

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 639 Issuance of Special Beverage Licenses
SPONSOR(S): Regulatory Reform & Economic Development Subcommittee, Esposito
TIED BILLS: **IDEN./SIM. BILLS:** SB 1262

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	15 Y, 0 N, As CS	Wright	Anstead
2) Commerce Committee		Wright	Hamon

SUMMARY ANALYSIS

In Florida, alcoholic beverages are regulated by the Beverage Law, which regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors. The Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law.

Florida law limits, by county, the number of alcoholic beverage licenses that may be issued for the sale of distilled spirits, to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as “quota” licenses.

A “special license” is an exception to the quota licensing scheme, which allows certain entities to serve liquor without a quota license. One such special license is a “special food service license” (SFS license), which applies to a food service establishment that:

- Has 2,500 square feet,
- Is equipped to serve 150 persons at one time, and
- Derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages.

The bill lowers requirements to qualify for an SFS license by reducing the minimum:

- Service area to **2,000** square feet, and
- Service capacity to **120** persons.

However, a food service establishment will still need to derive 51 percent or more gross sales from food and nonalcoholic beverage sales in order to qualify for an SFS license.

The bill does not have a fiscal impact on local governments and has an indeterminate fiscal impact on state government.

The bill becomes effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Regulation of Alcoholic Beverages

In Florida, alcoholic beverages are regulated by the Beverage Law,¹ which regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.² The Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law.³

Special Food Service License

Florida law limits, by county, the number of alcoholic beverage licenses that may be issued for the sale of distilled spirits, to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as “quota” licenses. The quota license is the only alcoholic beverage license that is limited in number; all other types of alcoholic beverage licenses are available without limitation, if certain conditions are met.⁴

A “special license” is an exception to the quota licensing scheme, which allows certain entities to serve liquor without a quota license. One such special license is a “special food service license” (SFS license), which applies to a food service establishment that:⁵

- Has **2,500** square feet,⁶
- Is equipped to serve **150** persons at one time, and
- Derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages.

The required revenue percentage is computed as the sum of gross food and nonalcoholic beverage revenue divided by the sum of gross food, alcoholic beverage, and non-alcoholic beverage revenue.⁷ Records of each purchase and each sale of food, alcoholic beverages, and nonalcoholic beverages must be maintained for a period of 3 years.⁸

SFS licensees must be audited by the division for compliance with the food and nonalcoholic beverage sales percentage requirements during the first 120-day operating period, and every one to four years thereafter, depending on beverage revenue. Failure by an SFS licensee to satisfy the requirements as to the percentages of food and nonalcoholic beverage sales results in revocation of the SFS license. An SFS licensee whose license is revoked is ineligible to have an interest in a subsequent application for a license for 120 days after the revocation.⁹

SFS licensees may sell or deliver alcoholic beverages in a sealed container for off-premises consumption, including liquor-based beverages prepared by the licensee and packaged in a container sealed by the licensee. Such licensees may not sell a bottle of distilled spirits sealed by a manufacturer. The sale or delivery of such beverages must be accompanied by the sale of food.¹⁰

¹ S. 561.01(6), F.S., provides that the “Beverage Law” means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

² See s. 561.14, F.S.

³ S. 561.02, F.S.

⁴ S. 561.20(1), F.S.

⁵ S. 561.20(2)(a)4., F.S.

⁶ The service area includes only the food service establishment’s buildings and other contiguous outside areas which are under the management and control of the licensed food service establishment. Rule R. 61A-3.0141(1), F.A.C.

⁷ R. 61A-3.0141(4), F.A.C.

⁸ R. 61A-3.0141(3), F.A.C.

⁹ *Id.*

¹⁰ *Id.*

There are several exceptions to the Beverage Law created by special laws, which are applicable to specific local areas. Many reduce certain licensing requirements for special zones in local jurisdictions. For example, ch. 2022-259, L.O.F., allows DBPR to issue an SFS license to restaurants within the Kings Avenue Commercial Corridor in Jacksonville that:

- Have 1,000 square feet,
- Are equipped to serve 50 persons at one time, and
- Derive at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages.

Effect of the Bill

The bill lowers requirements to qualify for an SFS license by reducing the minimum:

- Service area requirement to **2,000** square feet, and
- Service capacity to **120** persons.

However, a food service establishment will still need to derive 51 percent or more gross sales from food and nonalcoholic beverage sales in order to qualify for an SFS license.

B. SECTION DIRECTORY:

Section 1: Amends s. 561.20, F.S., revising requirements for a special restaurant license.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may allow more restaurants to obtain an SFS license, which would increase fees to the state.

2. Expenditures:

The bill may allow more restaurants to obtain an SFS license, which would require more regulatory actions, such as inspections and audits, by DBPR.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may allow more restaurants to obtain an SFS license, which may make it less expensive to own and operate a restaurant that sells alcoholic beverages and could lead to more restaurants opening. It could also increase beverage service options for consumers.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 28, 2023, the Regulatory Reform & Economic Development Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Reduced the service area size requirements from 2,500 square feet to 2,000 square feet, and
- Reduced the seating capacity requirements from 150 persons to 120 persons.

This analysis is drafted to the committee substitute as passed by the Regulatory Reform & Economic Development Subcommittee.