In assessing damages, the court shall enter judgment against a defendant for three times the amount of the delivery charges proved or the fair market value of merchandise unlawfully brought into the state. Payment or satisfaction of any judgment under this section, other than for costs and attorney's fees, shall be made in its entirety to the state. In any successful action under this section, the court shall award the plaintiff costs and reasonable attorney's fees.

History.—s. 5, ch. 20830, 1941; s. 11, ch. 22663, 1945; s. 11, ch. 23746, 1947; s. 11, ch. 25035, 1949; s. 11, ch. 29786, 1955; s. 11, ch. 63-562; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 47, ch. 83-216; s. 3, ch. 86-269; s. 8, ch. 97-213.

561.545 Certain shipments of beverages prohibited; penalties; exceptions.—The Legislature finds that the direct shipment of alcoholic beverages by persons in the business of selling alcoholic beverages to residents of this state in violation of the Beverage Law poses a serious threat to the public health, safety, and welfare; to state revenue collections; and to the economy of the state. The Legislature further finds that the penalties for illegal direct shipment of alcoholic beverages to residents of this state should be made adequate to ensure compliance with the Beverage Law and that the measures provided for in this section are fully consistent with the powers conferred upon the state by the Twenty-first Amendment to the United States Constitution.

(1) Any person in the business of selling alcoholic beverages who knowingly and intentionally ships, or causes to be shipped, any alcoholic beverage from an out-of-state location directly to any person in this state who does not hold a valid manufacturer's or wholesaler's license or exporter's registration issued by the Division of Alcoholic Beverages and Tobacco or who is not a state-bonded warehouse is in violation of this section.

(2) Any common carrier or permit carrier or any operator of a privately owned car, truck, bus, or other conveyance who knowingly and intentionally transports any alcoholic beverage from an out-of-state location directly to any person in this state who does not hold a valid manufacturer's or wholesaler's license or exporter's registration or who is not a state-bonded warehouse is in violation of this section.

(3) Any person found by the division to be in violation of subsection (1) shall be issued a notice, by certified mail, to show cause why a cease and desist order should not be issued. Any person who violates subsection (1) within 2 years after receiving a cease and desist order or within 2 years after a prior conviction for violating subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Any common carrier or permit carrier, or any operator of a privately owned car, truck, bus, or other conveyance found by the division to be in violation of subsection (2) as a result of a second or subsequent delivery from the same source and location, within a 2-year period after the first delivery shall be issued a notice, by certified mail, to show cause why a cease and desist order should not be issued. Any person who violates subsection (2) within 2 years after receiving the cease and desist order or within 2 years after a prior conviction for violating

subsection (2) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) This section does not apply to the direct shipment of sacramental alcoholic beverages to bona fide religious organizations as authorized by the division or to possession of alcoholic beverages in accordance with s. 562.15(2).

History.—s. 9, ch. 97-213.

561.55 Manufacturers', distributors', brokers', sales agents', importers', vendors', and exporters' records and reports.—

(1) Each manufacturer, distributor, broker, sales agent, importer, and exporter shall keep a complete and accurate record and make reports showing the amount of:

(a) Beverages manufactured or sold within the state and to whom sold;

(b) Beverages imported from beyond the limits of the state and to whom sold;

(c) Beverages exported beyond the limits of the state, to whom sold, the place where sold, and the address of the person to whom sold.

(2) Each manufacturer, distributor, broker, sales agent, and importer shall make a full and complete report by the 10th day of each month for the previous calendar month. The report must be made on forms prepared by the division and filed with the division through the division's electronic data submission system.

(3)(a) Each manufacturer, distributor, broker, agent, and importer licensed under the Beverage Law shall maintain and keep for a period of 3 years at the licensed place of business such records of alcoholic beverages received, sold, or delivered within or without this state as may be required by the division.

(b) Each vendor shall keep records of all purchases and other acquisitions of alcoholic beverages for a period of 3 years.

(4) Each registered exporter shall supply to the division copies of all certified reports pertaining to transporting, warehousing, and exporting alcoholic beverages prepared for the Federal Government with all supporting documents.

History.—s. 4, ch. 16774, 1935; CGL 1936 Supp. 4151(230); s. 31, ch. 57-420; s. 3, ch. 61-219; s. 12, ch. 63-562; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 17, ch. 81-158; s. 17, ch. 91-60; s. 18, ch. 2021-135.

