

1 A bill to be entitled

2 An act relating to malt beverages; amending s.
3 561.221, F.S.; providing requirements for a licensed
4 manufacturer of malt beverages to sell such beverages
5 directly to consumers; providing requirements for a
6 taproom; prohibiting a manufacturer from holding a
7 vendor's license at specified premises; providing
8 requirements for a licensed manufacturer to obtain a
9 vendor's license; specifying under what circumstances
10 a manufacturer may sell alcoholic beverages under its
11 vendor's license; requiring a manufacturer to complete
12 certain reports; providing applicability; providing
13 requirements for a brewpub to be licensed as a
14 manufacturer or vendor; providing requirements for a
15 brewpub to sell alcoholic beverages to consumers;
16 amending s. 561.42, F.S.; deleting a prohibition
17 against certain entities conducting tastings; amending
18 s. 561.5101, F.S.; conforming a cross-reference;
19 amending s. 561.57, F.S.; prohibiting common carriers
20 from making deliveries of malt beverages to consumers;
21 amending s. 562.34, F.S.; providing that possessing
22 and transporting a growler is lawful; amending s.
23 563.022, F.S.; authorizing certain product shipments
24 between a licensed manufacturing premises and between
25 two manufacturers that brew malt beverages in
26 collaboration; amending s. 563.06, F.S.; defining the

27 term "growler"; providing requirements for growlers;
 28 creating s. 563.09, F.S.; authorizing a licensed
 29 distributor or manufacturer of malt beverages to
 30 conduct a malt beverage tasting; providing
 31 requirements and limitations; providing construction
 32 and severability; providing an effective date.

33
 34 Be It Enacted by the Legislature of the State of Florida:

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 36 Section 1. Subsections (2) and (3) of section 561.221,
 37 Florida Statutes, are amended to read:

38 561.221 Retail exceptions to manufacturing licenses;
 39 brewing exceptions to vendor licenses ~~Licensing of manufacturers~~
 40 ~~and distributors as vendors and of vendors as manufacturers;~~
 41 conditions and limitations.-

42 (2) A manufacturer of malt beverages that is licensed and
 43 engaged in the manufacture of malt beverages in this state may
 44 sell directly to consumers in face-to-face transactions, which,
 45 notwithstanding s. 561.57(1), requires the physical presence of
 46 the consumer to make payment for and take receipt of the
 47 beverages on the licensed manufacturing premises, as follows:

48 (a) At a taproom, a manufacturer may sell malt beverages
 49 brewed by the manufacturer or in collaboration with other
 50 manufacturers to consumers for on-premises or off-premises
 51 consumption without obtaining a vendor's license. A manufacturer
 52 of malt beverages shall comply with the following requirements

53 related to its taproom:

54 1. The taproom must be a room or rooms located on the
55 licensed manufacturing premises consisting of a single complex,
56 which shall include a brewery. Such premises may be divided by
57 no more than one public street or highway. The taproom shall be
58 included on the sketch or diagram defining the licensed premises
59 submitted with the manufacturer's license application pursuant
60 to s. 561.01(11). All sketch or diagram revisions by the
61 manufacturer must be approved by the division, verifying that
62 the taproom operated by the licensed manufacturer is owned or
63 leased by the manufacturer and is located on the licensed
64 manufacturing premises.

65 2. At least 70 percent of the malt beverages sold per
66 calendar year to consumers in the taproom must be brewed on the
67 licensed manufacturing premises. Malt beverages brewed in
68 collaboration with other manufacturers shall not be included in
69 the 70 percent of malt beverages sold. No more than 30 percent
70 of the malt beverages sold per calendar year to consumers in the
71 taproom may be brewed by the manufacturer at other manufacturing
72 premises and shipped to the licensed manufacturing premises
73 pursuant to s. 563.022(14)(d) or brewed in collaboration with
74 other manufacturers.

75 3. Malt beverages may be sold to consumers in the taproom
76 for off-premises consumption in authorized containers pursuant
77 to s. 563.06(6) and (7).

78 4. A manufacturer of malt beverages is responsible for

79 applicable reports pursuant to ss. 561.50 and 561.55 with
80 respect to the amount of malt beverage sold or given to
81 consumers in the taproom each month and shall pay applicable
82 excise taxes thereon to the division by the 10th day of each
83 month for the previous month.

84 5. This paragraph does not preclude a licensed
85 manufacturer of malt beverages that operates a taproom from
86 holding a permanent public food service establishment license
87 under chapter 509 at the taproom.

