

Staff Report

File #: LN-585

PLANNING AND ZONING BOARD

Meeting Date: MARCH 27, 2024

Text Amendment - Section 155.4501. Separation Requirements for Alcoholic Beverage Establishments

Request:	Text Amendment - Section 155.4501. Separation Requirements for Alcoholic Beverage Establishments
P&Z#	N/A
Owner:	N/A
Project Location:	N/A
Folio Number:	N/A
Land Use Designation:	N/A
Zoning District:	N/A
Commission District:	N/A
Agent:	N/A
Project Planner:	Max Wemyss (954-786-4671 / max.wemyss@copbfl.com)

Summary:

Section 155.4501 of the Zoning Code provides the separation requirements for alcoholic beverage establishments. Prior to obtaining an Alcohol Beverage License from the State, applicants must obtain approval from the City for satisfaction of the separation requirements from certain existing uses. Many types of businesses or licenses are exempt from the separation requirement.

One exemption reads as the following:

A bar or lounge which is operated as an accessory use to a restaurant and therefore meets the following standards: it is operated by the same management, and the restaurant has dining accommodations for service of 150 or more patrons at tables in a covered area, and occupying more than 2,500 square feet of floor space, and deriving at least 51% of the gross revenue from the sale of food and non-alcoholic beverages.

This exemption is consistent with the State's Classification of a 4COP/Specialty (SFS) License. Florida alcohol beverage laws generally allow restaurants meeting certain criteria to qualify for 4COP-SFS liquor licenses, which allow for the sale of beer, wine, and spirits (hard liquor) for on-premise consumption. Whereas a restaurant in Pompano used to have to be at least 2,500 square feet and capable of serving 150 at one time, restaurants can now qualify for full liquor licenses if they have only 2,000 square feet and 120 seats.

To be consistent with our approach and separation rationale as established, Staff is recommending amending the separation requirement to match the State classification criteria.

For general information, the new qualification requirements for a type 4COP-SFS liquor license are that an applicant must:

- Have a minimum of 2,000 square feet of service area;
- Be equipped to serve meals to 120 people at one time;
- Have at least 120 physical seats available for patrons to use during operating hours;
- Hold itself out as a restaurant; and
- At least 51% of the restaurant's gross food and beverage revenue must come from the sale of food and nonalcoholic beverages during the first 120-day operating period and the first 12-month operating period thereafter.

Text Amendment:

155.4501. SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS

A. General

Except as otherwise provided in [Table 155.4501.B](#) <https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-46335> below, any alcoholic beverage establishment shall be separated from certain existing uses in accordance with [Table 155.4501.A](#) <https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-46335>, Minimum Separation from Certain Existing Uses.

TABLE 155.4501.A: MINIMUM SEPARATION OF USES INVOLVING THE SALE OF ALCOHOLIC BEVERAGES FROM CERTAIN EXISTING USES ¹	
Existing Use	Minimum Separation ²
Any other use involving the sale of alcoholic beverages other than those uses listed in Section 155.4501.B	1,000 feet (Measurement Type 1)
Sexually oriented business	
Child care facility	500 feet (Measurement Type 2) and 300 feet (Measurement Type 3)
School	
Place of worship	
NOTES: 1.Measurement Type 1: Separation shall be measured from main entrance to main entrance of the establishments by airline route 2.Measurement Type 2: Separation shall be measured from main normal public entrance of Alcoholic Beverage Establishment to the nearest point of the Child Care facility, School, or Place of Worship's property used as a part of the facility measured along public thoroughfares by the shortest route of ordinary pedestrian traffic. 3.Measurement Type 3: Separation shall be measured from main normal public entrance of Alcoholic Beverage Establishment to the nearest point of the Child Care facility, School, or Place of Worship's property used as a part of the facility measure by airline route. 4.All separations shall be measured from establishments located within or outside of the City limits. 5.Compliance with these separation standards shall not be affected by the subsequent rezoning of the site of the alcoholic beverage establishment to AOD <u>or EOD</u> , conveyance of city -owned property, or the establishment of one of the uses from which separation is required on a property closer than the required separation distance. In such case, the alcoholic beverage establishment shall be construed as continuing to comply with the separation standards.	