561.56 Transportation of beverages by manufacturers, distributors, and exporters.—Manufacturers, distributors, and exporters may transport or cause to be transported such beverages from one place in this state to another place in this state, or from any place beyond the limits of this state into any place within this state, or from any place in this state to any place beyond this state, for sale at wholesale or export as herein provided, except that no beverage prohibited to be sold in certain counties in this state shall be transported for sale or be caused to be transported for sale in the counties where their sale is prohibited.

History.—s. 4, ch. 16774, 1935; CGL 1936 Supp. 4151(230); s. 13, ch. 63-562; s. 1, ch. 72-230.

561.57 Deliveries by licensees.—

(1) Vendors shall be permitted to make deliveries away from their places of business of sales actually made at the licensed place of business; provided, telephone, electronic, or mail orders received at a vendor's licensed place of business shall be construed as a sale actually made at the vendor's licensed place of business. Deliveries made by a vendor away from his or her place of business may be made in vehicles that are owned or leased by the vendor or in a third-party vehicle pursuant to a contract with a third party with whom the vendor has contracted to make deliveries, including, but not limited to, common carriers. By acceptance of an alcoholic beverage license, the vendor agrees that vehicles that are owned or leased by the vendor shall always be 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 the vehicle is being used to transport or deliver alcoholic beverages. A manufacturer possessing a vendor's license under s. 561.221(2) is not permitted to make deliveries under this subsection.

(2) Deliveries made by a manufacturer or distributor away from his or her place of business may be made only in vehicles that are owned or leased by the licensee. By acceptance of an alcoholic beverage license and the use of such vehicles, the licensee agrees that such vehicle shall always be subject to be inspected and searched 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 the vehicle is being used to transport or deliver alcoholic beverages.

(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. 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) 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. 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.

(5) Common carriers may transport alcoholic beverages.

(6) Valid proof of the recipient's identity and age shall be verified and documented at the time of delivery. All deliveries made pursuant to this section, either by a licensee or third party, must comply with s. 562.11.

History.—s. 11(c), ch. 16774, 1935; CGL 1936 Supp. 4151(237); s. 1, ch. 20830, 1941; s. 17, ch. 25359, 1949; s. 32, ch. 57-420; s. 14, ch. 63-562; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 6, ch. 88-308; s. 851, ch. 97-103; s. 1, ch. 2013-170; s. 5, ch. 2015-12; s. 71, ch. 2016-10; s. 1, ch. 2018-133.

561.58 Issuance of license for a prior license revoked.—When a license is revoked by the division, it may prohibit or permit a license to be issued for the location of the place of business formerly operated under such revoked license. The maximum period of time that any such license shall be prohibited by the division from any such place of business shall be 2 years from the succeeding license renewal date as fixed by the division following such revocation.

History.—s. 7, ch. 20830, 1941; s. 18, ch. 25359, 1949; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 12, ch. 81-158.

561.65 Mortgagee's interest in license.—

(1) Any person holding a bona fide mortgage or lien or security interest in a spirituous alcoholic beverage license in this state shall have the right to enforcement of a lien against that license within 180 days after any order of revocation or suspension by an administrative officer or department of the government for a cause or causes of which the lienholder did not have knowledge or in which he or she did not participate. The division is required to notify any lienholder properly filing pursuant to subsection (4) of a pending revocation or suspension. No revoked quota beverage license encumbered by a lien or security interest perfected in accordance with this section shall be issued in accordance with s. 561.19(2) until the 180-day period has elapsed or until such enforcement proceeding is final. Liens or security interests in spirituous alcoholic beverage licenses existing prior to July 1, 1981, shall not be affected by the provisions of this section.

(2) The purchaser at a foreclosure sale shall have the right to operate under such license, if otherwise lawfully qualified and authorized by the division to do so, or to have a reasonable time within which to transfer the license to some person qualified under the laws of this state to operate under such license. If the purchaser is a distributor licensed under the Beverage Law, the license becomes inoperative immediately and remains in such status until transferred, in accordance with the Beverage Law, to a person qualified to operate under such license; however, the distributor shall transfer such license within 245 days after the date of purchase.

