

Regulatory Reform & Economic Development Subcommittee

Wednesday, January 18, 2023
9:00 AM - 11:00 AM
Webster Hall (212 Knott)

Meeting Packet

Paul Renner
Speaker

Tyler Sirois
Chair

The Florida House of Representatives

Commerce Committee

Regulatory Reform & Economic Development Subcommittee

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Meeting Agenda

Wednesday, January 18, 2023
9:00 AM – 11:00 AM
Webster Hall (212 Knott)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Overview of the Department of Business and Professional Regulation

V. Presentation by the Department of Business and Professional Regulation on the History of Regulation of the Alcoholic Beverage Industry

VI. Closing Remarks

VII. Adjournment

303 House Office Building, 402 South Monroe Street, Tallahassee, FL 32399-1300
(850) 717-4870



Melanie S. Griffin

Secretary, Department of Business and Professional Regulation

House Regulatory Reform & Economic Development Subcommittee

January 18, 2023

DBPR OVERVIEW

- DBPR is responsible for ensuring that the more than 1.59 million licensees across more than 30 fields of industry provide safe, quality services to Florida's millions of residents and visitors. The Department also supports nearly 220,000 licensees from the Florida Gaming Control Commission for a total of 1.8 million licensees in DBPR's licensing system.

- DBPR has nearly 1,600 employees in 13 offices throughout the state.

- Our motto is "License Efficiently. Regulate Fairly." We implement that mission by making it our goal to help businesses open and remain open, and to create a user-friendly experience for all our licensees.

- Responsibilities of the agency include safeguarding the health, safety and welfare of the citizens of Florida, combatting unlicensed activity, ensuring professionalism through education, and celebration of licensees via proclamations.

Agency Organization of Business & Professional Regulation Divisions

Professional Regulation:

- Florida Athletic Commission
- Division of Certified Public Accounting
- Division of Real Estate
- Division of Regulation
- Division of Professions

Business Regulation:

- Division of Alcoholic Beverages and Tobacco
- Division of Drugs, Devices, and Cosmetics
- Division of Florida Condominiums, Timeshares, and Mobile Homes
- Division of Hotels and Restaurants

PROFESSIONAL REGULATION DIVISIONS

Florida's Beverage Law is Based on a Three-Tier Licensing System

Professional Regulation is responsible for licensing over 1.2 million of the Department's professionals and businesses.

Its regulatory activities are divided amongst 1 commission and 4 divisions:

- Florida Athletic Commission
- Division of Certified Public Accounting
- Division of Real Estate
- Division of Regulation
- Division of Professions
- Florida Building Commission

BUSINESS REGULATION DIVISIONS

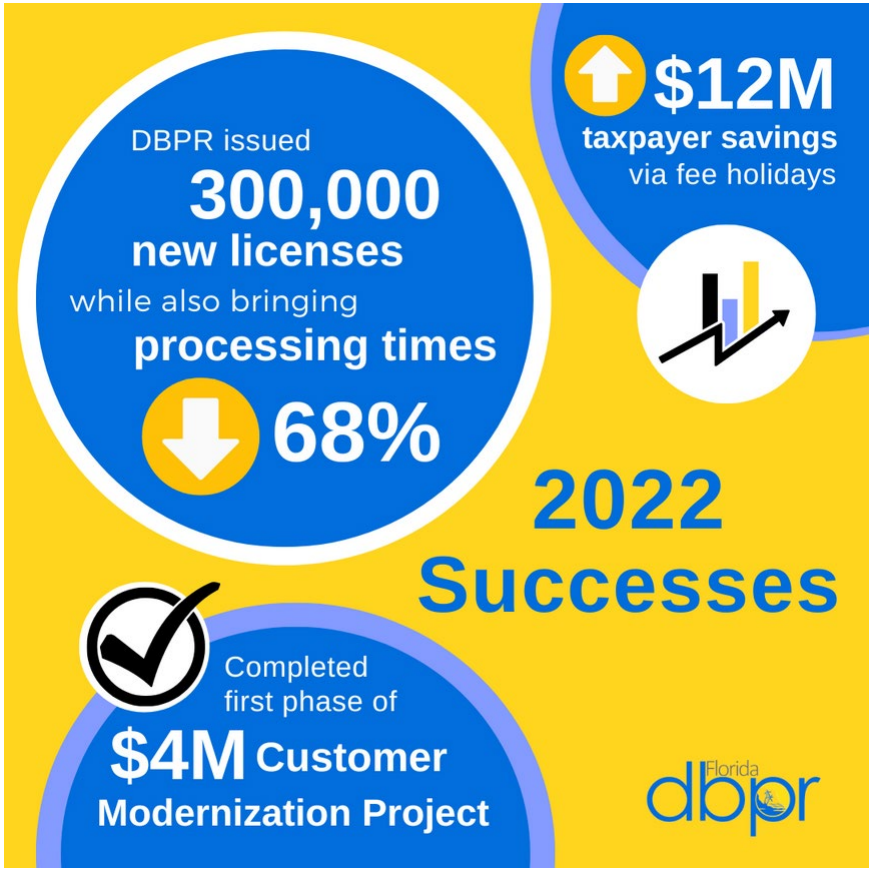
- Division of Alcoholic Beverages and Tobacco
- Division of Drugs, Devices, and Cosmetics
- Division of Condominiums, Timeshares, and Mobile Homes
- Division of Hotels and Restaurants

