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1                   A bill to be entitled  
2           An act relating to malt beverages; amending s.  
3           561.221, F.S.; clarifying three-tier system exceptions  
4           and application with respect to the manufacture,  
5           distribution, and sale of malt beverages; revising  
6           requirements for licensure and operation of  
7           manufacturers and vendors; defining the term  
8           "licensee"; providing legislative intent; amending s.  
9           561.37, F.S.; revising bond requirements for brewers;  
10          reenacting s. 563.022(14), F.S., relating to  
11          prohibited interests between a manufacturer and a  
12          distributor of malt beverages, to incorporate the  
13          amendments made to s. 561.221(2), F.S., in a reference  
14          thereto; revising provisions relating to shipment of  
15          products to or between breweries; amending s. 563.06,  
16          F.S.; revising provisions relating to the sale of malt  
17          beverages at retail in containers of specified sizes,  
18          to conform to changes made by the act; creating s.  
19          563.061, F.S.; defining the term "growler"; providing  
20          requirements for and limitations on the filling,  
21          refilling, and sale or distribution of growlers;  
22          reenacting s. 561.11(1), F.S., relating to authority  
23          of the Division of Alcoholic Beverages and Tobacco of  
24          the Department of Business and Professional Regulation  
25          to adopt rules to implement the Beverage Law, to  
26          incorporate the amendments made to the Beverage Law by  
27          this act for such purposes; providing an effective  
28          date.  
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30 Be It Enacted by the Legislature of the State of Florida:

31  
32 Section 1. Section 561.221, Florida Statutes, is amended to  
33 read:

34 561.221 Licensing of manufacturers and distributors as  
35 vendors and of vendors as manufacturers; exceptions, conditions,  
36 and limitations.—

37 (1) (a) Nothing contained in s. 561.22, s. 561.42, or any  
38 other provision of the Beverage Law prohibits the ownership,  
39 management, operation, or control of not more than three  
40 vendor's licenses for the sale of alcoholic beverages by a  
41 manufacturer of wine who is licensed and engaged in the  
42 manufacture of wine in this state, even if such manufacturer is  
43 also licensed as a distributor; provided that no such vendor's  
44 license shall be owned, managed, operated, or controlled by any  
45 licensed manufacturer of wine unless the licensed premises of  
46 the vendor are situated on property contiguous to the  
47 manufacturing premises of the licensed manufacturer of wine.

48 (b) The Division of Alcoholic Beverages and Tobacco shall  
49 issue permits to a certified Florida Farm Winery to conduct  
50 tasting and sales of wine produced by certified Florida Farm  
51 Wineries at Florida fairs, trade shows, expositions, and  
52 festivals. The certified Florida Farm Winery shall pay all entry  
53 fees and shall have a winery representative present during the  
54 event. The permit is limited to the length of the event.

55 (2) (a) Notwithstanding s. 561.22, s. 561.42, or any other  
56 provision of the Beverage Law, the division may ~~is authorized to~~  
57 issue a vendor's licenses license per licensed premises to a  
58 manufacturer of malt beverages, even if the ~~such~~ manufacturer is

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59 also licensed as a distributor, for the sale of alcoholic  
60 beverages on property consisting of a single complex. The, which  
61 property must ~~shall~~ include a brewery and ~~such other structures~~  
62 ~~which promote the brewery and the tourist industry of the state.~~  
63 ~~However, such property may be divided by no more than one public~~  
64 ~~street or highway.~~

65 (b) A manufacturer licensed as a vendor under this  
66 subsection may sell alcoholic beverages under its vendor's  
67 license as follows:

68 1. Malt beverages manufactured on the licensed premises or  
69 transferred from another of its licensed premises, for:

70 a. On-premises consumption, provided that, notwithstanding  
71 s. 563.022(14) (d), all malt beverages received from the  
72 manufacturer's other breweries above an amount equal to the  
73 lesser of the receiving manufacturer's total malt beverages  
74 brewed on the licensed premises or 2,000 kegs must be obtained  
75 through a distributor;

76 b. Off-premises consumption in growlers pursuant to s.  
77 563.061;

78 c. Off-premises consumption in sealed containers, as  
79 authorized under s. 563.06, in an amount not to exceed one keg  
80 per consumer per day, provided that the total amount of malt  
81 beverages brewed by the manufacturer and sold for consumption  
82 off the licensed premises in sealed containers does not exceed  
83 2000 kegs per year.

