

1989

Session Law 89-309

Florida Senate & House of Representatives

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H 671 GENERAL BILL/1ST ENG by Silver (Compare H 1006, CS/CS/S 695)

Alcoholic Beverage Licenses; provides that persons convicted of violations of controlled substance laws may not be issued an alcoholic beverage license for specified period of time; authorizes Hotels & Restaurants Div. of Business Regulation Dept. to approve sanitary conditions of establishments licensed under beverage law. Amends 561.15,.29. Effective Date: 10/01/89.

03/10/89 HOUSE Prefiled
03/14/89 HOUSE Referred to Regulated Industries
03/16/89 HOUSE Subreferred to Subcommittee on Alcoholic Beverages
04/04/89 HOUSE Introduced, referred to Regulated Industries -HJ 67; Subreferred to Subcommittee on Alcoholic Beverages; On Committee agenda—Regulated Industries, 04/05/89, 1:15 pm, 212-HOB—For ratification to subcommittee; On subcommittee agenda—Regulated Industries, 04/06/89, 3:30 pm, 212-HOB
04/06/89 HOUSE Subcommittee Recommendation: Favorable; On Committee agenda, pending subcommittee action—Regulated Industries, 04/10/89, 3:30 pm, 212-HOB
04/10/89 HOUSE Preliminary Committee Action by Regulated Industries: Favorable
04/13/89 HOUSE Comm. Report: Favorable by Regulated Industries, placed on Calendar -HJ 225
04/25/89 HOUSE Placed on Special Order Calendar
04/27/89 HOUSE Read second time -HJ 286
04/28/89 HOUSE Read third time; Passed; YEAS 108 NAYS 0 -HJ 301
05/02/89 SENATE In Messages
05/16/89 SENATE Received, referred to Regulated Industries -SJ 361; Withdrawn from Regulated Industries; Substituted for CS/CS/SB 695 -SJ 375; Passed as amended; YEAS 37 NAYS 1 -SJ 377
05/18/89 HOUSE In Messages
05/25/89 HOUSE Concurred -HJ 634; Passed as amended; YEAS 116 NAYS 0 -HJ 635
05/25/89 Ordered engrossed, then enrolled
06/20/89 Signed by Officers and presented to Governor
07/05/89 Approved by Governor; Chapter No. 89-309

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NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

****AS PASSED BY THE 1989 LEGISLATURE****

STORAGE NAME: \wp\sa\h0671-f.ri
DATE: June 15, 1989

**HOUSE OF REPRESENTATIVES
COMMITTEE ON REGULATED INDUSTRIES
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 671

RELATING TO: Alcoholic Beverage Licenses

SPONSOR(S): Representative Silver

EFFECTIVE DATE: October 1, 1989

DATE BECAME LAW: July 5, 1989

CHAPTER #: 89-309, Laws of Florida

COMPANION BILL(S): CS/CS/SB 695 by Finance, Taxation & Claims, Regulated Industries, and Senator Thomas

OTHER COMMITTEES OF REFERENCE: (1) None
(2)

I. SUMMARY:

House Bill 671 provides that alcoholic beverage licenses cannot be issued to any person who has been convicted of any criminal violation of chapter 893, F.S., or the controlled substances act of any other state or the federal government in the 5 year period prior to application for the license. In addition, s. 561.29, F.S., was amended to allow the Division of Alcoholic Beverages to revoke or suspend a license based on a report of unsanitary or unsafe conditions issued by the Division of Hotels and Restaurants.

A. PRESENT SITUATION:

Section 561.15, F.S., of the alcoholic beverage law presently forbids a license to be issued to any person if the listed qualifications are not met. The qualifications require the person submitting an application to be over the age of 21 and of good moral character. In addition, licenses cannot be issued to any person who has been convicted within the last 15 years of any felony or the last 5 years of any offense against the beverage laws of this state, the United States, or any other state. Any conviction for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, or illegally dealing in narcotics in the last 5 years is also prohibited.

