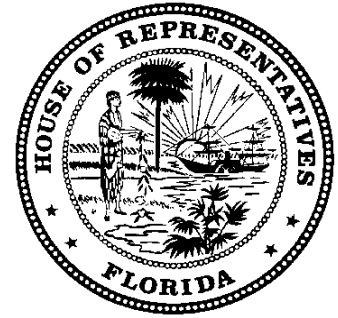


BEN ALBRITTON
President of the Senate



DANIEL PEREZ
Speaker of the House



Joint Administrative Procedures Committee

**Monday, March 31, 2025
11:00 AM - 1:00 PM
Reed Hall (102 HOB)**



Representative Tobin Rogers "Toby" Overdorf, Chair
Senator Erin Grall, Vice Chair
Senator Mack Bernard
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Tina Scott Polsky
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

COMMITTEE MEETING AGENDA

March 31, 2025

Reed Hall (102 HOB)

11:00 a.m. – 1:00 p.m.

CALL TO ORDER AND ROLL CALL

CHAIR'S REMARKS

TAB 1 REPORT ON PREVIOUS OBJECTIONS OF AGENCY FOR HEALTH CARE ADMINISTRATION RULES

**Rules that AHCA agreed to modify in response to JAPC objection. Notices of proposed rules have been published in the Florida Administrative Register:
Rules 59A-8.005, .007; 59A-11.019; 59A-26.002; 59A-35.110; 59A-36.002, .006, .007, .008, .022, .028; 59A-37.002, .007; 59C-1.005, .010, .021, .022; 59G-1.010, .058, .060; 59G-4.150; 59G-6.005, .010, .045; 59G-13.070, and .081**

**Rules that AHCA refused to modify in response to JAPC objection. The History Notes of the rules have been amended to reflect the objections:
Rules 59A-35.040, .120; 59C-1.004, .012, and .030**

NEW OBJECTION:

TAB 2 Department of Management Services, Governor's Mansion Commission Existing Rule 60G-1.001, F.A.C., Definitions

Presentation by the Department of Environmental Protection on Inventory of State-Owned Lands

TAB 3 Report by the Florida Gaming Control Commission regarding Division of Administrative Hearings Final Order, affirmed on appeal, relating to the Imposition Tax Rates

TAB 4 Report by the Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco relating to:

- **Permits for Cigar Wholesale Dealers**
- **Statutory Authority for Rule 61A-4.0371 – Excise Tax Deduction for Breakage and Spoilage of Alcoholic Beverages**
- **Statutory Authority for Rule 61A-2.022 – Penalty Guidelines**

TAB 5 Report by Judge Darren Schwartz, Interim Director and Chief Judge, Division of Administrative Hearings, on questions presented at the February 17, 2025, Committee Meeting

REPORTS AND APPEARANCES

TAB 1

BEN ALBRITTON
President



Representative Tobin Rogers "Toby" Overdorf, Chair
Senator Erin Grall, Vice Chair
Senator Mack Bernard
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Tina Scott Polsky
Senator Carlos Guillermo Smith
Senator Clay Yarborough
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DANIEL PEREZ
Speaker



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japc@leg.state.fl.us

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

February 4, 2025

Mr. Jason Weida, Secretary
Agency for Health Care Administration
2727 Mahan Drive MS #1
Tallahassee, Florida 32308

Dear Mr. Weida:

The Joint Administrative Procedures Committee of the Florida Legislature, in accordance with the authority granted in Section 120.545(1), Florida Statutes, and Joint Rule 4.6 of the Florida Legislature, has examined certain rules of your agency.

As directed by the Committee, I certify that the Committee, at its public meeting on February 3, 2025, has found objection to the following rules of the Agency for Health Care Administration.