(3) If any such bona fide mortgagee or lienholder serves notice in writing on the division of the extension of such lien and accompanies that notice with the payment of the fee set forth in subsection (4) to the division, which

money shall be used by the division to defray the costs of providing this service, then such lienholder shall be notified in writing of the filing of an order to show cause as to why the license should not be suspended and revoked; and also the lienholder shall be furnished a copy of any order of suspension or revocation. In this event, the 180 days within which to file for the enforcement of the lien by the lienholder shall commence running from the date of the mailing of the copy of the order of revocation or suspension.

(4) In order to perfect a lien or security interest in a spirituous alcoholic beverage license which may be enforceable against the license, the party which holds the lien or security interest, within 90 days of the date of creation of the lien or security interest, shall record the same with the division on or with forms authorized by the division, which forms shall require the names of the parties and the terms of the obligation. The division, upon the request of any person or entity, shall conduct a lien search and shall provide to the requester copies of all recorded liens and security interests in the division's records under the name searched, all for the fee set forth in this subsection. The fee for recording a lien or security interest shall be \$10; the fee for recording an assignment of a recorded lien or security interest shall be \$10; the fee for recording a satisfaction of a lien or security interest shall be \$10; and the fee for a lien search shall be \$20. The division shall promulgate forms to be used under this subsection. All liens and security interests filed on or after July 1, 1995, shall expire 5 years after recordation unless renewed by the lienholder within 6 months prior to its expiration date. All liens and security interests filed prior to July 1, 1995, shall expire on July 1, 2000, unless renewed by the lienholder within 6 months prior to that date. Renewals of liens and security interests shall be subject to a \$10 renewal fee.

(5) Any foreclosure of a perfected lien in a beverage license shall be in the circuit court in the county in which the beverage license is issued, and the division shall be joined as an indispensable party. All holders of liens senior to the lien being foreclosed shall be joined and deemed necessary parties to the foreclosure.

(6) Upon a judgment of foreclosure and after written notice to each distributor of alcoholic beverages who has filed a claim in the foreclosure, the clerk of the circuit court shall sell the license at public auction, pursuant to chapter 45, to the highest and best bidder, who shall pay the amount bid by a cashier's check within 24 hours of the time of sale. The proceeds from the sale of such license, after deducting the expenses of the sale, shall be paid, first, to the lienholder or lienholders in the order of date of filing and, second, to creditors who have paid or by law are obligated to pay federal or state excise taxes on purchases by the licensee; and the balance shall be paid as directed in the judgment of foreclosure.

(7) The institution of foreclosure procedures or the judicial transfer of a license shall not prevent the division from suspending or imposing a civil penalty against the licensee of record at the time of the alleged violation. However, should the division obtain a revocation of the license against the previous licensee of record, the revocation shall be effective only to impair the qualifications of the officers, directors, or stockholders of that licensee.

History.—s. 1, ch. 69-115; ss. 16, 35, ch. 69-106; s. 1, ch. 72-230; s. 18, ch. 79-11; s. 21, ch. 81-158; s. 6, ch. 84-262; s. 11, ch. 95-346; s. 852, ch. 97-103; s. 3, ch. 2003-20.

561.66 Legislative intent.—It is the intent of the Legislature that this chapter and chapters 562, 563, 564, and 565 shall apply within the state boundaries of Florida, including Indian country, Indian reservations, or land held in trust for Indians by the United States or any other person.

History.—s. 1, ch. 79-405.

561.665 Division to restrict licensees from permitting certain activities.—The division shall promulgate rules, to become effective no later than October 1, 1989, to prohibit every person maintaining, owning, or operating a commercial establishment located within this state at which alcoholic beverages are offered for sale on the premises, from undertaking or permitting any contest or promotion or other form of recreational activity involving exploitation endangering the health, safety, and welfare of any person with dwarfism. For the purposes of this section, the term "dwarfism" means a disproportionate or proportionate short stature most often caused by a genetic syndrome. The division may suspend or revoke the license of and may impose a civil penalty not to exceed \$1,000 against any person in violation of any rule promulgated pursuant to the provisions of this section, as authorized and according to the procedures set forth in s. 561.29.

History.—s. 1, ch. 89-204.

561.67 Reclamation by distributor of beverages not paid for by licensed vendors.—

(1) The division shall issue to the distributor a written statement of reclamation, upon written request by such licensed distributor of spirituous, vinous, or malt beverages, to authorize reclamation by the distributor of such beverages delivered to and in possession of a licensed vendor pursuant to unpaid invoices. At the time the division issues a written statement of reclamation to the distributor, the division shall mail a copy of the statement to any financial institution or third party which has, according to the records of the Secretary of State, a perfected security interest in the spirituous, vinous, or malt beverages inventory of the licensed vendor. Reclamation by the distributor is authorized when such transaction is the cause of an unpaid account, for which the vendor has been notified pursuant to the Beverage Law, and the excise tax has been paid or is due and payable by the distributor.