84 d. Off-premises consumption in sealed containers, as  
85 authorized under s. 563.06, in an amount not to exceed one keg  
86 per consumer per day, provided that, if the total amount of malt  
87 beverages brewed by the manufacturer and sold for consumption

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88 off the licensed premises in sealed containers exceeds 2000 kegs  
89 per year, the total amount of malt beverages brewed by the  
90 manufacturer and sold for consumption off the licensed premises  
91 in sealed containers in excess of 2000 kegs per year does not  
92 exceed 20 percent of the total malt beverages brewed on the  
93 licensed premises.

94 2. Any other malt beverages, for on-premises consumption  
95 only.

96 3. Any wine or liquor, for on-premises consumption only, as  
97 authorized under its vendor's license.

98 (c) Notwithstanding subparagraph (b)2., a manufacturer  
99 holding its vendor's license under this subsection as a quota  
100 licensee pursuant to s. 565.02(1) may also sell malt beverages  
101 brewed off the licensed premises, for off-premises consumption,  
102 in sealed containers as authorized under s. 563.06 and its  
103 vendor's license, only if the premises was licensed under s.  
104 565.02(1) on or before October 1, 2014. This provision does not  
105 prohibit the transfer of the license to another licensed  
106 manufacturing premises owned by the manufacturer.

107 (d) Notwithstanding subparagraph (b)3., a manufacturer  
108 holding its vendor's license under this subsection as a quota  
109 licensee pursuant to s. 565.02(1) may also sell such alcoholic  
110 beverages, for off-premises consumption, in sealed containers as  
111 authorized under its vendor's license, only if the premises was  
112 licensed under s. 565.02(1) on or before October 1, 2014. This  
113 provision does not prohibit the transfer of the license to  
114 another licensed manufacturing premises owned by the  
115 manufacturer.

116 (e) Notwithstanding s. 561.57(1), the delivery of any such

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117 sealed container or growler off the vendor's licensed premises,  
118 whether by common or premises carrier or by an operator of a  
119 privately owned car, truck, bus, or other conveyance, is  
120 prohibited. In addition, a consumer or other person may not  
121 arrange for the delivery off the licensed manufacturing premises  
122 to the consumer of any such sealed container or growler from a  
123 vendor licensed under this subsection, whether by common or  
124 premises carrier or by an operator of a privately owned car,  
125 truck, bus, or other conveyance. However, this paragraph does  
126 not prohibit a consumer from taking the sealed container or  
127 growler, purchased by the consumer from a manufacturer licensed  
128 as a vendor under this subsection, from the vendor's licensed  
129 premises to another location by a privately owned car, truck,  
130 bus, or other conveyance.

131 (f) The manufacturer shall maintain a record of all malt  
132 beverages received from all of its licensed manufacturing  
133 premises, including the amount of malt beverages received, the  
134 licensed premises from which the malt beverages were  
135 transferred, and the amount of malt beverages sold for off-  
136 premises consumption in sealed containers, as authorized in s.  
137 563.06(6). The division shall adopt rules pursuant to ss.  
138 120.536(1) and 120.54 to implement the provisions of this  
139 subparagraph (b)1. with respect to sales for off-premises  
140 consumption and transfers between licensed manufacturing  
141 premises.

142 (g) A manufacturer licensed as a vendor under this  
143 subsection may hold a permanent food service license at the  
144 licensed premises.

145 (h) This subsection is a limited exception to ss. 561.22

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146 and 561.42. Except as specifically provided in this subsection  
147 to permit a manufacturer of malt beverages to also be licensed  
148 as a vendor, a manufacturer of malt beverages is subject to the  
149 restrictions in ss. 561.22 and 561.42.