59A-8.005 Certificate of Exemption and Exempt Status
59A-8.007 Geographic Service Area
59A-11.019 Reports
59A-26.002 Licensure Procedure, Fees and Exemptions
59A-35.040 License Required; Display
59A-35.110 Reporting Requirements; Electronic Submission
59A-35.120 Inspections
59A-36.002 Definitions
59A-36.006 Admission Procedures, Appropriateness of Placement and Continued Residency
Criteria
59A-36.007 Resident Care Standards

59A-36.008 Medication Practices
59A-36.022 Limited Nursing Services
59A-36.028 ALF Minimum Core Training Curriculum Requirements
59A-37.002 License Application, Renewal and Conditional Licenses
59A-37.007 Staff Qualifications, Responsibilities and Training
59C-1.004 Projects Subject to Review
59C-1.005 Certificate of Need Exemption Procedure
59C-1.010 Certificate of Need Application Review Procedures
59C-1.012 Administrative Hearing Procedures
59C-1.021 Certificate of Need Penalties
59C-1.022 Health Care Facilities Fee Assessments and Fee Collection Procedures
59C-1.030 Criteria Used in Evaluation of Applications
59G-1.010 Definitions
59G-1.058 Eligibility
59G-1.060 Provider Enrollment Policy
59G-4.150 Inpatient Hospital Services
59G-6.005 Reimbursement Methodology for Services Provided by Medical School Faculty
59G-6.010 Payment Methodology for Nursing Home Services
59G-6.045 Payment Methodology for Services in Facilities Not Publicly Owned and Not
Publicly Operated (Facilities Formerly Known as ICF-MR/DD Facilities)
59G-13.070 Developmental Disabilities Individual Budgeting Waiver Services
59G-13.081 Developmental Disabilities Individual Budgeting Waiver Services Provider Rate
Table

Statements detailing the Committee's objections are enclosed with this letter and made a part of this certification.

We call your attention to Joint Rule 4.6(8) of the Florida Legislature, regarding the Committee's authority to seek a judicial determination on the validity of rules, and to the following provisions of Section 120.545, Florida Statutes:

Subsection (3) sets out the time limits for responding to a committee objection and provides procedures for amending or repealing a rule to meet a Committee objection.

Subsection (5) sets out the consequences of a failure to respond to a Committee objection within the prescribed time limits.

Subsections (7) and (8) outline the committee's responsibilities in the event an agency refuses to modify, amend, withdraw or repeal a rule to which the committee has certified an objection.

Mr. Jason Weida
February 4, 2025
Page 3

We would appreciate an early response indicating which of the options your agency has elected.

Sincerely,

A handwritten signature in black ink, reading "Kenneth J. Plante". The signature is fluid and cursive, with the first name "Kenneth" and last name "Plante" clearly legible, and "J." as a small initial in the middle.

Kenneth J. Plante
Coordinator

cc: Mr. Andrew Sheeran, General Counsel
Mr. Stefan Grow, Chief of Staff

Enclosures

CERTIFIED MAIL

March 5, 2025

Mr. Kenneth J. Plante
Coordinator
The Florida Legislature
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400

RECEIVED
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
3:17 pm, Mar 05 2025

Dear Mr. Plante:

The Agency for Health Care Administration is in receipt of your February 4, 2025 letter certifying the objections of the Joint Administrative Procedures Committee with respect to thirty-one of the Agency's rules. After careful review, the Agency has determined that the sunset provisions should be removed from the rules listed below.

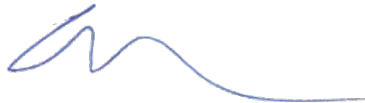
59A-8.005 Certificate of Exemption and Exempt Status
59A-8.007 Geographic Service Area
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59A-35.110 Reporting Requirements; Electronic Submission
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59G-6.010 Payment Methodology for Nursing Home Services

59G-6.045 Payment Methodology for Services in Facilities Not Publicly Owned and
Not Publicly Operated (Facilities Formerly Known as ICF-MR/DD Facilities)
59G-13.070 Developmental Disabilities Individual Budgeting Waiver Services
59G-13.081 Developmental Disabilities Individual Budgeting Waiver Services
Provider Rate Table

In his November 11, 2019 letter to Agency heads, Governor DeSantis directed that agencies must include a sunset provision in all proposed or amended rules “unless otherwise directed by applicable law.” Because the rules listed above are either mandatory or, due to their incorporation of forms or procedures, necessary to avoid an unadopted rule challenge, the Agency considers the removal of the sunset provisions from these rules to be directed by applicable law.

As directed by section 120.545(3)(b), Florida Statutes, the Agency will file notice pursuant to section 120.54(3)(a) to amend the rules to address the Committee’s objections.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Andrew T. Sheeran', with a long horizontal flourish extending to the right.