B. Exceptions

[Table 155.4501.B](#) <https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-46335>

46335> lists uses that are exempt from the separation requirements in [Table 155.4501.A](#)
https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-46335.

TABLE 155.4501.B: EXCEPTIONS TO THE MINIMUM SEPARATION OF USES INVOLVING THE SALE OF ALCOHOLIC BEVERAGES FROM CERTAIN EXISTING USES		
Use and Criteria	Required Separation	
	Any other use involving the sales of alcoholic beverages; and Sexually oriented business	Child Care Facility; School; and Place of Worship
An establishment limited by its state beverage license for the distribution of alcoholic beverages to vendors and other distributors.	Exempt	Exempt
Grocery or convenience store with accessory sales of beer or wine. Sales of beer or wine may only be considered an accessory use to a grocery or convenience store provided the display area for the sales of beer or wine does not exceed 20% of the total display area used for all other merchandise and no exterior signage for the sale of beer or wine is provided.	Exempt	Exempt
Beer or wine store which meets the definition of a specialty store.	Exempt	Exempt
An enclosed restaurant which sells only beer and/or wine for consumption on the premises.	Exempt	Exempt if no externally visible display window or sign indicating the sale of alcoholic beverages
A food and/or beverage manufacturer limited by its state beverage license for manufacturing of wines and cordials, brewing malt beverages, or distiller of spirituous liquor.	Exempt	Exempt
Alcoholic beverage sales as an accessory use to a brewery, winery, or distillery.	Exempt	Exempt
A bowling alley that contains more than nine bowling lanes.	Exempt	Exempt
A motion picture theater that contains more than 100 seats.	Exempt	Exempt
Regional liquor or package store	Exempt	Exempt
A bar or lounge which is operated as an accessory use to a restaurant and therefore meets the following standards: it is operated by the same management, and the restaurant has dining accommodations for service of 150120 or more patrons at tables in a covered area, and occupying more than 2,5002,000 square feet of floor space, and deriving at least 51% of the gross revenue from the sale of food and non-alcoholic beverages.	Exempt	Exempt if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence
A bar or lounge which is operated as an accessory use to a hotel or condo hotel that has more than 25 sleeping rooms and/or dwelling units and that is operated by the same management as the hotel or condo hotel.	Exempt	Exempt if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence
A lodge or club which limits on-premise consumption of alcoholic beverages to only lodge or club members.	Exempt	Exempt if no externally visible display window or sign indicating the sale of alcoholic beverages
A use located on property owned by the city.	Not Exempt	Exempt
Within the Atlantic Boulevard Overlay District (AOD) and/or East Overlay District (EOD) only, a bar or lounge, brewpub, restaurant, or specialty eating establishment (whether a principal use or an accessory use to a hotel, and including any accessory outdoor seating).	Exempt if no package sales are offered at bar or lounge	Exempt if no package sales are offered at bar or lounge

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Staff Request

The Department of Development Services is seeking a recommendation of approval of the proposed text amendment to the City Commission.

The 2023 Florida Statutes (including Special Session C)

[Title XXXIV](#)

ALCOHOLIC BEVERAGES AND TOBACCO

[Chapter 561](#)

BEVERAGE LAW: ADMINISTRATION

[View Entire Chapter](#)

561.20 Limitation upon number of licenses issued.—

(1) No license under s. [565.02\(1\)\(a\)-\(f\)](#), inclusive, shall be issued so that the number of such licenses within the limits of the territory of any county exceeds one such license to each 7,500 residents within such county. Regardless of the number of quota licenses issued prior to October 1, 2000, on and after that date, a new license under s. [565.02\(1\)\(a\)-\(f\)](#), inclusive, shall be issued for each population increase of 7,500 residents above the number of residents who resided in the county according to the April 1, 1999, Florida Estimate of Population as published by the Bureau of Economic and Business Research at the University of Florida, and thereafter, based on the last regular population estimate prepared pursuant to s. [186.901](#), for such county. Such population estimates shall be the basis for annual license issuance regardless of any local acts to the contrary. However, such limitation shall not prohibit the issuance of at least three licenses in any county that may approve the sale of intoxicating liquors in such county.