150 (3) (a) Notwithstanding s. 561.22, s. 561.42, or any other  
151 provision ~~provisions~~ of the Beverage Law, a any vendor licensed  
152 in this state may be licensed as a manufacturer of malt  
153 beverages upon a finding by the division that:

154 1. The vendor will be engaged in brewing malt beverages at  
155 a single location and in an amount that ~~which~~ will not exceed  
156 10,000 kegs per year. As used in ~~For purposes of this section~~  
157 ~~subsection,~~ the term "keg" means 15.5 gallons.

158 2. The malt beverages ~~se~~ brewed will be sold to consumers  
159 only for consumption on the vendor's licensed premises or on  
160 contiguous licensed premises owned or leased by the vendor.

161 (b) Any vendor which is also licensed as a manufacturer of  
162 malt beverages pursuant to this subsection shall be responsible  
163 for applicable reports pursuant to ss. 561.50 and 561.55 with  
164 respect to the amount of beverage manufactured each month and  
165 must ~~shall~~ pay the applicable excise taxes ~~thereon~~ to the  
166 division by the 10th day of each month for the previous month.

167 (c) A ~~It shall be unlawful for any~~ licensed distributor of  
168 malt beverages or an any officer, agent, or other representative  
169 thereof may not ~~to~~ discourage or prohibit any vendor licensed as  
170 a manufacturer under this subsection from offering malt  
171 beverages brewed for consumption on the licensed premises of the  
172 vendor.

173 (d) A ~~It shall be unlawful for any~~ manufacturer of malt  
174 beverages or an any officer, agent, or other representative

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175 thereof may not ~~to~~ take any action to discourage or prohibit a  
176 ~~any~~ distributor of the manufacturer's product from distributing  
177 such product to a licensed vendor which is also licensed as a  
178 manufacturer of malt beverages pursuant to this subsection.

179 Section 2. Section 561.37, Florida Statutes, is amended to  
180 read:

181 561.37 Bond for payment of taxes.-

182 (1) Each manufacturer and each distributor must ~~shall~~ file  
183 with the division a surety bond acceptable to the division in  
184 the amount sum of \$25,000 as surety for the payment of all  
185 taxes. ~~provided,~~ However, if that ~~when~~ in the discretion of the  
186 division the amount of business done by the manufacturer or  
187 distributor is of such volume that a bond in an amount of less  
188 than \$25,000 will be adequate to secure the payment of all taxes  
189 assessed or authorized by the Beverage Law, the division may  
190 accept a bond in an amount of less ~~a lesser sum~~ than \$25,000,  
191 but not ~~in no event shall it accept a bond of~~ less than \$10,000,  
192 and it may at any time in its discretion require any bond in an  
193 amount of less than \$25,000 to be increased so as not to exceed  
194 \$25,000. ~~provided, however, that~~

195 (2) Notwithstanding subsection (1), the amount of bond  
196 required under this section for:

197 (a) A brewer is \$5,000 ~~shall be \$20,000~~, except that if  
198 ~~where,~~ in the discretion of the division, ~~the amount of business~~  
199 done by the brewer is of such volume that a bond in an amount of  
200 less than \$5,000 ~~\$20,000~~ will be adequate to secure the payment  
201 of all taxes assessed or authorized by the Beverage Law, the  
202 division may accept a bond in an amount of less ~~a lesser sum~~  
203 than \$5,000 ~~\$20,000~~, but not ~~in no event shall it accept a bond~~

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204 ~~of less than \$2,500 \$10,000,~~ and it may at any time in its  
205 discretion require any bond in an amount of less than \$5,000  
206 ~~\$20,000~~ to be increased so as not to exceed \$5,000. ~~\$20,000;~~  
207 ~~provided further that the amount of the bond required for~~

208 (b) A wine or wine and cordial manufacturer ~~is shall be~~  
209 \$5,000. ~~However, except that,~~ in the case of a manufacturer  
210 engaged solely in the experimental manufacture of wines and  
211 cordials from Florida products, if ~~where~~ in the discretion of  
212 the division the amount of business done by such a manufacturer  
213 is of such volume that a bond in an amount of less than \$5,000  
214 will be adequate to secure the payment of all taxes assessed or  
215 authorized by the Beverage Law, the division may accept a bond  
216 in an amount of less ~~a lesser sum~~ than \$5,000, but not ~~in no~~  
217 ~~event shall it accept a bond of less than \$1,000,~~ and it may at  
218 any time in its discretion require a bond in an amount of less  
219 than \$5,000 to be increased so as not to exceed \$5,000. ~~;~~  
220 ~~provided, further, that the amount of bond required for~~