(2) If reclamation wholly satisfies the unpaid invoices, the distributor shall notify the division in writing, and such vendor shall be considered to have fully paid for all beverages previously purchased from that distributor.

(3) Neither the division, nor any employee of the division, shall be liable to any person for any cause whatsoever arising out of, or from, any acts by the division, by the division director, or by any employee of the division under the provisions of this section.

(4) The division shall promulgate rules to assist in the enforcement of this section.

History.—s. 1, ch. 86-228; s. 2, ch. 92-91; s. 347, ch. 96-406.

561.68 Licensure; distributor's salespersons.—

(1)(a) Before any person may solicit or sell to vendors or become employed as a salesperson of spirituous or vinous beverages for a licensed Florida distributor in accordance with the provisions of this section, such person shall file with the district supervisor of the district of the Division of Alcoholic Beverage and Tobacco in which the distributor's premises is located a sworn application for a license on forms provided by the division. Prior to any application being approved, the division shall require the applicant to file a fee of \$50 and file a set of fingerprints on regular United States Department of Justice forms. The licensure requirement provided in this paragraph does not apply to the solicitation or sale of cider.

(b) Any person employed as a salesperson of spirituous or vinous beverages for a licensed Florida distributor on October 1, 1986, shall not be required to submit a set of fingerprints to the division with his or her application for licensure.

(2) After the application has been filed, the district supervisor shall cause the application to be fully investigated. Upon the completion of the investigation the division shall approve or disapprove the application. If approved the license shall be issued. Licenses shall be issued only to persons meeting the qualifications of s. 561.15 and any other requirements of the Beverage Law. Upon issuance, the salesperson's license shall be valid and remain in effect unless the salesperson has a break in employment. If a licensee salesperson has a break in employment longer than 90 days during which time the salesperson is not employed by any Florida distributor, the salesperson must obtain a new salesperson's license by complying with the requirements for original issuance.

(3) Each licensed salesperson is required to comply with all aspects of the Beverage Law to the same extent as all licensees and any violation of the Beverage Law shall cause the license to be subject to suspension or revocation.

(4) The division shall have the authority to promulgate rules to carry out the purposes of this act.

(5) The fee collected for a salesperson's license pursuant to this section shall go directly to the Department of Business and Professional Regulation to provide funds to administer the provisions contained herein.

History.—ss. 1, 2, ch. 86-268; s. 47, ch. 91-220; s. 218, ch. 94-218; s. 853, ch. 97-103; s. 10, ch. 97-213.

561.695 Stand-alone bar enforcement; qualification; penalties.—

(1) The division shall designate as a stand-alone bar the licensed premises of a vendor that operates a business that meets the definition of a stand-alone bar in s. 386.203 upon receipt of the vendor's election to authorize tobacco smoking or vaping, or both, in the licensed premises.

(2) A licensed vendor who makes the required election under subsection (1) before the annual renewal of its license may authorize tobacco smoking or vaping, or both, on the licensed premises and must post a notice of such intention at the same location at which the vendor's current alcoholic beverage license is posted. The notice shall affirm the vendor's intent to comply with the conditions and qualifications of a stand-alone bar imposed pursuant to part II of chapter 386 and the Beverage Law.

(3) Only the licensed vendor may provide or serve food on the licensed premises of a stand-alone bar. Other than customary bar snacks as defined by rule of the division, the licensed vendor may not provide or serve food to a person on the licensed premises without requiring the person to pay a separately stated charge for the food that reasonably approximates the retail value of the food.

(4) A licensed vendor operating a stand-alone bar must conspicuously post signs at each entrance to the establishment stating that smoking and vaping are authorized in the establishment. The color and design of such signs shall be left to the discretion of the person in charge of the premises.

(5) After the initial designation, to continue to qualify as a stand-alone bar, the licensee must provide to the division annually, on or before the licensee's annual renewal date, an affidavit that certifies, with respect to the preceding 12-month period, the following:

(a) No more than 10 percent of the gross revenue of the business is from the sale of food consumed on the licensed premises as defined in s. 386.203(12).