(2)(a) The limitation of the number of licenses as provided in this section does not prohibit the issuance of a special license to:

1. Any bona fide hotel, motel, or motor court of not fewer than 80 guest rooms in any county having a population of less than 50,000 residents, and of not fewer than 100 guest rooms in any county having a population of 50,000 residents or greater; or any bona fide hotel or motel located in a historic structure, as defined in s. [561.01\(20\)](#), with fewer than 100 guest rooms which derives at least 51 percent of its gross revenue from the rental of hotel or motel rooms, which is licensed as a public lodging establishment by the Division of Hotels and Restaurants; provided, however, that a bona fide hotel or motel with no fewer than 10 and no more than 25 guest rooms which is a historic structure, as defined in s. [561.01\(20\)](#), in a municipality that on the effective date of this act has a population, according to the University of Florida's Bureau of Economic and Business Research Estimates of Population for 1998, of no fewer than 25,000 and no more than 35,000 residents and that is within a constitutionally chartered county may be issued a special license. This special license shall allow the sale and consumption of alcoholic beverages only on the licensed premises of the hotel or motel. In addition, the hotel or motel must derive at least 60 percent of its gross revenue from the rental of hotel or motel rooms and the sale of food and nonalcoholic beverages; provided that this subparagraph shall supersede local laws requiring a greater number of hotel rooms;

2. Any condominium accommodation of which no fewer than 100 condominium units are wholly rentable to transients and which is licensed under chapter 509, except that the license shall be issued only to the person or corporation that operates the hotel or motel operation and not to the association of condominium owners;

3. Any condominium accommodation of which no fewer than 50 condominium units are wholly rentable to transients, which is licensed under chapter 509, and which is located in any county having home rule under s. 10 or s. 11, Art. VIII of the State Constitution of 1885, as amended, and incorporated by reference in s. 6(e), Art. VIII of the State Constitution, except that the license shall be issued only to the person or corporation that operates the hotel or motel operation and not to the association of condominium owners;

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

This subparagraph may not be construed to authorize public food service establishments licensed under this subparagraph to sell a bottle of distilled spirits sealed by a manufacturer. Any sale or delivery of malt beverages must comply with the container size, labeling, and filling requirements imposed under s. 563.06. Any delivery of an alcoholic beverage under this subparagraph must comply with s. 561.57. An alcoholic beverage drink prepared by the vendor and sold or delivered for consumption off the premises must be placed in a container securely sealed by the licensee or its employees with an unbroken seal that prevents the beverage from being immediately consumed before removal from the premises. Such alcoholic beverage also must be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the alcoholic beverage and food must be provided by the licensee and attached to the bag or container. If transported in a motor vehicle, an alcoholic beverage that is not in a container sealed by the manufacturer must be placed in a locked compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle. It is a violation of the prohibition in s. 562.11 to allow any person under the age of 21 to deliver alcoholic beverages on behalf of a vendor. The vendor or the agent or employee of the vendor must verify the age of the person making the delivery of the alcoholic beverage before allowing any person to take possession of an alcoholic beverage for the purpose of making a delivery on behalf of a vendor under this section. A food service establishment granted a special license on or after January 1, 1958, pursuant to general or special law may not operate as a package store and may not sell intoxicating beverages under such license after the hours of serving or consumption of food have elapsed. Failure by a licensee to meet the required percentage of food and nonalcoholic beverage gross revenues during the covered operating period shall result in revocation of the license or denial of the pending license application. A licensee whose license is revoked or an applicant whose pending application is denied, or any person required to qualify on the special license application, is ineligible to have any interest in a subsequent application for such a license for a period of 120 days after the date of the final denial or revocation;