Andrew T. Sheeran
General Counsel

RECEIVED
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
3:17 pm, Mar 05 2025

From: Hoeler, Thomas <Thomas.Hoeler@ahca.myflorida.com>
Sent: Tuesday, March 11, 2025 1:50 PM
To: Plante, Ken <PLANTE.KEN@leg.state.fl.us>
Cc: Sheeran, Andrew <Andrew.Sheeran@ahca.myflorida.com>
Subject: AHCA rules

Ken – Andrew forwarded your message to me for response while he is out of the office. There was no omission regarding the five administrative rules not included in the Agency’s March 5, 2025, letter.

Thank you,

Tom

Thomas Hoeler - DEPUTY GENERAL COUNSEL-
AHCA



Bldg 3, Rm 3108 - GENERAL COUNSEL AHCA
2727 MAHAN DR., TALLAHASSEE, FL. 32308
+1 850-412-3647 (Office) - (850) 921-0158 (Fax)
Thomas.Hoeler@ahca.myflorida.com



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From: Plante, Ken <PLANTE.KEN@leg.state.fl.us>

Sent: Monday, March 10, 2025 4:17:02 PM

To: Sheeran, Andrew <Andrew.Sheeran@ahca.myflorida.com>

Subject: AHCA rules

Andrew –

Following up on my email of March 6, 2025, please be advised that, pursuant to section 120.545(5), Fla. Stat., “Failure of the agency to respond to a committee objection to a rule that is in effect within. . . [30 days after receipt of the objection] constitutes a refusal to amend or repeal the rule” and the Committee is required to file a notice of objection with the Department of State for publication in the Florida Administrative Register. The 30-day period for the rules objected to expired on March 8. Unless the Committee receives clarification of the Agency’s position no later than 5:00 p.m., Tuesday, March 11, the Committee intends to file the objections with the Department of State. Please advise whether the omission of the 5 rules in the Agency’s letter of March 5, 2025, was an oversight or deliberate. Please let me know if you have any questions.

Regards,

Ken

Kenneth J. Plante

Coordinator

Joint Administrative Procedures Committee

680 Pepper Building

111 West Madison Street

Tallahassee Florida 32399-1400

(850)488-9110

From: Plante, Ken
Sent: Thursday, March 6, 2025 2:47 PM
To: Sheeran, Andrew <Andrew.Sheeran@ahca.myflorida.com>
Subject: AHCA rules

Andrew –

Thank you for your letter of March 5 regarding the removal of sunset provisions in the AHCA rules. I noted that five rules addressed by the Committee were not included in the list slated for amendment and was wondering if the omission was an oversight or intentional. The rules are:

59A-35.040 License Required: Display
59A-35.120 Inspections
59C-1.004 Projects Subject to Review
59C-012 Administrative Hearing Procedures
59C-030 Criteria Used in Evaluation of Applications

Please let me know their status.

Regards,

Ken

Kenneth J. Plante

Coordinator

Joint Administrative Procedures Committee

680 Pepper Building

111 West Madison Street

Tallahassee Florida 32399-1400

(850)488-9110

Announcements and Objection Reports of the Joint Administrative Procedures Committee

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

Joint Administrative Procedures Committee Rule Objections

RULE NOS.:RULE TITLES:

59A-35.040 License Required; Display

59A-35.120 Inspections.

Please be advised that on February 3, 2025, the Joint Administrative Procedures Committee objected to the following rules of the Agency for Health Care Administration:

59A-35.040(5) License Required: Display

59A-35.120(5) Inspections

The Agency has refused to modify the language that is the subject of the objections.

As required by section 120.545(7), Florida Statutes, the following is a summary of the Committee's specific objections:

Rule: 59A-35.040(5) License Required: Display

This rule is in effect for five years from its effective date.

Objection: There is no provision in chapter 120, Florida Statutes, that provides for the automatic expiration of agency rules.

Rule: 59A-35.120(5) Inspections

This rule is in effect for five years from its effective date.

Objection: There is no provision in chapter 120, Florida Statutes, that provides for the automatic expiration of agency rules.