Section 859.05, F.S., of the adulterated drugs law presently bans the sale or disposition of narcotics to any person except on written prescription of a licensed practicing physician or wholesale manufacturers, hospitals, or infirmaries. Narcotics are defined in this section as any opium, morphine, cocaine, or

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its salts, atropine, belladonna, or conium.

Section 893.03, F.S., of the drug abuse prevention and control laws lists controlled substances under the format of 5 schedules depending on the potential for abuse and acceptance as medical use in treatments. Narcotics are included in this comprehensive list as are various other drugs such as cannabis and codeine. This section is styled similar to federal regulation 21 C.F.R. 1308 and federal law 21 U.S.C.S. 812.

The Department of Business Regulation has the authority to revoke or suspend alcoholic beverage licenses under the provisions of s. 561.29, F.S. The department can charge a person of illegally dealing in controlled substances in violation of s. 893.13, F.S.

The Department of Business Regulation, Division of Alcoholic Beverages and Tobacco was recently a party to an administrative case involving a person who had previously been convicted of conspiracy to import marijuana. This person applied for a new quota alcoholic beverage license 4 years after restoration of his civil rights and was denied a license by the division based on his conviction. The Division of Administrative Hearings concluded that this person was not convicted of illegally dealing in "narcotics" because marijuana is not defined as a narcotic drug under federal law (Title 21 U.S.C. s. 802(16)). G.W. Liquors of Broward, Inc., vs. Department of Business Regulation, DOAH case nos. 87-5565 and 87-5566.

Presently, for purposes of revoking or suspending beverage licenses, the Division of Alcoholic Beverages relies only on inspections performed by a county health department or the Department of Health and Rehabilitative Services, whichever has jurisdiction, for a report of unsanitary or unsafe conditions.

B. EFFECT OF PROPOSED CHANGES:

House Bill 671 removes the reference to the term "narcotics" in s. 561.15, F.S., of the Beverage Law, and provides that an alcoholic beverage license cannot be issued by the department to any person who has been convicted of any criminal violation of the controlled substances act as defined in chapter 893, F.S., or the controlled substances act of any other state or the federal government in the 5 year period prior to the application for the license.

In addition, s. 561.29, F.S., was amended to allow the Division of Alcoholic Beverages to revoke or suspend a license based on a report of unsanitary or unsafe conditions issued by the Division of Hotels and Restaurants.

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II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

III. LONG RANGE CONSEQUENCES:

This bill is consistent with the following portions of the State

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Comprehensive Plan:

Section 187.201(7) Public Safety

- (a) Goal.--Florida shall protect the public by preventing, discouraging, and punishing criminal behavior, lowering the highway death rate, and protecting lives and property from natural and manmade disasters.
- (b) Policies.--
 - 13. Continue to implement coordinated and integrated strategies to combat organized crime, economic crime, and drug trafficking.
 - 15. Strengthen the state's commitment to pursue, both criminally and civilly, those individuals who profit from economic crimes, and assure that the commitment keeps pace with the level and sophistication of these criminal activities.

IV. COMMENTS:

The bill is consistent with the House of Representatives Policy Statement relating to substance abuse where "the state should encourage no tolerance with respect to the use of illicit drug sale and use."

The Department of Business Regulation is in favor of this bill.

Legislative History 1989 Session

A. Enacted Bill

House Bill 671 was prefiled by Representative Silver on March 10, 1989. On March 14, 1989, it was referred to the Committee on Regulated Industries and on March 16 it was subreferred to the Subcommittee on Alcoholic Beverages.

On April 6, 1989, the Subcommittee on Alcoholic Beverages reported the bill favorably and on April 10 it was likewise reported by the Committee on Regulated Industries (HJ 00225). The bill was subsequently placed on the Calendar and passed by a vote of 108-0 on April 28, 1989, (HJ 00301). The bill was substituted for CS/CS/SB 695 and passed with amendments by a vote of 37-1 on May 16, 1989, (SJ 00377). On May 25, 1989, the House concurred with a vote of 116-0, (HJ 00635), and the bill was ordered enrolled.