221 (c) A distributor who sells only beverages containing not  
222 more than 4.007 percent of alcohol by volume, in counties where  
223 the sale of intoxicating liquors, wines, and beers is  
224 prohibited, or a distributor ~~and to distributors~~ who sells ~~sell~~  
225 only beverages containing not more than 17.259 percent of  
226 alcohol by volume and wines regardless of alcoholic content, in  
227 counties where the sale of intoxicating liquors, wines, and  
228 beers is permitted, is ~~shall file with the division a surety~~  
229 ~~bond acceptable to the division in the sum of \$25,000.,~~ as  
230 ~~surety for the payment of all taxes; provided,~~ if ~~that~~  
231 ~~where~~ in the discretion of the division the amount of business  
232 done by such a distributor is of such volume that a bond in an

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233 amount of less than \$25,000 will be adequate to secure the  
234 payment of all taxes assessed or authorized by the Beverage Law,  
235 the division may accept a bond in an amount of ~~a less sum~~ than  
236 \$25,000, but not ~~in no event shall it accept a bond~~ less than  
237 \$1,000, and it may at any time in its discretion require any  
238 bond in an amount of less than \$25,000 to be increased so as not  
239 to exceed \$25,000. ~~; provided, further, that the amount of bond~~  
240 ~~required for~~

241 (d) A distributor in a county having a population of 15,000  
242 or less who procures a license by which his or her sales are  
243 restricted to distributors and vendors who have obtained  
244 licenses in the same county is, ~~shall be~~ \$5,000.

245 Section 3. For the purpose of incorporating the amendment  
246 made by this act to section 561.221(2), Florida Statutes, in  
247 reference thereto, subsection (14) of section 563.022, Florida  
248 Statutes, is reenacted:

249 563.022 Relations between beer distributors and  
250 manufacturers.—

251 (14) MANUFACTURER; PROHIBITED INTERESTS.—

252 (a) This subsection applies to:

253 1. A manufacturer;

254 2. Any officer, director, agent, or employee of a  
255 manufacturer; or

256 3. An affiliate of any manufacturer, regardless of whether  
257 the affiliation is corporate or by management, direction, or  
258 control.

259 (b) Except as provided in paragraph (c), no entity or  
260 person specified in paragraph (a) may have an interest in the  
261 license, business, assets, or corporate stock of a licensed

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262 distributor nor shall such entity sell directly to any vendor in  
263 this state other than to vendors who are licensed pursuant to s.  
264 561.221(2).

265 (c) Any entity described in paragraph (a) may financially  
266 assist a proposed distributor in acquiring ownership of the  
267 distributorship through participation in a limited partnership  
268 arrangement in which the entity described in paragraph (a) is a  
269 limited partner and the proposed distributor seeking to acquire  
270 ownership of the distributorship is the general partner. Such  
271 limited partnership arrangements may exist for no longer than 8  
272 years from their creation and shall not be extended or renewed  
273 by means of a transfer of full ownership to an entity described  
274 in paragraph (a) followed by the creation of a new limited  
275 partnership or by any other means. In any such arrangement for  
276 financial assistance, the federal basic permit and distributor's  
277 license issued by the division shall be issued in the name of  
278 the distributor and not in the name of an entity described in  
279 paragraph (a). If, after the creation of a limited partnership  
280 pursuant to this paragraph, an entity described in paragraph (a)  
281 acquires title to the distributorship which was the subject of  
282 the limited partnership, the entity described in paragraph (a)  
283 shall divest itself of the distributorship within 180 days, and  
284 the distributorship shall be ineligible for limited partnership  
285 financing for 20 years thereafter. No entity described in  
286 paragraph (a) shall enter into a limited partnership arrangement  
287 with a licensed distributor whose distributorship existed and  
288 was operated prior to the creation of such limited partnership  
289 arrangement.

290 (d) Nothing in the Beverage Law shall be construed to

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291 prohibit a manufacturer from shipping products to or between its  
292 breweries without a distributor's license.