Announcements and Objection Reports of the Joint Administrative Procedures Committee

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

Joint Administrative Procedures Committee Rule Objections

RULE NOS.:RULE TITLES:

59C-1.004 Projects Subject to Review

59C-1.012 Administrative Hearing Procedures

59C-1.030 Criteria Used in Evaluation of Applications

Please be advised that on February 3, 2025, the Joint Administrative Procedures Committee objected to the following rules of the Agency for Health Care Administration:

59C-1.004(3) Projects Subject to Review

59C-1.012(3) Administrative Hearing Procedures

59C-1.030(7) Criteria Used in Evaluation of Applications

The Agency has refused to modify the language that is the subject of the objections.

As required by section 120.545(7), Florida Statutes, the following is a summary of the Committee's specific objections:

Rule: 59C-1.004(3) Projects Subject to Review

This rule is in effect for five years from its effective date.

Objection: There is no provision in chapter 120, Florida Statutes, that provides for the automatic expiration of agency rules.

Rule: 59C-1.012(3) Administrative Hearing Procedures

This rule is in effect for five years from its effective date.

Objection: There is no provision in chapter 120, Florida Statutes, that provides for the automatic expiration of agency rules.

Rule: 59C-1.030(7) Criteria Used in Evaluation of Applications

This rule is in effect for five years from its effective date.

Objection: There is no provision in chapter 120, Florida Statutes, that provides for the automatic expiration of agency rules.

TAB 2

JOINT ADMINISTRATIVE PROCEDURES COMMITTEE

OBJECTION REPORT

AGENCY: DEPARTMENT OF MANAGEMENT SERVICES

RULE NUMBER: 60G-1.001

TITLE: ORGANIZATION, MEETINGS AND RESPONSIBILITIES OF
GOVERNOR'S MANSION COMMISSION

OBJECTIONABLE PROVISION:

60G-1.001 Definitions

(1) The following definitions shall apply when used in Chapter 60G-1, F.A.C.:

* * *

(4) "Mansion and Grounds" means the following areas:

Lots Two (2), Three (3), Four (4), Nine (9), Ten (10), Eleven (11), Fourteen (14), Fifteen (15), Sixteen (16), Twenty-one (21), Twenty-two (22), Twenty-three (23) and Twenty-four (24) in the long grove addition to the City of Tallahassee, Florida, according to the Plat drawn by Overton Bernard, recorded in Deed Book 'BB', Page 592, Records of Leon County Florida, in the office of the Clerk of the Circuit Court of Leon County Florida, being a subdivision of a part of the southeast quarter, Section Twenty-five (25) Township one (1) North Range one (1) west.

Also: Lots One Hundred Seventy-three (173), One Hundred Seventy-four (174), One Hundred Seventy-five (175) in the North addition to the City of Tallahassee, Florida, according to the Plat as recorded in Plat Book 1, Page 11, Records of Leon County Florida, in the Office of the Clerk of the Circuit Court of Leon County Florida.

Also: That portion of the right of way of First Avenue in the City of Tallahassee, vacated in accordance with law by the City Commission of the City of Tallahassee on April 23, 1974, bounded on the west by the east right of way line of Duval Street; on the south by the North boundary of lots Twenty-one (21) and Twenty-two (22) in the long grove addition to the City of Tallahassee; on the east by the west right of way line of Adams Street, and on the north by the property known as "The Grove".

Also: Any lands acquired by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida for the express purpose of expanding the supporting land holding around the Governor's Mansion.

CITED AGENCY AUTHORITY:

(a) Rulemaking

(b) Law Implemented

s. 272.18(2)(a), (3)(f), (g), F.S.

s. 272.18, F.S.

(FULL TEXT ATTACHED)

SPECIFIC OBJECTION:

The rule is vague and provides no meaningful information to the general public with respect to any past or future acquisitions by the Board of Trustees of the Internal Improvement Trust Fund (“Board of Trustees”) and is therefore contrary to sections 120.52(8)(d) and 120.545(1)(i), Florida Statutes. A rule is impermissibly vague if persons of common understanding and intelligence must guess at its meaning. *State, DHRS v. Health Care and Ret. Corp.*, 593 So.2d 539 (Fla. 1st DCA 1992).