88 6. A manufacturer may not hold a vendor's license at a
89 licensed manufacturing premises that operates a taproom pursuant
90 to this paragraph.

91 (b) In lieu of a taproom, on or after July 1, 2014, the
92 division may ~~is authorized to~~ issue vendor's licenses to a
93 manufacturer of malt beverages at no more than two licensed
94 manufacturing premises for which the manufacturer has an
95 interest, directly or indirectly, in the license if the
96 manufacturer meets the following requirements:

97 1. A licensed manufacturer may obtain one vendor's license
98 at no more than two of the licensed manufacturing premises for
99 which the manufacturer has an interest, directly or indirectly,
100 in the license. Any additional licensed manufacturing premises
101 for which the manufacturer has an interest, directly or
102 indirectly, in the license may operate a taproom without a
103 vendor's license pursuant to paragraph (a).

104 2. The vendor's license shall be located on the licensed

105 manufacturing premises consisting of a single complex, which
106 shall include a brewery. Such premises may be divided by no more
107 than one public street or highway. The licensed vendor premises
108 shall be included on the sketch or diagram defining the licensed
109 premises submitted with the manufacturer's license application
110 pursuant to s. 561.01(11). All sketch or diagram revisions by
111 the manufacturer must be approved by the division, verifying
112 that the vendor premises operated by the licensed manufacturer
113 is owned or leased by the manufacturer and is located on the
114 licensed manufacturing premises.

115 3. The manufacturer may sell alcoholic beverages under its
116 vendor's license as follows:

117 a. Malt beverages manufactured on the licensed
118 manufacturing premises; at another licensed manufacturing
119 premises for which the manufacturer has an interest, directly or
120 indirectly, in the license; or in collaboration with another
121 manufacturer for:

122 (I) On-premises consumption.

123 (II) Off-premises consumption in authorized containers
124 pursuant to s. 563.06(6).

125 (III) Off-premises consumption in growlers pursuant to s.
126 563.06(7).

127 b. Malt beverages manufactured exclusively by other
128 manufacturers for:

129 (I) On-premises consumption.

130 (II) Off-premises consumption in authorized containers

131 pursuant to s. 563.06(6).

132 (III) Off-premises consumption in growlers pursuant to s.
133 563.06(7) by holders of a quota license.

134 c. Any wine or liquor for on-premises or off-premises
135 consumption as authorized under its vendor's license.

136 4. A manufacturer of malt beverages pursuant to this
137 subsection is responsible for applicable reports pursuant to ss.
138 561.50 and 561.55 with respect to the amount of malt beverages
139 manufactured and sold pursuant to its vendor's license, or given
140 to consumers each month, including malt beverages brewed in
141 collaboration with another manufacturer, and shall pay
142 applicable excise taxes thereon to the division by the 10th day
143 of each month for the previous month.

144 5. This paragraph does not preclude a licensed
145 manufacturer of malt beverages with a vendor's license from
146 holding a permanent public food service establishment license
147 under chapter 509 on the licensed manufacturing premises.

148 6. An entity issued a manufacturer's and vendor's license
149 at more than two licensed manufacturing premises pursuant to
150 this paragraph before July 1, 2014, may maintain the licenses
151 previously obtained but may not obtain additional vendor's
152 licenses. However, except as to the allowance for manufacturers
153 holding a vendor's license at more than two licensed
154 manufacturing premises before July 1, 2014, a vendor's license
155 held by a manufacturer of malt beverages pursuant to this
156 paragraph, regardless of when first obtained, is subject to the

157 requirements of subparagraphs 1.-5.

158 7. An entity with direct or indirect interests in vendor
159 licenses issued to not more than two licensed manufacturing
160 premises under this paragraph may not be related, directly or
161 indirectly, to two or more other entities having interests,
162 directly or indirectly, in other vendor licenses issued to other
163 separate manufacturing premises. This subparagraph prohibits the
164 creation of a chain of more than two vendor licensed
165 manufacturing premises under common control of entities having
166 direct or indirect interests in such vendor licensed
167 manufacturing premises. This subparagraph does not prohibit the
168 purchase or ownership of stock in a publicly traded corporation
169 where the licensee does not have and does not obtain a
170 controlling interest in the corporation, ~~even if such~~
171 ~~manufacturer is also licensed as a distributor, for the sale of~~
172 ~~alcoholic beverages on property consisting of a single complex,~~
173 ~~which property shall include a brewery and such other structures~~
174 ~~which promote the brewery and the tourist industry of the state.~~
175 ~~However, such property may be divided by no more than one public~~
176 ~~street or highway.~~