293 (e) Notwithstanding the provisions of paragraph (b), any  
294 entity named in paragraph (a) may have an interest in the  
295 license, business, assets, or corporate stock of a licensed  
296 distributor for a maximum of 180 consecutive days as the result  
297 of a judgment of foreclosure against the distributor or for 180  
298 consecutive days after acquiring title pursuant to the written  
299 request of the licensed distributor. Under either of these  
300 circumstances, manufacturer ownership of an interest in the  
301 license, business, assets, or corporate stock of a licensed  
302 distributor shall only be for 180 days and only for the purpose  
303 of facilitating an orderly transfer of the distributorship to an  
304 owner not affiliated with a manufacturer.

305 (f) Notwithstanding the provisions of paragraph (b), any  
306 entity named in paragraph (a) may have a security interest in  
307 the inventory or property of its licensed distributors to secure  
308 payment for said inventory or other loans for other purposes.

309 Section 4. Section 563.06, Florida Statutes, is amended to  
310 read:

311 563.06 Malt beverages; imprint on individual container;  
312 size of containers; growlers; exemptions.-

313 (1) ~~On and after October 1, 1959,~~ All taxable malt  
314 beverages packaged in individual containers possessed by any  
315 person in the state for the purpose of sale or resale in the  
316 state, except operators of railroads, sleeping cars, steamships,  
317 buses, and airplanes engaged in interstate commerce and licensed  
318 under this section, must ~~shall~~ have imprinted thereon in clearly  
319 legible fashion by any permanent method the word "Florida" or

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320 "FL" and no other state name or abbreviation of any state name  
321 in not less than 8-point type. The word "Florida" or "FL" shall  
322 appear first or last, if imprinted in conjunction with any  
323 manufacturer's code. A facsimile of the imprinting and its  
324 location as it will appear on the individual container must  
325 ~~shall~~ be submitted to the division for approval.

326 (2) Nothing herein contained shall require such designation  
327 to be attached to individual containers of malt beverages which  
328 are transported through this state and which are not sold,  
329 delivered, or stored for sale therein, if transported in  
330 accordance with such rules and regulations as adopted by the  
331 division; nor shall this requirement apply to malt beverages  
332 packaged in individual containers and held on the premises of a  
333 brewer or bottler, which malt beverages are for sale and  
334 delivery to persons outside the state.

335 (3) Possession by any person in the state, except as  
336 otherwise provided herein, of more than 4 1/2 gallons of malt  
337 beverages in individual containers which do not have the word  
338 "Florida" or "FL" as herein provided, shall be prima facie  
339 evidence that said malt beverage is possessed for the purpose of  
340 sale or resale.

341 (4) Except as otherwise provided herein, any malt beverages  
342 in individual containers held or possessed in the state for the  
343 purpose of sale or resale within the state which do not bear the  
344 word "Florida" or "FL" thereon shall, at the direction of the  
345 division, be confiscated in accordance with the provisions of  
346 the Beverage Law.

347 (5) (a) Nothing contained in this section shall require that  
348 malt beverages packaged in individual containers and possessed

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349 by any person in the state for purposes of sale or resale in the  
350 state have imprinted thereon the word "Florida" or "FL" if the  
351 manufacturer of the malt beverages can establish before the  
352 division that the manufacturer has a tracking system in place,  
353 by use of code or otherwise, which enables the manufacturer,  
354 with at least 85 percent reliability by July 1, 1996, and 90  
355 percent reliability by January 1, 2000, to identify the  
356 following:

357 1. The place where individual containers of malt beverages  
358 were produced;

359 2. The state into which the individual containers of malt  
360 beverages were shipped; and

361 3. The individual distributors within the state which  
362 received the individual containers of malt beverages.

363 (b) Prior to shipping individual containers of malt  
364 beverages into the state which do not have the word "Florida" or  
365 "FL" imprinted thereon, the manufacturer must file an  
366 application with the division to claim the exemption contained  
367 herein and must obtain approval from the division to ship  
368 individual containers of malt beverages into the state which do  
369 not have the word "Florida" or "FL" imprinted thereon.

