

1 A bill to be entitled
 2 An act relating to the issuance of special beverage
 3 licenses; amending s. 561.20, F.S.; revising
 4 requirements for issuing special beverage licenses to
 5 certain food service establishments and entities
 6 operating certain clubs; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Paragraph (a) of subsection (2) and paragraph
 11 (d) of subsection (7) of section 561.20, Florida Statutes, are
 12 amended to read:

13 561.20 Limitation upon number of licenses issued.—

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

17 1. Any bona fide hotel, motel, or motor court of not fewer
 18 than 80 guest rooms in any county having a population of less
 19 than 50,000 residents, and of not fewer than 100 guest rooms in
 20 any county having a population of 50,000 residents or greater;
 21 or any bona fide hotel or motel located in a historic structure,
 22 as defined in s. 561.01(20), with fewer than 100 guest rooms
 23 which derives at least 51 percent of its gross revenue from the
 24 rental of hotel or motel rooms, which is licensed as a public
 25 lodging establishment by the Division of Hotels and Restaurants;

26 | provided, however, that a bona fide hotel or motel with no fewer
27 | than 10 and no more than 25 guest rooms which is a historic
28 | structure, as defined in s. 561.01(20), in a municipality that
29 | on the effective date of this act has a population, according to
30 | the University of Florida's Bureau of Economic and Business
31 | Research Estimates of Population for 1998, of no fewer than
32 | 25,000 and no more than 35,000 residents and that is within a
33 | constitutionally chartered county may be issued a special
34 | license. This special license shall allow the sale and
35 | consumption of alcoholic beverages only on the licensed premises
36 | of the hotel or motel. In addition, the hotel or motel must
37 | derive at least 60 percent of its gross revenue from the rental
38 | of hotel or motel rooms and the sale of food and nonalcoholic
39 | beverages; provided that this subparagraph shall supersede local
40 | laws requiring a greater number of hotel rooms;

41 | 2. Any condominium accommodation of which no fewer than
42 | 100 condominium units are wholly rentable to transients and
43 | which is licensed under chapter 509, except that the license
44 | shall be issued only to the person or corporation that operates
45 | the hotel or motel operation and not to the association of
46 | condominium owners;

47 | 3. Any condominium accommodation of which no fewer than 50
48 | condominium units are wholly rentable to transients, which is
49 | licensed under chapter 509, and which is located in any county
50 | having home rule under s. 10 or s. 11, Art. VIII of the State

51 Constitution of 1885, as amended, and incorporated by reference
52 in s. 6(e), Art. VIII of the State Constitution, except that the
53 license shall be issued only to the person or corporation that
54 operates the hotel or motel operation and not to the association
55 of condominium owners;

56 4. A food service establishment that has 2,000 ~~2,500~~
57 square feet of service area, is equipped to serve meals to 120
58 ~~150~~ persons at one time, and derives at least 51 percent of its
59 gross food and beverage revenue from the sale of food and
60 nonalcoholic beverages during the first 120-day operating period
61 and the first 12-month operating period thereafter. Subsequent
62 audit timeframes must be based upon the audit percentage
63 established by the most recent audit and conducted on a
64 staggered scale as follows: level 1, 51 percent to 60 percent,
65 every year; level 2, 61 percent to 75 percent, every 2 years;
66 level 3, 76 percent to 90 percent, every 3 years; and level 4,
67 91 percent to 100 percent, every 4 years. A licensee under this
68 subparagraph may sell or deliver alcoholic beverages in a sealed
69 container for off-premises consumption if the sale or delivery
70 is accompanied by the sale of food within the same order. Such
71 authorized sale or delivery includes wine-based and liquor-based
72 beverages prepared by the licensee or its employee and packaged
73 in a container sealed by the licensee or its employee. This
74 subparagraph may not be construed to authorize public food
75 service establishments licensed under this subparagraph to sell

