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2023 Legislature

1  
 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;

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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

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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 bona fide food service establishment that has a  
 57 minimum of 2,000 ~~2,500~~ square feet of service area, is equipped  
 58 to serve meals to 120 ~~150~~ persons at one time, has at least 120  
 59 physical seats available for patrons to use during operating  
 60 hours, holds itself out as a restaurant, and derives at least 51  
 61 percent of its gross food and beverage revenue from the sale of  
 62 food and nonalcoholic beverages during the first 120-day  
 63 operating period and the first 12-month operating period  
 64 thereafter. Subsequent audit timeframes must be based upon the  
 65 audit percentage established by the most recent audit and  
 66 conducted on a staggered scale as follows: level 1, 51 percent  
 67 to 60 percent, every year; level 2, 61 percent to 75 percent,  
 68 every 2 years; level 3, 76 percent to 90 percent, every 3 years;  
 69 and level 4, 91 percent to 100 percent, every 4 years. A  
 70 licensee under this subparagraph may sell or deliver alcoholic  
 71 beverages in a sealed container for off-premises consumption if  
 72 the sale or delivery is accompanied by the sale of food within  
 73 the same order. Such authorized sale or delivery includes wine-  
 74 based and liquor-based beverages prepared by the licensee or its  
 75 employee and packaged in a container sealed by the licensee or

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

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

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

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

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151 subparagraph. Notwithstanding any law to the contrary, any  
152 vendor licensed under s. 565.02(1) subject to the limitation  
153 imposed in subsection (1), may, without any additional licensure  
154 under this subparagraph, serve or sell alcoholic beverages for  
155 consumption on the premises of a catered event at which prepared  
156 food is provided by a caterer licensed under chapter 509. If a  
157 licensee under this subparagraph also possesses any other  
158 license under the Beverage Law, the license issued under this  
159 subparagraph may not authorize the holder to conduct activities  
160 on the premises to which the other license or licenses apply  
161 that would otherwise be prohibited by the terms of that license  
162 or the Beverage Law. This section does not permit the licensee  
163 to conduct activities that are otherwise prohibited by the  
164 Beverage Law or local law. The Division of Alcoholic Beverages  
165 and Tobacco is hereby authorized to adopt rules to administer  
166 the license created in this subparagraph, to include rules  
167 governing licensure, recordkeeping, and enforcement. The first  
168 \$300,000 in fees collected by the division each fiscal year  
169 pursuant to this subparagraph shall be deposited in the  
170 Department of Children and Families' Operations and Maintenance  
171 Trust Fund to be used only for alcohol and drug abuse education,  
172 treatment, and prevention programs. The remainder of the fees  
173 collected shall be deposited into the Hotel and Restaurant Trust  
174 Fund created pursuant to s. 509.072; or  
175 6. A culinary education program as defined in s.

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176 381.0072(2) which is licensed as a public food service  
177 establishment by the Division of Hotels and Restaurants.

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

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



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201 annual state license tax set forth in s. 565.02(1)(b). A  
 202 licensee under this sub-subparagraph must maintain for a period  
 203 of 3 years all records required by the department by rule to  
 204 demonstrate compliance with the requirements of this sub-  
 205 subparagraph.

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

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

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

224  
 225 However, any license heretofore issued to any such hotel, motel,

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

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

261 (7)

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

273 Section 2. This act shall take effect July 1, 2023.