370 Information furnished by the manufacturer to establish the  
371 criteria contained within paragraph (a) may be subject to an  
372 annual audit and verification by the division. The division may  
373 revoke an approved exemption if the manufacturer refuses to  
374 furnish the information required in paragraph (a) upon request  
375 of the division, or if the manufacturer fails to permit a  
376 subsequent verification audit, or if the manufacturer fails to  
377 fully cooperate with the division during the conducting of an

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378 audit.

379 (c) When a distributor has information that malt beverages  
380 may have been shipped into Florida on which payment of Florida  
381 excise taxes has not been made, such information may be provided  
382 to the division and the division shall investigate to ascertain  
383 whether any violations of Florida law have occurred.

384 (6) All malt beverages packaged in individual containers  
385 sold or offered for sale by vendors at retail in this state,  
386 except for malt beverages authorized to be sold in growlers  
387 pursuant to s. 563.061, must ~~shall~~ be in individual containers  
388 containing no more than 32 ounces of such malt beverages.  
389 ~~provided, however, that nothing contained in~~

390 (7) This section does not ~~shall~~ affect malt beverages  
391 packaged in bulk, ~~or~~ in kegs or ~~in~~ barrels, or in any individual  
392 container containing 1 gallon or more of such malt beverage  
393 regardless of individual container type.

394 (8) ~~(7)~~ A ~~Any~~ person, firm, or corporation, or any of its  
395 agents, officers or employees, that violates ~~violating any of~~  
396 ~~the provisions of this section~~ commits, ~~shall be guilty of a~~  
397 misdemeanor of the first degree, punishable as provided in s.  
398 775.082 or s. 775.083; and the license, if any, is ~~shall be~~  
399 subject to revocation or suspension by the division.

400 Section 5. Section 563.061, Florida Statutes, is created to  
401 read:

402 563.061 Malt beverages; filling or refilling of growlers.-

403 (1) "Growler" means a refillable container that is made of  
404 glass, ceramic, metal, or similar leak-proof material and is  
405 designed to contain a carbonated malt beverage in a capacity of  
406 32 ounces, 64 ounces, or 128 ounces.

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407 (2) The filling or refilling of a growler shall be in  
408 response to an order, in a face-to-face transaction, only for  
409 off-premises consumption. The growler must be filled with a malt  
410 beverage and sealed on the premises at or immediately before or  
411 after the time of sale.

412 (3) The filling or refilling of a growler is limited to:

413 (a) A manufacturer of malt beverages who holds a valid  
414 vendor's license pursuant to s. 561.221(2);

415 (b) A vendor holding a quota license under ss. 561.20(1)  
416 and 565.02(1) (a) with the sale of malt beverages authorized  
417 under that license; or

418 (c) A vendor holding a license under s. 563.02(1) (b)-(f),  
419 s. 564.02(1) (b)-(f), or s. 565.02(1) (b)-(f), unless the license  
420 restricts the sale of malt beverages only for consumption on the  
421 licensed premises.

422 (4) The growler must have an unbroken seal or be incapable  
423 of being immediately consumed.

424 (5) The growler must be clearly labeled as containing an  
425 alcoholic beverage and provide the name of the manufacturer, the  
426 brand, the volume, the percentage of alcohol by volume, and the  
427 required federal health warning notice for alcoholic beverages.  
428 If a growler being refilled has an existing label or other  
429 identifying mark of a manufacturer or brand from a prior filling  
430 or refilling, that label must be covered sufficiently to  
431 indicate the manufacturer and brand of the malt beverage being  
432 placed in the container at that refilling.

433 (6) The growler must be clean before filling or refilling.

434 (7) A licensee authorized to fill and refill growlers may  
435 not use them for purposes of distribution or sale off the

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436 manufacturer's or vendor's licensed premises, except as  
437 authorized under this section and s. 561.221(2).

438 Section 6. For the purpose of incorporating the amendments  
439 made by this act to the Beverage Law, subsection (1) of section  
440 561.11, Florida Statutes, is reenacted to read:

441 561.11 Power and authority of division.—

442 (1) The division has authority to adopt rules pursuant to  
443 ss. 120.536(1) and 120.54 to implement the provisions of the  
444 Beverage Law.

445 Section 7. This act shall take effect July 1, 2014.