177 (3) The division may issue a manufacturer's license and a
178 vendor's license to a brewpub. To operate as a brewpub, the
179 following requirements must be met:

180 ~~(a) Notwithstanding other provisions of the Beverage Law,~~
181 ~~any vendor licensed in this state may be licensed as a~~
182 ~~manufacturer of malt beverages upon a finding by the division~~

183 ~~that:~~

184 ~~1.~~ The brewpub vendor must ~~will~~ be engaged in brewing malt
185 beverages at a single licensed brewpub premises ~~location~~ and in
186 an amount that does ~~which will~~ not exceed 10,000 kegs per
187 calendar year. For purposes of this paragraph ~~subsection~~, the
188 term "keg" means 15.5 gallons.

189 (b) A brewpub may sell alcoholic beverages in a face-to-
190 face transaction with a consumer as follows:

191 1. Malt beverages manufactured on the licensed brewpub
192 premises for on-premises consumption.

193 2. Malt beverages manufactured exclusively by other
194 manufacturers for on-premises consumption as authorized under
195 its vendor's license.

196 3. Any wine or liquor for on-premises consumption as
197 authorized under its vendor's license.

198 (c) A brewpub may not ship malt beverages to or between
199 licensed brewpub premises owned by the licensed entity. A
200 brewpub is not a manufacturer for the purposes of s.
201 563.022(14).

202 (d) A brewpub may not distribute or sell malt beverages
203 outside of the licensed brewpub premises.

204 (e) A brewpub must hold a permanent public food service
205 establishment license under chapter 509.

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

209 ~~(f)(b)~~ A brewpub is ~~Any vendor which is also licensed as a~~
 210 ~~manufacturer of malt beverages pursuant to this subsection shall~~
 211 ~~be~~ responsible for applicable reports pursuant to ss. 561.50 and
 212 561.55 with respect to the amount of beverage manufactured each
 213 month and shall pay applicable excise taxes thereon to the
 214 division by the 10th day of each month for the previous month.

215 ~~(g)(e)~~ A ~~It shall be unlawful for any~~ licensed distributor
 216 of malt beverages or any officer, agent, or other representative
 217 thereof may not ~~to~~ discourage or prohibit a brewpub ~~any vendor~~
 218 ~~licensed as a manufacturer~~ under this subsection from offering
 219 malt beverages brewed for consumption on the licensed premises
 220 of the brewpub ~~vendor~~.

221 ~~(h)(d)~~ A ~~It shall be unlawful for any~~ manufacturer of malt
 222 beverages or any officer, agent, or other representative thereof
 223 may not ~~to~~ take any action to discourage or prohibit a any
 224 distributor of the manufacturer's product from distributing such
 225 product to a brewpub ~~licensed vendor which is also~~ licensed as a
 226 ~~manufacturer of malt beverages~~ pursuant to this subsection.

227 Section 2. Paragraph (e) of subsection (14) of section
 228 561.42, Florida Statutes, is amended to read:

229 561.42 Tied house evil; financial aid and assistance to
 230 vendor by manufacturer, distributor, importer, primary American
 231 source of supply, brand owner or registrant, or any broker,
 232 sales agent, or sales person thereof, prohibited; procedure for
 233 enforcement; exception.—

234 (14) The division shall adopt reasonable rules governing

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235 promotional displays and advertising, which rules shall not
236 conflict with or be more stringent than the federal regulations
237 pertaining to such promotional displays and advertising
238 furnished to vendors by distributors, manufacturers, importers,
239 primary American sources of supply, or brand owners or
240 registrants, or any broker, sales agent, or sales person
241 thereof; however:

242 ~~(c) Manufacturers, distributors, importers, brand owners,~~
243 ~~or brand registrants of beer, and any broker, sales agent, or~~
244 ~~sales person thereof, shall not conduct any sampling activities~~
245 ~~that include tasting of their product at a vendor's premises~~
246 ~~licensed for off-premises sales only.~~

247 Section 3. Subsection (1) of section 561.5101, Florida
248 Statutes, is amended to read:

249 561.5101 Come-to-rest requirement; exceptions; penalties.—

250 (1) For purposes of inspection and tax-revenue control,
251 all malt beverages, except those manufactured and sold pursuant
252 to s. 561.221(2) or (3) ~~561.221(3)~~, must come to rest at the
253 licensed premises of an alcoholic beverage wholesaler in this
254 state before being sold to a vendor by the wholesaler. The
255 prohibition contained in this subsection does not apply to the
256 shipment of malt beverages commonly known as private labels. The
257 prohibition contained in this subsection shall not prevent a
258 manufacturer from shipping malt beverages for storage at a
259 bonded warehouse facility, provided that such malt beverages are
260 distributed as provided in this subsection or to an out-of-state

261 entity.