5. Any caterer, deriving at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages at each catered event, licensed by the Division of Hotels and Restaurants under chapter 509. This subparagraph does not apply to a culinary education program, as defined in s. 381.0072(2), which is licensed as a public food service establishment by the Division of Hotels and Restaurants and provides catering services. Notwithstanding any law to the contrary, a licensee under this subparagraph shall sell or serve alcoholic beverages only for consumption on the premises of a catered event at which the licensee is also providing prepared food, and shall prominently display its license at any catered event at which the caterer is selling or serving alcoholic beverages. A licensee under this subparagraph shall purchase all alcoholic beverages it sells or serves at a catered event from a vendor licensed under s. 563.02(1), s. 564.02(1), or licensed under s. 565.02(1) subject to the limitation imposed in subsection (1), as appropriate. A licensee under this subparagraph may not store any alcoholic beverages to be sold or served at a catered event. Any alcoholic beverages purchased by a licensee under this subparagraph for a catered event that are not used at that event must remain with the customer; provided that if the vendor accepts unopened alcoholic beverages, the licensee may return such alcoholic beverages to the vendor for a credit or reimbursement. Regardless of the county or counties in which the licensee operates, a licensee under this subparagraph shall pay the annual state license tax set forth in s. 565.02(1)(b). A licensee under this subparagraph must maintain for a period of 3 years all records and receipts for each catered event, including all contracts, customers' names, event locations, event dates, food purchases and sales, alcoholic beverage purchases and sales, nonalcoholic beverage purchases and sales, and any other records required by the department by rule to demonstrate compliance with the requirements of this subparagraph. Notwithstanding any law to the contrary, any vendor licensed under s. 565.02(1) subject to the limitation imposed in subsection (1), may, without any additional licensure under this subparagraph, serve or sell alcoholic beverages for consumption on the premises of a catered event at which prepared food is provided by a caterer licensed under chapter 509. If a licensee under this subparagraph also possesses any other license under the Beverage Law, the license issued under this subparagraph may not authorize the holder to conduct activities on the premises to which the other license or licenses apply that would otherwise be prohibited by the terms of that license or the Beverage Law. This section does not permit the licensee to conduct activities that are otherwise prohibited by the Beverage Law or local law. The Division of Alcoholic Beverages and Tobacco is hereby authorized to adopt rules to administer the license created in this subparagraph, to include rules governing licensure, recordkeeping, and enforcement. The first \$300,000 in fees collected by the division each fiscal year pursuant to this subparagraph shall be deposited in the Department of Children and Families' Operations and Maintenance Trust Fund to be used only for alcohol and drug abuse education, treatment, and prevention programs. The remainder of the fees collected shall be deposited into the Hotel and Restaurant Trust Fund created pursuant to s. 509.072; or

6. A culinary education program as defined in s. 381.0072(2) which is licensed as a public food service establishment by the Division of Hotels and Restaurants.

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

b. If the culinary education program provides catering services, this special license shall also allow the sale and consumption of alcoholic beverages on the premises of a catered event at which the licensee is also providing prepared food. A culinary education program that provides catering services is not required to derive at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages. Notwithstanding any law to the contrary, a licensee that provides catering services under this sub-subparagraph shall prominently display its beverage license at any catered event at which the caterer is selling or serving alcoholic beverages. Regardless of the county or counties in which the licensee operates, a licensee under this sub-subparagraph shall pay the annual state license tax set forth in s. 565.02(1)(b). A licensee under this sub-subparagraph must maintain for a period of 3 years all records required by the department by rule to demonstrate compliance with the requirements of this sub-subparagraph.