(b) Other than customary bar snacks as defined by rule of the division, the licensed vendor does not provide or serve food to a person on the licensed premises without requiring the person to pay a separately stated charge for food that reasonably approximates the retail value of the food.

(c) The licensed vendor conspicuously posts signs at each entrance to the establishment stating that smoking or vaping, or both, are authorized in the establishment.

The division shall establish by rule the format of the affidavit required by this subsection. A licensed vendor shall not knowingly make a false statement on the affidavit required by this subsection. In addition to the penalties provided in subsection (7), a licensed vendor who knowingly makes a false statement on the affidavit required by this subsection may be subject to suspension or revocation of the vendor's alcoholic beverage license under s. 561.29.

(6) The Division of Alcoholic Beverages and Tobacco shall have the power to enforce part II of chapter 386 and to audit a licensed vendor that operates a business that meets the definition of a stand-alone bar in s. 386.203 for compliance with this section.

(7) Any vendor that operates a business that meets the definition of a stand-alone bar in s. 386.203 which violates this section or part II of chapter 386 is subject to the following penalties:

(a) For the first violation, the vendor shall be subject to a warning or a fine of up to \$500, or both;

(b) For the second violation within 2 years after the first violation, the vendor shall be subject to a fine of not less than \$500 or more than \$2,000;

(c) For the third or subsequent violation within 2 years after the first violation, the vendor shall receive a suspension of the right to maintain a stand-alone bar in which tobacco smoking or vaping, or both, are authorized, not to exceed 30 days, and shall be subject to a fine of not less than \$500 or more than \$2,000; and

(d) For the fourth or subsequent violation, the vendor shall receive a 60-day suspension of the right to maintain a stand-alone bar in which tobacco smoking or vaping, or both, are authorized and shall be subject to a fine of not less than \$500 or more than \$2,000 or revocation of the right to maintain a stand-alone bar in which tobacco smoking or vaping, or both, are authorized.

(8) The division shall adopt rules governing the designation process, criteria for qualification, required recordkeeping, auditing, and all other rules necessary for the effective enforcement and administration of this section and part II of chapter 386. The division is authorized to adopt emergency rules pursuant to s. 120.54(4) to implement this section.

History.—s. 14, ch. 2003-398; s. 1, ch. 2006-130; s. 14, ch. 2019-14.

561.701 Short title.—This act may be cited as the “Florida Responsible Vendor Act.”

History.—s. 1, ch. 89-107.

561.702 Legislative intent.—It is the intent of the Legislature to:

- (1) Eliminate the sale of alcoholic beverages to, and consumption of alcoholic beverages by, underaged persons.
- (2) Reduce intoxication-related accidents, injuries, and deaths in the state.
- (3) Encourage alcoholic beverage vendors and their employees to prevent drug activity on their premises.
- (4) Encourage alcoholic beverage vendors to be prudent in their serving practices and to restrict the sanctions that may be imposed in administrative proceedings against those vendors who comply with responsible practices in accordance with this act.
- (5) Encourage alcoholic beverage vendors to implement responsible policies for serving and promoting alcoholic beverages and, by so doing, prevent the over-service of alcoholic beverages to customers and prevent the over-consumption of alcoholic beverages by customers while on the licensed premises of vendors.
- (6) Promote an attitude of professionalism and responsibility on the part of vendors who sell or serve alcoholic beverages which is expressed in a commitment to responsible service.

History.—s. 2, ch. 89-107; s. 1, ch. 96-419.

561.703 Definitions relating to Florida Responsible Vendor Act.—As used in this act, the term:

- (1) “Division” means the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation.
- (2) “Vendor” means a person who is licensed pursuant to this chapter, chapter 563, chapter 564, or chapter 565, to sell or serve alcoholic beverages. However, vendors at grocery or drug stores licensed under the provisions of s. 563.02(1)(a) or s. 564.02(1)(a), whose premises are in excess of 5,000 square feet of floor space, shall be exempt from the provisions of this act.

History.—s. 3, ch. 89-107; s. 18, ch. 91-60; s. 219, ch. 94-218.

