

1 A bill to be entitled
 2 An act relating to malt beverage tastings; amending s.
 3 561.42, F.S.; removing the prohibition on beer
 4 samplings at the premises of vendors licensed for off-
 5 premises sales only; authorizing malt beverage
 6 tastings on the licensed premises of certain vendors,
 7 subject to certain requirements, limitations,
 8 liabilities, and penalties; providing construction
 9 with respect to special acts and ordinances;
 10 authorizing rulemaking; revising the prohibition on
 11 cooperative advertising with a vendor and prohibiting
 12 certain persons from naming vendors in advertising for
 13 a malt beverage tasting; making conforming and
 14 editorial changes; providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Subsection (14) of section 561.42, Florida
 19 Statutes, is amended to read:

20 561.42 Tied house evil; financial aid and assistance to
 21 vendor by manufacturer, distributor, importer, primary American
 22 source of supply, brand owner or registrant, or any broker,
 23 sales agent, or sales person thereof, prohibited; procedure for
 24 enforcement; exception.—

25 (14) The division shall adopt reasonable rules governing
 26 promotional displays and advertising, which rules may ~~shall~~ not

27 conflict with or be more stringent than the federal regulations
28 pertaining to such promotional displays and advertising
29 furnished to vendors by distributors, manufacturers, importers,
30 primary American sources of supply, or brand owners or
31 registrants, or any broker, sales agent, or sales person
32 thereof; however:

33 (a) If a manufacturer, distributor, importer, brand owner,
34 or brand registrant of malt beverage, or any ~~broker~~, sales
35 agent, or sales person thereof, provides a vendor with
36 expendable retailer advertising specialties such as trays,
37 coasters, mats, menu cards, napkins, cups, glasses,
38 thermometers, and the like, such items may ~~shall~~ be sold only at
39 a price not less than the actual cost to the industry member who
40 initially purchased them, without limitation in total dollar
41 value of such items sold to a vendor.

42 (b) Without limitation in total dollar value of such items
43 provided to a vendor, a manufacturer, distributor, importer,
44 brand owner, or brand registrant of malt beverage, or any
45 ~~broker~~, sales agent, or sales person thereof, may rent, loan
46 without charge for an indefinite duration, or sell durable
47 retailer advertising specialties such as clocks, pool table
48 lights, and the like, which bear advertising matter.

49 (c) If a manufacturer, distributor, importer, brand owner,
50 or brand registrant of malt beverage, or any ~~broker~~, sales
51 agent, or sales person thereof, provides a vendor with consumer
52 advertising specialties such as ashtrays, T-shirts, bottle

53 openers, shopping bags, and the like, such items may ~~shall~~ be
54 sold only at a price not less than the actual cost to the
55 industry member who initially purchased them, and ~~but~~ may be
56 sold without limitation in total value of such items sold to a
57 vendor.

58 (d) A manufacturer, distributor, importer, brand owner, or
59 brand registrant of malt beverage, or any ~~broker,~~ sales agent,
60 or sales person thereof, may provide consumer advertising
61 specialties described in paragraph (c) to consumers on any
62 vendor's licensed premises.

63 (e) 1. A manufacturer, distributor, or importer of malt
64 beverages, or any contracted third-party agent thereof, may
65 ~~Manufacturers, distributors, importers, brand owners, or brand~~
66 ~~registrants of beer, and any broker, sales agent, or sales~~
67 ~~person thereof, shall not~~ conduct any sampling activities that
68 include the tasting of malt beverage products on:

69 a. The licensed premises of any vendor authorized to sell
70 alcoholic beverages by the drink for consumption on premises; or

71 b. The licensed premises of any vendor authorized to sell
72 alcoholic beverages only in sealed containers for consumption
73 off premises if:

74 (I) The licensed premises is at an establishment with at
75 least 10,000 square feet of interior floor space exclusive of
76 storage space not open to the general public; or

77 (II) The licensed premises is a package store licensed
78 under s. 565.02(1)(a) ~~their product at a vendor's premises~~

79 ~~licensed for off-premises sales only.~~

80 2. A malt beverage tasting conducted under this paragraph
81 must be limited to and directed toward the general public of the
82 age of legal consumption.