76 a bottle of distilled spirits sealed by a manufacturer. Any sale
77 or delivery of malt beverages must comply with the container
78 size, labeling, and filling requirements imposed under s.
79 563.06. Any delivery of an alcoholic beverage under this
80 subparagraph must comply with s. 561.57. An alcoholic beverage
81 drink prepared by the vendor and sold or delivered for
82 consumption off the premises must be placed in a container
83 securely sealed by the licensee or its employees with an
84 unbroken seal that prevents the beverage from being immediately
85 consumed before removal from the premises. Such alcoholic
86 beverage also must be placed in a bag or other container that is
87 secured in such a manner that it is visibly apparent if the
88 container has been subsequently opened or tampered with, and a
89 dated receipt for the alcoholic beverage and food must be
90 provided by the licensee and attached to the bag or container.
91 If transported in a motor vehicle, an alcoholic beverage that is
92 not in a container sealed by the manufacturer must be placed in
93 a locked compartment, a locked trunk, or the area behind the
94 last upright seat of a motor vehicle. It is a violation of the
95 prohibition in s. 562.11 to allow any person under the age of 21
96 to deliver alcoholic beverages on behalf of a vendor. The vendor
97 or the agent or employee of the vendor must verify the age of
98 the person making the delivery of the alcoholic beverage before
99 allowing any person to take possession of an alcoholic beverage
100 for the purpose of making a delivery on behalf of a vendor under

101 this section. A food service establishment granted a special
102 license on or after January 1, 1958, pursuant to general or
103 special law may not operate as a package store and may not sell
104 intoxicating beverages under such license after the hours of
105 serving or consumption of food have elapsed. Failure by a
106 licensee to meet the required percentage of food and
107 nonalcoholic beverage gross revenues during the covered
108 operating period shall result in revocation of the license or
109 denial of the pending license application. A licensee whose
110 license is revoked or an applicant whose pending application is
111 denied, or any person required to qualify on the special license
112 application, is ineligible to have any interest in a subsequent
113 application for such a license for a period of 120 days after
114 the date of the final denial or revocation;

115 5. Any caterer, deriving at least 51 percent of its gross
116 food and beverage revenue from the sale of food and nonalcoholic
117 beverages at each catered event, licensed by the Division of
118 Hotels and Restaurants under chapter 509. This subparagraph does
119 not apply to a culinary education program, as defined in s.
120 381.0072(2), which is licensed as a public food service
121 establishment by the Division of Hotels and Restaurants and
122 provides catering services. Notwithstanding any law to the
123 contrary, a licensee under this subparagraph shall sell or serve
124 alcoholic beverages only for consumption on the premises of a
125 catered event at which the licensee is also providing prepared

126 food, and shall prominently display its license at any catered
127 event at which the caterer is selling or serving alcoholic
128 beverages. A licensee under this subparagraph shall purchase all
129 alcoholic beverages it sells or serves at a catered event from a
130 vendor licensed under s. 563.02(1), s. 564.02(1), or licensed
131 under s. 565.02(1) subject to the limitation imposed in
132 subsection (1), as appropriate. A licensee under this
133 subparagraph may not store any alcoholic beverages to be sold or
134 served at a catered event. Any alcoholic beverages purchased by
135 a licensee under this subparagraph for a catered event that are
136 not used at that event must remain with the customer; provided
137 that if the vendor accepts unopened alcoholic beverages, the
138 licensee may return such alcoholic beverages to the vendor for a
139 credit or reimbursement. Regardless of the county or counties in
140 which the licensee operates, a licensee under this subparagraph
141 shall pay the annual state license tax set forth in s.
142 565.02(1)(b). A licensee under this subparagraph must maintain
143 for a period of 3 years all records and receipts for each
144 catered event, including all contracts, customers' names, event
145 locations, event dates, food purchases and sales, alcoholic
146 beverage purchases and sales, nonalcoholic beverage purchases
147 and sales, and any other records required by the department by
148 rule to demonstrate compliance with the requirements of this
149 subparagraph. Notwithstanding any law to the contrary, any
150 vendor licensed under s. 565.02(1) subject to the limitation

151 imposed in subsection (1), may, without any additional licensure
152 under this subparagraph, serve or sell alcoholic beverages for
153 consumption on the premises of a catered event at which prepared
154 food is provided by a caterer licensed under chapter 509. If a
155 licensee under this subparagraph also possesses any other
156 license under the Beverage Law, the license issued under this
157 subparagraph may not authorize the holder to conduct activities
158 on the premises to which the other license or licenses apply
159 that would otherwise be prohibited by the terms of that license
160 or the Beverage Law. This section does not permit the licensee
161 to conduct activities that are otherwise prohibited by the
162 Beverage Law or local law. The Division of Alcoholic Beverages
163 and Tobacco is hereby authorized to adopt rules to administer
164 the license created in this subparagraph, to include rules
165 governing licensure, recordkeeping, and enforcement. The first
166 \$300,000 in fees collected by the division each fiscal year
167 pursuant to this subparagraph shall be deposited in the
168 Department of Children and Families' Operations and Maintenance
169 Trust Fund to be used only for alcohol and drug abuse education,
170 treatment, and prevention programs. The remainder of the fees
171 collected shall be deposited into the Hotel and Restaurant Trust
172 Fund created pursuant to s. 509.072; or