262 Section 4. Subsection (6) of section 561.57, Florida
 263 Statutes, is amended to read:

264 561.57 Deliveries by licensees.—

265 (6) Common carriers are not required to have vehicle
 266 permits to transport alcoholic beverages. Common carriers may
 267 not make deliveries of malt beverages directly to a consumer.

268 Section 5. Subsections (1) and (3) of section 562.34,
 269 Florida Statutes, are amended to read:

270 562.34 Containers; seizure and forfeiture.—

271 (1) A ~~It shall be unlawful for any person~~ may not ~~to~~ have
 272 in her or his possession, custody, or control any cans, jugs,
 273 jars, bottles, vessels, or any other type of containers which
 274 are being used, are intended to be used, or are known by the
 275 possessor to have been used to bottle or package alcoholic
 276 beverages; however, this subsection does ~~provision shall~~ not
 277 apply to a ~~any~~ person properly licensed to bottle or package
 278 such alcoholic beverages, a ~~or to any~~ person intending to
 279 dispose of such containers to a person, firm, or corporation
 280 properly licensed to bottle or package such alcoholic beverages,
 281 or a person who has in her or his possession, custody, or
 282 control a growler as defined in s. 563.06(7).

283 (3) A ~~It shall be unlawful for any person~~ may not ~~to~~
 284 transport any cans, jugs, jars, bottles, vessels, or any other
 285 type of containers intended to be used to bottle or package
 286 alcoholic beverages; however, this subsection does ~~section shall~~

287 not apply to a ~~any~~ firm or corporation holding a license to
 288 manufacture or distribute such alcoholic beverages, a ~~and shall~~
 289 ~~not apply to any~~ person transporting such containers to a ~~any~~
 290 person, firm, or corporation holding a license to manufacture or
 291 distribute such alcoholic beverages, or a person transporting a
 292 growler as defined in s. 563.06(7).

293 Section 6. Paragraph (d) of subsection (14) of section
 294 563.022, Florida Statutes, is amended to read:

295 563.022 Relations between beer distributors and
 296 manufacturers.—

297 (14) MANUFACTURER; PROHIBITED INTERESTS.—

298 (d) Nothing in the Beverage Law shall be construed to
 299 prohibit a manufacturer from shipping products to or between the
 300 licensed manufacturing premises ~~its breweries~~ without a
 301 distributor's license. Malt beverages brewed in collaboration
 302 between two manufacturers shall be considered products of both
 303 manufacturers and may be shipped to the licensed manufacturing
 304 premises of either manufacturer pursuant to this section.

305 Section 7. Subsections (1) and (6) of section 563.06,
 306 Florida Statutes, are amended, present subsection (7) is
 307 renumbered as subsection (8) and amended, and a new subsection
 308 (7) is added to that section, to read:

309 563.06 Malt beverages; imprint on individual container;
 310 size of containers; growlers; exemptions.—

311 (1) ~~On and after October 1, 1959,~~ All taxable malt
 312 beverages packaged in individual containers possessed by any

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313 person in the state for the purpose of sale or resale in the
314 state, except operators of railroads, sleeping cars, steamships,
315 buses, and airplanes engaged in interstate commerce and licensed
316 under this section, shall have imprinted thereon in clearly
317 legible fashion by any permanent method the word "Florida" or
318 "FL" and no other state name or abbreviation of any state name
319 in not less than 8-point type. The word "Florida" or "FL" shall
320 appear first or last, if imprinted in conjunction with any
321 manufacturer's code. A facsimile of the imprinting and its
322 location as it will appear on the individual container shall be
323 submitted to the division for approval.

324 (6) With the exception of growlers as defined in
325 subsection (7), all malt beverages packaged in individual
326 containers sold or offered for sale by vendors at retail in this
327 state shall be in individual containers containing no more than
328 32 ounces of such malt beverages; ~~provided, however, that~~
329 nothing contained in this section shall affect malt beverages
330 packaged in bulk, ~~or~~ in kegs, or in barrels or in any individual
331 container containing 1 gallon or more of such malt beverage
332 regardless of individual container type.