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

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

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

However, any license heretofore issued to any such hotel, motel, motor court, or restaurant or hereafter issued to any such hotel, motel, or motor court, including a condominium accommodation, under the general law may not be moved to a new location, such license being valid only on the premises of such hotel, motel, motor court, or restaurant. Licenses issued to hotels, motels, motor courts, or restaurants under the general law and held by such hotels, motels, motor courts, or restaurants on May 24, 1947, shall be counted in the quota limitation contained in subsection (1). Any license issued for any hotel, motel, or motor court under this law shall be issued only to the owner of the hotel, motel, or motor court or, in the event the hotel, motel, or motor court is leased, to the lessee of the hotel, motel, or motor court; and the license shall remain in the name of the owner or lessee so long as the license is in existence. Any special license now in existence heretofore issued under this law cannot be renewed except in the name of the owner of the hotel, motel, motor court, or restaurant or, in the event the hotel, motel, motor court, or restaurant is leased, in the name of the lessee of the hotel, motel, motor court, or restaurant in which the license is located and must remain in the name of the owner or lessee so long as the license is in existence. Any license issued under this section shall be marked "Special," and nothing herein provided shall limit, restrict, or prevent the issuance of a special license for any restaurant or motel which shall hereafter meet the requirements of the law existing immediately before the effective date of this act, if construction of such restaurant has commenced before the effective date of this act and is completed within 30 days thereafter, or if an application is on file for such special license at the time this act takes effect; and any such licenses issued under this proviso may be annually renewed as now provided by law. Nothing herein prevents an application for transfer of a license to a bona fide purchaser of any hotel, motel, motor court, or restaurant by the purchaser of such facility or the transfer of such license pursuant to law.

(b) Any county in which special licenses were issued under the provisions of s. 561.20(2)(b) in effect prior to the effective date of this act shall continue to qualify for such licenses pursuant to those provisions in effect prior to the effective date of this act, and shall not be affected by the provisions of paragraph (a), except that in such counties, any restaurant located in a specialty center built on governmentally owned land shall be subject to the provisions of paragraph (a).

1. A specialty center means any development having at least 50,000 square feet of leasable area, containing restaurants, entertainment facilities, and specialty shops, and located adjacent to a navigable water body. Alcoholic beverages sold for consumption on the premises by a vendor in a specialty center may be consumed within the specialty center but may not be removed from such premises.

2. A specialty center also means any enclosed development that has at least 170,000 square feet of leasable area that is under the dominion and physical control of the owner or manager of the enclosed development, containing restaurants,

entertainment facilities, specialty shops, and a movie theater with at least 18 operating screens. Alcoholic beverages sold for consumption on the premises by a vendor in a specialty center may be consumed only in areas designated pursuant to s. 561.01(11) and may not be removed from the designated area.

(c) In addition to any special licenses that may be issued under the provisions of paragraph (a), the division is authorized to issue special licenses to qualified applicants who own or lease bowling establishments having 12 or more lanes and all necessary equipment to operate them. Any license issued for any bowling establishment under the provisions of this paragraph shall be issued only to the owner of the bowling establishment or, in the event the bowling establishment is leased, to the lessee of the bowling establishment; and the license shall remain in the name of the owner or lessee so long as the license is in existence. Any such license issued under this paragraph shall not be moved to a new location. No license issued pursuant to this paragraph shall permit the licensee to sell alcoholic beverages by the package for off-the-premises consumption. The provisions of this paragraph do not preclude any bowling establishment from holding a beverage license issued pursuant to any other provision of this section.

(d) Any board of county commissioners may be issued a special license which shall be issued in the name of the county and be applicable only in and for facilities which are owned and operated by the county and in which the sale and consumption of alcoholic beverages are not otherwise prohibited. The license may be transferred from one qualified county facility to another upon written notification to the department.

(e) The owner of a hotel, motel, or motor court may lease his or her restaurant operation to another corporation, individual, or business association that, upon meeting the requirements for a restaurant license set forth in this chapter, may operate independently of the hotel, motel, or motor court and be permitted to provide room service for alcoholic and intoxicating beverages within such hotel, motel, or motor court in which the restaurant is located.

(f) In addition to the exceptions set forth in this subsection, no such limitation of the number of licenses as herein provided shall prohibit the issuance of special airport licenses as defined in s. 561.01(12) to restaurants that are a part of, or serve, publicly owned or leased airports. The special airport license provided for herein shall allow for consumption within designated areas of the airport terminal as defined in s. 561.01(13). Any holder of such special license located at a publicly owned and operated airport may sell and serve alcoholic beverages for consumption on the premises to the general public under such license in not more than four places or locations in control of the holder of such license. Any license so issued may not be transferred to a new location, except that a vendor operating a place of business under a special license may transfer such license when the publicly owned or leased airport at which the vendor operates a place of business under a special license moves its terminal facilities on the same airport premises, or when the airport is required by law to move its entire operation to a new location. Any license so issued shall entitle the vendor operating a place of business under such license to sell to airlines vinous beverages and distilled spirits in sealed miniature containers and other alcoholic beverages for consumption on the aircraft using the facility, but only for consumption by the passengers of the aircraft when such aircraft is airborne.