173 6. A culinary education program as defined in s.
174 381.0072(2) which is licensed as a public food service
175 establishment by the Division of Hotels and Restaurants.

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

186 b. If the culinary education program provides catering
187 services, this special license shall also allow the sale and
188 consumption of alcoholic beverages on the premises of a catered
189 event at which the licensee is also providing prepared food. A
190 culinary education program that provides catering services is
191 not required to derive at least 51 percent of its gross revenue
192 from the sale of food and nonalcoholic beverages.
193 Notwithstanding any law to the contrary, a licensee that
194 provides catering services under this sub-subparagraph shall
195 prominently display its beverage license at any catered event at
196 which the caterer is selling or serving alcoholic beverages.
197 Regardless of the county or counties in which the licensee
198 operates, a licensee under this sub-subparagraph shall pay the
199 annual state license tax set forth in s. 565.02(1)(b). A
200 licensee under this sub-subparagraph must maintain for a period

201 of 3 years all records required by the department by rule to
 202 demonstrate compliance with the requirements of this sub-
 203 subparagraph.

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

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

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

222
 223 However, any license heretofore issued to any such hotel, motel,
 224 motor court, or restaurant or hereafter issued to any such
 225 hotel, motel, or motor court, including a condominium

226 accommodation, under the general law may not be moved to a new
 227 location, such license being valid only on the premises of such
 228 hotel, motel, motor court, or restaurant. Licenses issued to
 229 hotels, motels, motor courts, or restaurants under the general
 230 law and held by such hotels, motels, motor courts, or
 231 restaurants on May 24, 1947, shall be counted in the quota
 232 limitation contained in subsection (1). Any license issued for
 233 any hotel, motel, or motor court under this law shall be issued
 234 only to the owner of the hotel, motel, or motor court or, in the
 235 event the hotel, motel, or motor court is leased, to the lessee
 236 of the hotel, motel, or motor court; and the license shall
 237 remain in the name of the owner or lessee so long as the license
 238 is in existence. Any special license now in existence heretofore
 239 issued under this law cannot be renewed except in the name of
 240 the owner of the hotel, motel, motor court, or restaurant or, in
 241 the event the hotel, motel, motor court, or restaurant is
 242 leased, in the name of the lessee of the hotel, motel, motor
 243 court, or restaurant in which the license is located and must
 244 remain in the name of the owner or lessee so long as the license
 245 is in existence. Any license issued under this section shall be
 246 marked "Special," and nothing herein provided shall limit,
 247 restrict, or prevent the issuance of a special license for any
 248 restaurant or motel which shall hereafter meet the requirements
 249 of the law existing immediately before the effective date of
 250 this act, if construction of such restaurant has commenced

251 before the effective date of this act and is completed within 30
 252 days thereafter, or if an application is on file for such
 253 special license at the time this act takes effect; and any such
 254 licenses issued under this proviso may be annually renewed as
 255 now provided by law. Nothing herein prevents an application for
 256 transfer of a license to a bona fide purchaser of any hotel,
 257 motel, motor court, or restaurant by the purchaser of such
 258 facility or the transfer of such license pursuant to law.

259 (7)

260 (d) Any corporation, partnership, or individual operating
 261 a club which owns or leases and which maintains any bona fide
 262 beach or cabana club consisting of beach facilities, swimming
 263 pool, locker rooms or bathroom ~~with~~ facilities for at least 100
 264 persons, and a public food service establishment as defined in
 265 s. 509.013(5)(a) ~~restaurant with seats at tables for at least~~
 266 ~~100 persons~~, comprising in all an area of at least 5,000 square
 267 feet located on a contiguous tract of land of in excess of 1
 268 acre may be issued a license under s. 565.02(4). The failure of
 269 such club to maintain the facilities shall be a ground for
 270 revocation of the license.

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