2022 DBPR HIGHLIGHTS

Operational Efficiencies

Application processing times were reduced by 68% in 2022 while at the same time adding 300K licensees.

Implementing evening and weekend shifts, reducing the Division of Service Operations employment vacancy rate, reimagining internal business processes, and beginning to additionally modernize the DBPR customer experience have made it easier and faster for Floridians to get to work.



2022 DBPR HIGHLIGHTS

Record Number of Combat Sporting Events

For the second year in a row, the Florida Athletic Commission broke a record for the amount of live professional boxing, kickboxing and mixed martial arts events sanctioned in a calendar year. The 123-event total for 2022 breaks the previous record of 117, set in 2021 and a 108% increase from the 59 events held in 2020.

Combatted Unlicensed Regulatory Activity

Department's enforcement efforts, in conjunction with law enforcement partners, has successfully detected unlicensed contractors, stopped fraudulent behavior in our state, and prevented bad actors from taking advantage of Floridians, including our most vulnerable populations. The Division of Regulation is currently working more than 200 cases related to Hurricanes Ian and Nicole.

Significant Investment in Hospitality Industry

The Division of Hotels and Restaurants completed and released a long-awaited vacation rental database containing a digital searchable listing of more than 140K division-licensed vacation rentals.

The division also saw the total number of division-issued lodging licenses surpass the total number of division-issued food service licenses for the first time. This growth is an indicator of Florida's robust economy and strong tourism industry.



Contact Information

Jonas Marquez
Legislative Affairs Director
Jonas.Marquez@MyFloridaLicense.com
850-491-5705

Division of Alcoholic Beverages & Tobacco

Sterling Whisenhunt, Director
Division of Alcoholic Beverages and Tobacco

House Regulatory Reform & Economic Development Subcommittee
January 18, 2023

DIVISION OVERVIEW

The Division is compromised of three bureaus:

Licensing

- Processing license applications and renewals.
- Verifying an applicant's qualifications for licensure under the Beverage Law and chapters 210 and 569, Florida Statutes.
- 49 FTE Positions

Auditing

- Collecting and auditing of the excise tax due to the state.
- Conducting compliance audits to ensure compliance with special licensing requirements.
- 82 FTE Positions

Enforcement

- 2nd oldest law enforcement agency in Florida celebrating 90 years of service this year (2023).
- Conducts routine compliance inspections.
- Conducts minimum age of purchase surveys.
- Conducts criminal and administrative investigations.
- 187 FTE Positions

ALCOHOLIC BEVERAGE REGULATION IN FLORIDA

Like the Majority of States, Florida Regulates the Sale of Alcoholic Beverages Using a Non-Control Model

- Following the repeal of Prohibition in 1933, the 21st Amendment granted each state the right to establish laws governing the manufacture, distribution, and sale of alcoholic beverages within its borders.

- In governing, states operate under one of two models:

  - Control: A minority of states control the sale of distilled spirits (and in some cases, wine, and beer) through government agencies at the distribution level.

  - Non-Control: In most states, including Florida, private businesses apply for licenses to manufacture, distribute, and sell alcoholic beverages to consumers. Licensees must comply with state laws regulating these transactions to maintain their licensure.

ALCOHOLIC BEVERAGE REGULATION IN FLORIDA

"Alcoholic Beverage" as Defined by Chapter 561, Florida Statutes

Alcoholic Beverage: Section 561.01(4)(a), Florida Statutes, provides that an "alcoholic beverage" is a distilled spirit "and all beverages containing one-half of 1 percent or more alcohol by volume."

Percentage of Alcohol by Volume: Section 561.01(4)(b), Florida Statutes, explains that the percentage of alcohol by volume is "determined by measuring the volume of the standard ethyl alcohol in the beverage and comparing it with the volume of the remainder of the ingredients as though said remainder ingredients were distilled water."

Intoxicating Beverage/Liquor: Section 561.01(5), Florida Statutes, restricts alcoholic beverages and liquors to those "containing more than 4.007 percent of alcohol by volume."