(g) In addition to any special licenses issued under the Beverage Law, the division may issue a special license for consumption on the premises only to any public fair or exposition which is organized in accordance with chapter 616. No licensee under this special license shall enter into any exclusive contract for its use. The special license may not be used in connection with any youth agricultural activity or during any regularly scheduled public fair or exposition, and such license may be used only in connection with special events held on the premises of the fairgrounds, which premises are considered to be licensed premises under the dominion and control of the public fair or exposition authority at all times. This special license is not transferable.

(h) In addition to any special licenses issued under the Beverage Law, the division may issue a special license for consumption on the premises only to any civic center authority or sports arena authority which is authorized by state law or by a local government ordinance or which civic center or sports arena is otherwise owned by a political subdivision of this state. The license may be transferred to a qualified applicant authorized by contract with the authority to provide food service for the facility. The license shall at all times remain the exclusive property of the authority, and upon termination by any manner of the contract between the authority and the applicant concerning the furnishing of food service, the license shall revert to the authority by operation of law.

(i) The division shall not charge a fee in excess of \$250 for the license authorized by paragraph (g) or paragraph (h).

(j) In addition to any special licenses issued under the Beverage Law, the division may issue a special license for consumption on the premises only to a performing arts center, provided that any consumption of alcoholic beverages under this license, except as part of food and beverage service for banquets or receptions, may occur only in conjunction with an artistic, educational, cultural, promotional, civic, or charitable event occurring on the premises under the authorization of or offered directly by the performing arts center. The license may be transferred to a qualified applicant authorized by contract with the

performing arts center to provide food and beverage service for the center. The license shall at all times remain the exclusive property of the performing arts center, and upon termination by any manner of the contract between the performing arts center and the applicant concerning the furnishing of food and beverage service, the license shall revert to the performing arts center by operation of law. The division shall not charge a fee in excess of \$400 for the license authorized by this paragraph.

(3) The limitation upon the number of such licenses to be issued as herein provided does not apply to existing licenses or to the renewal or transfer of such licenses; but upon the revocation of any existing license, no renewal thereof or new license therefor shall be issued contrary to the limitation herein prescribed.

(4) The limitations herein prescribed shall not affect or repeal any existing or future local or special act relating to the limitation by population and exceptions or exemptions from such limitation by population of such licenses within any incorporated city or town or county that may be in conflict herewith. Any license issued under a local or special act relating to the limitation by population shall be subject to all requirements and restrictions contained in the Beverage Law that are applicable to licenses issued under subsection (1).

(5) Provisions of subsections (2) and (4) as amended by chapter 57-773, Laws of Florida, shall take effect January 1, 1958, and shall apply only to those places of business licensed to operate after January 1, 1958, and shall in no manner repeal or nullify any license issued under provisions of law which are now operating or will operate prior to the effective date January 1, 1958; and all such places of business shall be exempt from the provisions of this law so long as they are in continuous operation.

(6) When additional licenses become available by reason of an increase in population or by reason of a county permitting the sale of intoxicating beverages when such sale has been prohibited, the division may issue the number of new licenses that become available by reason of the last regular population estimate; however, in no event shall any person, firm, or corporation licensed as a vendor under subsection (1) have an interest, directly or indirectly, in more than 30 percent of the number of licenses authorized for issuance in such county. Notwithstanding the foregoing limitation, any licensed vendor having an interest, directly or indirectly, in more than 30 percent of the licenses authorized for issuance in any one county on July 1, 1981, may continue to qualify for such licenses.

(7)(a) There shall be no limitation as to the number of licenses issued pursuant to s. 565.02(4). However, any licenses issued under this section shall be limited to:

1. Subordinate lodges or clubs of national fraternal or benevolent associations;
2. Golf clubs, tennis clubs, and beach or cabana clubs which are municipally or privately owned or leased;
3. Nonprofit corporations or clubs devoted to promoting community, municipal, or county development or any phase of community, municipal, or county development;
4. Clubs fostering and promoting the general welfare and prosperity of members of showmen and amusement enterprises;
5. Clubs assisting, promoting, and developing subordinate lodges or clubs of national fraternal or benevolent associations; and
6. Clubs promoting, developing, and maintaining cultural relations of people of the same nationality.