B. Disposition of Companion

Senate Bill 695 was prefiled on March 29, 1989, by Senator Thomas. On April 7, 1989, the bill was introduced and referred to Regulated Industries, and Finance, Taxation & Claims (SJ 00104).

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The Committee on Regulated Industries reported the bill favorably as a committee substitute on April 19, 1989, (SJ 00199). The Committee on Finance, Taxation & Claims also reported the bill favorably as a Committee Substitute on May 3, 1989, (SJ 00257). On May 16, 1989, the bill was laid on the table and substituted by HB 671 (SJ 00377).

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

Maisy Alpert & Fran C. Poppell
Maisy Alpert & Fran C. Poppell

Staff Director:

Wyatt T. Martin

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:

REVISED: _____

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DATE: May 3, 1989

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Skelton</u>	<u>Skelton</u>	1. <u>RI</u>	<u>Fav/CS</u>
2. <u>Boyle</u>	<u>Beggs</u>	2. <u>FTC</u>	<u>Fav/CS</u>
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Beverage Law

BILL NO. AND SPONSOR:

CS/CS/SB 695 by the
Committees on Regulated Industries
Finance, Taxation, and Claims
and Senator Thomas

I. SUMMARY:

A. Present Situation:

Currently, under s. 561.15, F.S., the Department of Business Regulation will not issue a Beverage License to any person convicted within the past five years of several crimes, including "illegally dealing in narcotics." In June, 1988, the Florida Division of Administrative Hearings issued a Recommended Order in Case #87-5566 G.W. Liquors of Collier, Inc. v. Department of Business Regulation, Division of Alcoholic Beverages and Tobacco which found that under federal law, marijuana is not a "narcotic." (Title 21 U.S.C. s. 802(16).) Therefore, under current law, a person convicted of "illegally dealing in marijuana" could be issued a beverage license.

Chapter 893, F.S., Drug Abuse Prevention and Control, describes various controlled substances and provides penalties for illegally selling, purchasing, manufacturing, or delivering, or possessing with intent to sell, purchase, manufacture, or deliver, any controlled substance; for trafficking in cannabis, cocaine, illegal drugs, phencyclidine, or methaqualone; or for using, manufacturing, or delivering, or possessing with intent to use, manufacture, or deliver drug paraphenalia, or advertising the sale of drug paraphenalia.

Currently, the Department of Business Regulation, Division of Hotels and Restaurants is responsible for inspections of public lodging facilities and restaurants that are attached to public lodging facilities; however, they are not responsible for the initial certification inspection of the premises of a hotel property that sells alcoholic beverages. The Department of Health and Rehabilitative Services is responsible for inspections of free standing restaurants and premises selling alcoholic beverages for consumption on premises. HRS is also responsible for certifying the sanitary conditions of any location within a hotel that has applied for an alcoholic beverage license.

Both of the above-mentioned types of inspections are to insure that sanitary requirements are being met.

The current situation causes duplication of inspections by two state agencies on certain hotel sites.

B. Effect of Proposed Changes:

The bill amends s. 561.15, F.S., to prevent anyone convicted of any violation of chapter 893 from obtaining a beverage license within 5 years after their conviction.

REVISED: _____

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DATE: May 3, 1989

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The bill authorizes the Department of Business Regulation, Division of Hotels and Restaurants, to inspect and certify any facility if alcoholic beverages are to be sold on the premises. The bill includes state safety requirements in the areas of responsibility for which such inspections are made.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

People convicted of any violation of chapter 893, F.S. relating to drug abuse prevention and control would not be able to obtain a beverage license for 5 years after their conviction.

B. Government:

None.

III. COMMENTS:

The act takes effect October 1, 1989.


IV. AMENDMENTS:

None.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS for Senate Bill 695

Prohibits the Department of Business Regulation from issuing a beverage license to anyone convicted of any violation of chapter 893, F.S., relating to drug abuse prevention, and control, not just those convicted of illegally dealing in controlled substances.

Committee on Finance, Taxation and Claims



Staff Director

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)