333 (7) (a) As used in the Beverage Law, the term "growler"
334 means any 32-ounce, 64-ounce, 128-ounce, 1-liter, or 2-liter
335 container originally manufactured to hold malt beverages.

336 (b) A growler may be filled or refilled with:

337 1. A malt beverage manufactured by a manufacturer that
338 holds a valid manufacturer's license and operates a taproom

339 pursuant to s. 561.221(2) (a).

340 2. A malt beverage manufactured by a manufacturer that
341 holds a valid manufacturer's license and a valid vendor's
342 license pursuant to s. 561.221(2) (b).

343 3. A malt beverage manufactured by a manufacturer that
344 holds a valid manufacturer's license pursuant to s. 561.221(2)
345 and a valid quota license pursuant to ss. 561.20(1) and
346 565.02(1) (a)-(f).

347 4. A malt beverage sold by a vendor who holds a valid
348 quota license pursuant to ss. 561.20(1) and 565.02(1) (a)-(f).

349 (c) A growler must have an unbroken seal or be incapable
350 of being immediately consumed.

351 (d) A growler must be clearly labeled as containing an
352 alcoholic beverage and provide the name of the manufacturer, the
353 brand, the volume, the percentage of alcohol by volume, and the
354 required label information for alcoholic beverages under 27
355 C.F.R. s. 16.21. If a growler being refilled has an existing
356 label or other identifying mark from a manufacturer or brand,
357 that label shall be covered sufficiently to indicate the
358 manufacturer and brand of the malt beverage placed in the
359 growler.

360 (e) A growler must be clean before being filled.

361 (f) A licensee authorized to fill growlers may not use
362 growlers for purposes of distribution or sale outside the
363 licensed manufacturing premises or licensed vendor premises.

364 (8)(7) A ~~Any~~ person, firm, or corporation ~~or~~ an agent,

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365 ~~officer, or employee thereof who violates, its agents, officers,~~
366 ~~or employees, violating any of the provisions of this section~~
367 ~~commits, shall be guilty of~~ a misdemeanor of the first degree,
368 punishable as provided in s. 775.082 or s. 775.083, ~~†~~ and the
369 license, if any, shall be subject to revocation or suspension by
370 the division.

371 Section 8. Section 563.09, Florida Statutes, is created to
372 read:

373 563.09 Malt beverage tastings by distributors and
374 manufacturers.—

375 (1) A licensed distributor of malt beverages or a
376 manufacturer of malt beverages may conduct a malt beverage
377 tasting subject to the following requirements:

378 (a) Tastings may only be conducted in the interior of a
379 licensed vendor premises authorized to sell alcoholic beverages
380 as follows:

381 1. By package, if the premises consists of at least 10,000
382 square feet or more of interior space.

383 2. By package, if the premises is licensed pursuant to s.
384 565.02(1)(a), regardless of the interior square footage of the
385 premises.

386 3. For consumption on the premises.

387 (b) The malt beverage tasting must be limited to and
388 directed toward members of the general public who are of the age
389 of legal consumption.

390 (c) Samples may be:

391 1. No more than 3 ounces for each product sampled.

392 2. Served in a cup, glass, or other open container.

393 (d) The manufacturer or distributor may purchase the malt
394 beverages used in the tastings from the vendor at no more than
395 retail price.

396 (e) The manufacturer or distributor conducting the tasting
397 shall:

398 1. Provide all of the malt beverages used for the tasting.

399 2. Not pay a vendor a fee or compensation of any kind,
400 including the provision of any malt beverage at no or reduced
401 cost.

402 3. Be responsible for applicable reports and shall pay
403 applicable excise taxes thereon to the division. If the
404 manufacturer or distributor contracts with a third party to
405 conduct the tasting, the manufacturer or distributor remains
406 responsible for the recordkeeping requirements and excise tax
407 payments.

408 4. Properly dispose of malt beverages provided for the
409 tastings which remain unconsumed after a tasting.

410 (2) This section does not preclude a vendor from
411 conducting a malt beverage tasting on its licensed vendor
412 premises using malt beverages from its own inventory.

413 (3) This section is supplemental to and does not supersede
414 any special act or ordinance.

415 Section 9. If a provision of s. 561.221(2), Florida
416 Statutes, as amended by this act, is held invalid, or if the

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417 application of that subsection to any person or circumstance is
418 held invalid, the invalidity does not affect other provisions or
419 applications of this act which can be given effect without the
420 invalid provision or application, and to this end s. 561.221(2),
421 Florida Statutes, is severable.

422 Section 10. This act shall take effect July 1, 2014.