(b) Any corporation, partnership, or individual operating a club owning or leasing and maintaining any bona fide regular, standard golf course consisting of at least nine holes, with clubhouse, locker rooms, and attendant golf facilities and comprising in all at least 35 acres of land owned or leased by such club may be issued a license under s. 565.02(4); but failure of such club to maintain the golf course and golf facilities shall be grounds for revocation of the license.

(c) Any corporation, partnership, or individual operating a club owning or leasing and maintaining any bona fide tennis club or four-wall indoor racquetball club consisting of not fewer than 10 regulation-size tennis courts or 10 regulation-size four-wall indoor racquetball courts, or a combination of such courts totaling in the aggregate not fewer than 10 courts, or a combination of 8 such courts and exercise facilities which in square footage total not fewer than the aggregate square foot equivalent of 10 regulation-size courts with clubhouse facilities, pro shop, locker rooms, and attendant tennis or racquetball facilities, all located on a contiguous tract of land owned or leased by such club, may be issued a license under s. 565.02(4); but failure of such club to maintain such courts and facilities shall be grounds for revocation of any such license so issued. Any racquetball or tennis club which has been constructed and completed on or before July 1, 1980, and which contains the requisite number of courts of proper size and attendant facilities may be granted a license without the necessity of securing additional approval from the incorporated municipality or county in which the racquetball or tennis club facility is located. It is intended that this subsection be an exception to s. 562.45(2) preempting the zoning power of local government to the state only in instances involving tennis and racquetball clubs constructed and completed on or before July 1, 1980. Nothing in this paragraph, however, shall be construed to limit the power of incorporated municipalities or counties to enact ordinances regulating hours of business and prescribing sanitary regulations for such racquetball or tennis club facilities.

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

(8) In addition to any licenses that may be issued to restaurants under the provisions of this section, the division is authorized to issue special licenses to qualified applicants whose applications have been approved by the Inter-American Center Authority for use within the confines of the Inter-American Cultural and Trade Center; however, any such license issued pursuant to this subsection shall not permit the licensee to sell alcoholic beverages by the package for off-premises consumption.

(9) In addition to any licenses that may be issued under the provisions of this chapter, the division is authorized to issue special licenses to any county which has a population of at least 1 million persons according to the latest federal census and which owns and operates airport facilities pursuant to chapters 125 and 332, for transfer to qualified applicants who have secured approval from the board of county commissioners of such county for use within the confines of such airport facilities. Such licenses shall not be valid in any location beyond the confines of the terminal facilities of the airport. In the event of expiration or revocation of such licenses, such licenses shall revert to the board of county commissioners automatically, by operation of law. However, no special license issued pursuant to this subsection shall permit the county or its transferee to sell alcoholic beverages by the package for off-premises consumption.

(10) In addition to any licenses that may be issued under the provisions of this chapter, the division is authorized to issue a special license to any marketing association of horse breeders organized under the laws of the state. Such license shall be applicable only in and for facilities used by the association for public auction of its products. No license issued pursuant to this subsection shall permit the licensee to sell alcoholic beverages by the package for off-premises consumption. The provisions of this subsection do not preclude any cooperative marketing association of horse breeders from holding a license issued pursuant to any other provision of this chapter.

(11) In addition to any licenses that may be issued under the provisions of this chapter, the division is authorized to issue a special license to historic American Legion Posts in Florida which were chartered prior to September 16, 1919, the date on which the United States Congress issued the National Charter for the American Legion. Any holder of a license issued pursuant to this subsection shall, at its option, be permitted to sell alcoholic beverages to resident guests as well as members and nonresident guests for consumption on the premises only. Revenue from the sale of such alcoholic beverages must be used to operate, maintain, or improve said American Legion Post facilities, grounds, or activities and to maintain an emergency fund not to exceed the costs of operation of the American Legion Post for the prior calendar year. Any remaining revenue from the sale of alcoholic beverages shall be donated to local nonprofit charitable organizations on an annual basis. Posts exercising their option under this subsection shall pay an annual license fee of \$500. This section shall not apply to any county which has held an election under s. 567.01 and whose electors have voted to prohibit the sale of alcoholic beverages for consumption on the licensed premises.