83 3. For a malt beverage tasting conducted under this
84 paragraph on the licensed premises of a vendor authorized to
85 sell alcoholic beverages for consumption on premises, each
86 serving of a malt beverage to be tasted must be provided to the
87 consumer by the drink in a tasting cup, glass, or other open
88 container and may not be provided by the package in an unopened
89 can or bottle or in any other sealed container.

90 4. For a malt beverage tasting conducted under this
91 paragraph on the licensed premises of a vendor authorized to
92 sell alcoholic beverages only in sealed containers for
93 consumption off premises, the tasting must be conducted in the
94 interior of the building constituting the vendor's licensed
95 premises and each serving of a malt beverage to be tasted must
96 be provided to the consumer in a tasting cup having a capacity
97 of 3.5 ounces or less.

98 5. A manufacturer, distributor, or importer, or any
99 contracted third-party agent thereof, may not pay a vendor, and
100 a vendor may not accept, a fee or compensation of any kind,
101 including the provision of any malt beverage at no cost or at a
102 reduced cost, to authorize the conduct of a malt beverage
103 tasting under this paragraph.

104 6.a. A manufacturer, distributor, or importer, or any

105 contracted third-party agent thereof, conducting a malt beverage
106 tasting under this paragraph, must provide all of the beverages
107 to be tasted, the total volume of which per tasting may not
108 exceed 576 ounces; must have paid all excise taxes on those
109 beverages which are required of the manufacturer or distributor;
110 and must return to the manufacturer's or distributor's inventory
111 all of the malt beverages provided for the tasting that remain
112 unconsumed after the tasting. More than one tasting may be held
113 on the licensed premises each day, but only one manufacturer,
114 distributor, importer, or contracted third-party agent thereof,
115 may conduct a tasting on the premises at any one time.

116 b. Any samples of malt beverages provided to a vendor by a
117 manufacturer, distributor, or importer, or any contracted third-
118 party agent thereof, in conjunction with or at the time of a
119 tasting conducted under this paragraph on the licensed premises
120 of such vendor are subject to the volume limit for such premises
121 set forth under sub-subparagraph a.

122 c. This subparagraph does not preclude a manufacturer,
123 distributor, or importer, or any contracted third-party agent
124 thereof, from buying the malt beverages it provides for the
125 tasting from a vendor at no more than the retail price, but all
126 of the malt beverages so purchased and provided for the tasting
127 which remain unconsumed after the tasting must be removed from
128 the premises of the tasting and properly disposed of.

129 7. A manufacturer, distributor, or importer of malt
130 beverages that contracts with a third-party agent to conduct a

131 malt beverage tasting under this paragraph on its behalf is
 132 responsible for any violation of this section by such agent.

133 8. This paragraph does not preclude a vendor from
 134 conducting a malt beverage tasting on its licensed premises
 135 using malt beverages from its own inventory.

136 9. This paragraph is supplemental to and does not
 137 supersede any special act or ordinance.

138 10. The division may, pursuant to ss. 561.08 and 561.11,
 139 adopt rules to implement, administer, and enforce this
 140 paragraph.

141 (f) A manufacturer ~~Manufacturers,~~ distributor
 142 ~~distributors,~~ importer ~~importers,~~ brand owner ~~owners,~~ or brand
 143 registrant ~~registrants~~ of malt beverages ~~beer,~~ and any ~~broker,~~
 144 sales agent, or sales person thereof or contracted third-party
 145 agent under paragraph (e), may ~~shall~~ not engage in cooperative
 146 advertising with a vendor and may not name a vendor in any
 147 advertising for a malt beverage tasting authorized under
 148 paragraph (e) vendors.

149 (g) A distributor ~~Distributors~~ of malt beverages ~~beer~~ may
 150 sell to a vendor ~~vendors~~ draft equipment and tapping accessories
 151 at a price not less than the cost to the industry member who
 152 initially purchased them, except there is no required charge,
 153 and the ~~a~~ distributor may exchange any parts that ~~which~~ are not
 154 compatible with a competitor's system and are necessary to
 155 dispense the distributor's brands. A distributor of malt
 156 beverages ~~beer~~ may furnish to a vendor at no charge replacement

CS/CS/HB 387

2014

157 | parts of nominal intrinsic value, including, but not limited to,
158 | washers, gaskets, tail pieces, hoses, hose connections, clamps,
159 | plungers, and tap markers.

160 | Section 2. This act shall take effect July 1, 2014.