561.705 Responsible vendor qualification.—To qualify as a responsible vendor, the vendor must:

- (1) Provide a course of instruction for its employees that must include subjects dealing with alcoholic beverages and may also include subjects dealing with controlled substances as follows:
 - (a) Laws covering the service of alcoholic beverages and the operation of establishments serving alcoholic beverages.
 - (b) Alcohol or controlled substances or both as a drug and its effects on the body and behavior, including its effects on a person operating a motor vehicle.
 - (c) Effects of alcohol in combination with commonly used drugs, both legal and illegal.
 - (d) Methods of recognizing and dealing with underaged customers.
 - (e) Methods for dealing with customers, and for dealing with employees, who use or traffic in illegal drugs.
- (2) Provide an alcohol server management course for managers of establishments that sell alcoholic beverages. The course must include subjects on alcoholic beverages and may include subjects on controlled substances as follows:
 - (a) Laws governing the service of alcoholic beverages and the operation of establishments serving alcoholic beverages.
 - (b) Development of standard operating procedures for dealing with underaged customers.
 - (c) Development of standard operating procedures for dealing with customers, and for dealing with employees, who use or traffic in illegal drugs.
 - (d) Methods of assisting employees in dealing with underaged customers and in maintaining records that relate to such incidents.
- (3) Require each nonmanagerial employee who is employed to serve alcoholic beverages to complete the employee training course specified in subsection (1) within 30 days after commencing employment. The vendor

must provide for the supervision of such an employee in the service of alcoholic beverages until the employee has received such training.

(4) Require each managerial employee to complete the managerial training course specified in subsection (2) within 15 days after commencing employment.

(5) Require all employees to attend one meeting every 4 months. Each meeting must include the dissemination of information covering the applicable subjects specified in this section and an explanation of the vendor's policies and procedures relating to those subjects.

(6) Require each employee, as a condition of her or his initial employment, to complete a written questionnaire providing the vendor the same information as is required by the division from persons who apply for alcoholic beverage licenses and to determine therefrom whether the employee is precluded by law from serving or selling alcoholic beverages; however, employees of vendors licensed under s. 563.02(1)(a) or s. 564.02(1)(a) shall not be subject to the requirements of this subsection.

(7) Establish a written policy under which any employee who engages in the illegal use of controlled substances on the licensed premises will be immediately dismissed from employment and require each employee to acknowledge the policy in writing.

(8) Maintain employment records of the applications, acknowledgments, and training of its employees required by this section and records of the vendor's enforcement of the policies requiring dismissal specified in subsection (7).

(9) Post signs on the vendor's premises informing customers of the vendor's policy against serving alcoholic beverages to underaged persons and informing customers that the purchase of alcoholic beverages by an underaged person or the illegal use of or trafficking in controlled substances will result in ejection from the premises and prosecution.

History.—s. 5, ch. 89-107; s. 19, ch. 91-60; s. 2, ch. 96-419; s. 1180, ch. 97-103.

561.706 Exemption from license suspension or revocation; mitigation for certain beverage law violations; records of arrests.—

(1) The license of a vendor qualified as a responsible vendor under this act may not be suspended or revoked for an employee's illegal sale or service of an alcoholic beverage to a person who is not of lawful drinking age or for an employee's engaging in or permitting others to engage in the illegal sale, use of, or trafficking in controlled substances, if the employee had completed the applicable training prescribed by this act prior to committing such violation, unless the vendor had knowledge of the violation, should have known about such violation, or participated in or committed such violation. No vendor may use as a defense to suspension or revocation the fact that she or he was absent from the licensed premises at the time a violation of the Beverage Law occurred if the violations are flagrant, persistent, repeated, or recurring.

(2) The division shall consider qualification as a responsible vendor in mitigation of administrative penalties for an employee's illegal sale or service of an alcoholic beverage to a person who is not of lawful drinking age and if the vendor has administered the applicable courses for controlled substances, for an employee's engaging in the illegal sale, use of, or trafficking in controlled substances.

(3) The division shall maintain a record of each arrest of a vendor or an employee for a violation of s. 562.11, and shall ascertain at the time of the arrest whether the vendor has provided training for its employees as provided in s. 561.705 or pursuant to any other program instituted by the vendor. In compiling the record of arrests, the division shall determine if the vendor trained its employees as provided in s. 561.705, pursuant to any other training program, or did not train its employees in a manner similar to the provisions of s. 561.705. The records may be examined by any interested person.

History.—s. 6, ch. 89-107; s. 20, ch. 91-60; s. 3, ch. 96-419; s. 1181, ch. 97-103; s. 5, ch. 2003-20.