(12)(a) In addition to any other licenses issued under the provisions of this chapter, the division is authorized to issue a special license to a person or to an organization for the purpose of authorizing:

1. A sale pursuant to a levy and execution;
2. A sale by an insurance company in possession of alcoholic beverages;
3. A bankruptcy sale;
4. A sale resulting from a license suspension or revocation;
5. A sale of damaged goods by a common carrier;
6. A sale by a bona fide wine collector; or
7. A sale of packaged alcoholic beverages pursuant to part V of chapter 679.

(b) A special license shall be issued under this subsection upon filing an application at the district office and paying a \$25 fee. Such fee shall be deposited in the Alcoholic Beverages and Tobacco Trust Fund.

(c) A special license is valid for 3 days after the time of its effective date and time as set by the division. A license issued pursuant to this subsection does not permit the licensee to sell alcoholic beverages for consumption on the premises.

(d) A distributor may purchase packaged alcoholic beverages at any sale specified in paragraph (a).

(13) Notwithstanding any other provision of law, any license to sell or serve alcoholic beverages issued to a port authority, as defined in s. 315.02, entitles that port authority, or the lessee or lessees which it may choose, to sell and serve alcoholic beverages at any terminal within the port jurisdictional boundaries upon annual payment to the division of an annual fee

equivalent to the annual license fee for each sales or service location. However, any lessees chosen by the port authority shall meet the criteria for licensure for sales and service of alcoholic beverages.

History.—s. 2, ch. 16774, 1935; CGL 1936 Supp. 4151(228); s. 2, ch. 23746, 1947; s. 7, ch. 25359, 1949; s. 1, ch. 28113, s. 1, ch. 28117, 1953; s. 4, ch. 29786, s. 1, ch. 29829, s. 1, ch. 29978, 1955; s. 24, ch. 57-1; s. 1, ch. 57-299; s. 17, ch. 57-420; ss. 1, 2, ch. 57-773; s. 1, ch. 57-837; s. 1, ch. 57-1991; s. 1, ch. 59-370; s. 2, ch. 61-219; ss. 1, 2, 4, ch. 61-300; s. 1, ch. 61-439; s. 1, ch. 67-173; ss. 16, 35, ch. 69-106; s. 1, ch. 71-238; s. 1, ch. 72-61; s. 1, ch. 72-83; s. 1, ch. 72-230; s. 1, ch. 72-260; s. 1, ch. 73-366; s. 1, ch. 73-367; ss. 1, 2, 3, ch. 76-2; s. 1, ch. 76-242; s. 5, ch. 77-471; s. 1, ch. 77-474; s. 1, ch. 78-103; s. 1, ch. 80-232; s. 2, ch. 80-339; s. 4, ch. 81-158; s. 1, ch. 84-95; ss. 1, 3, ch. 84-286; s. 6, ch. 85-161; s. 69, ch. 86-163; s. 2, ch. 86-228; ss. 29, 30, ch. 86-269; s. 3, ch. 87-63; s. 13, ch. 88-308; s. 1, ch. 88-404; s. 1, ch. 89-230; s. 1, ch. 89-248; s. 2, ch. 89-361; s. 9, ch. 90-17; ss. 1, 8, ch. 91-60; s. 3, ch. 92-176; s. 2, ch. 92-205; s. 3, ch. 93-134; s. 842, ch. 97-103; s. 2, ch. 99-216; s. 68, ch. 2000-154; s. 6, ch. 2000-191; s. 278, ch. 2014-19; s. 3, ch. 2016-120; s. 3, ch. 2016-190; s. 3, ch. 2017-137; s. 1, ch. 2021-30; s. 16, ch. 2021-135; s. 1, ch. 2023-65.