Florida Beverage Law: Florida's Beverage Law is contained in Chapters 561-565 and 567-568, Florida Statutes.

ALCOHOLIC BEVERAGE REGULATION IN FLORIDA

Florida's Beverage Law is Based on a Three-Tier Licensing System

- Florida's regulations generally restrict licensees to participation in one tier of its three-tier licensing system, thereby intending to prevent over-consumption of alcoholic beverages by consumers (also known as "tied-house" laws, discussed later in this presentation).

- The three tiers of Florida's licensing system include:

  - Manufacturers

  - Distributors

  - Retailers

ALCOHOLIC BEVERAGE REGULATION IN FLORIDA

Manufacturers: Tier One of Florida's Three-Tier Licensing System

- Manufacturers, sometimes also referred to as "producers," include:

  (1) Breweries;

  (2) Wineries; and

  (3) Distilleries.

- Generally, manufacturers must both:

  (1) Produce, rectify, or blend alcohol products; and

  (2) Sell those products to either:
  (a) Other manufacturers; or
  (b) Licensed distributors.

ALCOHOLIC BEVERAGE REGULATION IN FLORIDA

Distributors: Tier Two of Florida's Three-Tier Licensing System

- Distributors, sometimes also referred to as "wholesalers," generally:

  (1) Purchase alcohol products from manufacturers; and

  (2) Sell those products to:

  (a) Licensed retailers in Florida; or

  (b) Other distributors, where allowed.

ALCOHOLIC BEVERAGE REGULATION IN FLORIDA

Retailers: Tier Three of Florida's Three-Tier Licensing System

- Retailers, more frequently referred to as "vendors," generally sell alcoholic beverages at "retail only."

- Retailers are further classified in the industry as:

(1) On-Premise Retailers: Retailers that sell beer, wine, or spirits, or some combination thereof, for patrons to consume on their licensed premises. Examples include:

(a) Bars;

(b) Restaurants; and

(c) Nightclubs.

(2) Off-Premise Retailers: Retailers that sell beer, wine, or spirits, or some combination thereof, in sealed containers for patrons to consume off-premise only. Examples include:

(a) Liquor Stores; and

(b) Grocery Stores.

ALCOHOLIC BEVERAGE REGULATION IN FLORIDA

Four Examples of Notable Exceptions to Florida's Three-Tier System (Tied-House Laws)

(1) Wineries: Per section 561.221(1), Florida Statutes, a Florida winery can be licensed as a manufacturer/producer and distributor/wholesaler and hold up to three vendor/retailer licenses if the vendor/retailer's licensed premises is situated on property contiguous to the manufacturing premises.

(2) Breweries with Taprooms: Per section 561.221(2), Florida Statutes, a Florida brewery can be licensed as a manufacturer/producer, distributor/wholesaler, and vendor/retailer so long as the brewery's property is located on a single complex that includes the brewery and is not divided by more than one public street or highway.

(3) Brewpubs: Per section 561.221(3), Florida Statutes, a Florida brewpub may annually brew up to 10,000 kegs (each keg being 15.5 gallons) of beer for consumption exclusively at the brewpub.

(4) Craft Distilleries: Per section 565.03(2)(b), Florida Statutes, a person or entity may share common ownership in up to 10 craft distilleries provided that a maximum of:

(a) Four of the distilleries each annually distill, rectify, or blend 250,000 gallons or less of distilled spirits; and

(b) Six of the distilleries each annually distill, rectify, or blend 50,000 gallons or less of distilled spirits.

ALCOHOLIC BEVERAGE REGULATION IN FLORIDA

LOCAL GOVERNMENT AUTHORITY

Local Government Authority Over the Sale of "Intoxicating" Beverages

- Per chapter 567, Florida Statutes, "intoxicating" beverages are not automatically sold in Florida counties, and rather, the Florida Constitution empowers each county's electors to determine whether such products can be sold within their borders.

- This statute defines an "intoxicating" beer, wine, or liquor as one that contains "more than 6.243 percent of alcohol by volume," a higher threshold than the "4.007 percent of alcohol by volume" in section 561.01(5), Florida Statutes, discussed above.

- A county shall hold a special election to determine whether the sale of intoxicating liquors, wines, or beer shall be permitted within its borders only upon the petition of 25 percent of the county's electors and not sooner than two years after the earlier election on the same question.

- The state laws discussed in this presentation govern the sale of intoxicating liquors, wines and beer in the counties that permit such sales.

- After Washington County voted to permit the sale of intoxicating beverages in January 2022, only two Florida counties remain "dry" – Liberty and Lafayette.

ALCOHOLIC BEVERAGE REGULATION IN FLORIDA

LOCAL GOVERNMENT AUTHORITY

Local Government Authority to Enact Ordinances

- Section 562.45(2)(a-c), Florida Statutes, generally provides that Florida counties and incorporated municipalities may enact ordinances regulating a state licensee's:

  - hours of business,
  - location of place of business, and
  - sanitary regulations.

ALCOHOLIC BEVERAGE REGULATION IN FLORIDA

LOCAL GOVERNMENT AUTHORITY

Taxation & Local Government

Section 561.342(3), Florida Statutes, provides that no county or municipality shall tax the manufacture, distribution, exportation, transportation, importation, or sale of alcoholic beverages defined by such law by way of license, excise, or otherwise.

In exchange, a portion of alcoholic beverage state license tax revenue is returned to the county or municipality where collected at a rate of:

- County: 24% to county tax collector
- Municipality: 38% to appropriate municipal officer

ALCOHOLIC BEVERAGE REGULATION IN FLORIDA

LOCAL GOVERNMENT AUTHORITY

Florida Excise Taxes on Alcoholic Beverages

BEER	Pints or less	$0.06 each
§ 563.05, F.S.	Quarts or less	$0.12 each
	Gallon	$0.48 each
	TOTAL:	$100 million/year
WINE	Less than 17.259% ABV	$2.25 per gallon
§ 564.06, F.S.	17.259% ABV or more	$3.00 per gallon
	Natural Sparkling	$3.50 per gallon
	Cider	$0.89 per gallon
	TOTAL:	$87 million/year
LIQUOR	Less than 17.259% ABV	$2.25 per gallon
§ 565.12, F.S.	17.259% to 55.78% ABV	$6.50 per gallon
	More than 55.78% ABV	$9.53 per gallon
	TOTAL:	$119 million/year

- A monthly report and remittance of excise tax is due to the Division on or before the 10th day of each month for all activities during the previous calendar month.
- Excise tax is remitted through the manufacturer and distributor tiers.

LICENSING INFORMATION

The Division categorizes licenses by tier and business model.

Licensing fees are generally based on the scope of the activities permitted and the population of the county where the license is located.

(The information provided is current as of January 6, 2023.)

Tier	Annual Fee Range	Number of Licensees
Beverage Manufacturer	$500-$4000	610
Beverage Distributor	$1000-$4000	1,105
Beverage Vendor	$25-$2500	52,321
Tobacco Manufacturer	$100	27
Tobacco Distributor	$0-$100	1,652
Tobacco Retail Dealer / Nicotine Retail Dealer	$0-$50	30,004

LICENSING INFORMATION

QUOTA LIQUOR LICENSES

Limitations on Alcoholic Beverage Liquor Licenses

Section 561.20(1), Florida Statutes, limits the number of licenses authorized for the sale of liquor – by the package or for consumption on the premises – to:

1 License Per 7,500 Residents (by county)

The limitation by population does not apply to numerous special license types, for example:

- Hotels/Motels
- Condominiums
- Food Service Establishments
- Caterers
- Culinary Education Programs
- Public Fairs/Expos
- Performing Arts Centers
- Civic Centers/Sports Arenas
- Golf Clubs
- Tennis Clubs
- Fraternal Associations

LICENSING INFORMATION

QUOTA LIQUOR LICENSES

Procedures for Issuing New Quota Licenses

- Section 561.19, Florida Statutes, governs the procedures for issuing new licenses when they are determined to be available by increases in county population:
  - 1 License Per 7,500 Residents (by county)
  - Based on population estimates published by the Bureau of Economic and Business Research at the University of Florida
- Annual Entry Period - 45 days beginning on the third Monday in August
- One entry per interested party per county - $100 fee per entry

2022 Drawing Entry Period

- In 2022, more than 26,000 entries were received for 35 quota beverage licenses in 19 counties, resulting in the collection of more than $2.6 million on behalf of the state.
- The 2022 drawing will be held this year (in 2023), such date to be announced upon final validation of the entries.

COMPLIANCE ACTIVITIES

In FY 21-22, the Division performed over 39,305 alcoholic beverage and tobacco inspections, with a staff of 187 dedicated Bureau of Enforcement employees across 12 district offices.

- Routine compliance inspections resulted in an approximate 75% compliance rate at the time of inspection.

In FY21-22, the Division performed over 4,662 alcoholic beverage compliance surveys to determine whether licensees were complying with minimum age of purchase restrictions in Florida law.

- Nearly 86% of the alcohol-related compliance surveys resulted in vendor compliance.

- These surveys were in addition to the 3,733 youth compliance surveys conducted to determine compliance with tobacco laws that reflected a 86.79% compliance rate among licensees.



Contact Information

Jonas Marquez
Legislative Affairs Director
Jonas.Marquez@MyFloridaLicense.com
850-491-5705