The rule ostensibly refers to land acquired by, or may be acquired by, the Board of Trustees and further suggests that future acquisitions may, or may not, be acquired at the request of the Department of Management Services or on the Board of Trustees’ own initiative. At best, the rule is an attempt to incorporate by reference descriptions of land acquired by the Board of Trustees on an ongoing basis. Material incorporated by reference into a rule is limited to the material as it exists at the time of incorporation, and changes in the material are not effective unless the rule is amended to incorporate the changes. *See* § 120.54(1)(i)1., Fla. Stat.; *cf. Abbott Laboratories v. Mylan Pharm., Inc.*, 15 So. 3d 642 (Fla. 1st DCA 2009) (holding that a rule in which an agency has incorporated by reference the edition of the Orange Book after the effective date of the statute referencing that document is invalid; Florida courts interpret statutes as incorporating the federal law in effect on the date of adoption of the Florida Statute).

Section 120.54(3)(d)5., Florida Statutes, states: “After a rule has become effective, it may be repealed or amended only through the rulemaking procedures specified in this chapter.” The rule has not been amended to include property that has been acquired since the latest effective date of the rule, October 14, 1998. Accordingly, the reference to any lands since acquired by the Board of Trustees is not effective. The rule is an invalid exercise of delegated authority pursuant to section 120.52(8) and 120.545(1)(a), Florida Statutes.

NOTE: If the Committee votes an objection, copies will be sent to the following:

Mr. Pedro Allende, Secretary
Ms. Kristin Larson, General Counsel

(F.S. 1998)

272.18 Governor's Mansion Commission.--

(1)(a) There is created within the Department of Management Services a Governor's Mansion Commission to be composed of eight members. Five members shall be private citizens appointed by the Governor and subject to confirmation by the Senate; one member shall be the Director of the ¹Division of Facilities Management of the Department of Management Services; one member shall be the Director of the Division of Recreation and Parks of the Department of Environmental Protection; and one member shall be designated by the Secretary of State and shall be an employee of the Department of State with curatorial and museum expertise. The Governor shall appoint all citizen members for 4-year terms. The Governor shall fill vacancies for the remainder of unexpired terms. The spouse of the Governor or the designated representative of the Governor shall be an ex officio member of the commission but shall have no voting rights except in the case of a tie vote.

(b) No member of the commission may hold any other state or local office during his or her tenure as a member of the commission.

(c) Each commission member is accountable to the Governor for the proper performance of the duties of his or her office. The Governor shall cause to be investigated any complaint or unfavorable report received concerning the actions of the commission or any member and shall take appropriate action thereon. The Governor may remove from office any commission member for malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, or pleading guilty or nolo contendere to, or being found guilty of, a felony.

(2)(a) The commission shall annually elect a chair from among the citizen members appointed by the Governor. The chair shall serve for 1 year and may be elected for 1 additional year. Meetings of the commission shall be held at the call of its chair, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules. A majority of the commission shall constitute a quorum for the transaction of business.

(b) The commission shall obtain clerical, expert, technical, or other services from the Department of Management Services as the commission requires to carry out the purposes of this section.

(c) Members of the commission shall serve without compensation or honorarium but shall be entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061. All expenses of the commission shall be paid from appropriations to be made by the Legislature to the Department of Management Services for that purpose. The

commission shall submit its budgetary requests to the Department of Management Services for approval and inclusion in the legislative budget request of the department. All vouchers shall be approved by the secretary of the Department of Management Services before being submitted to the Comptroller for payment.

(3)(a) The commission shall keep the structure, style, and character of the Governor's Mansion, its grounds, and all structures thereon consistent with its original plan of construction and design. It shall preserve and protect the antique furnishings in the private quarters of the Governor's Mansion and the articles of furniture, fixtures, and decorative objects used or displayed in the state rooms of the Governor's Mansion. For the purposes of this section and s. 272.185, the entrance hall, the state bedroom and its hallway and bath, the reception hall, the Florida Room, and the state dining room are the state rooms of the Governor's Mansion. The commission may assist with the private quarters of the Governor's Mansion when requested by the Governor, the Governor's spouse, or the Governor's designee.

(b) The commission shall recommend for approval by the Governor and Cabinet any major changes in the architecture, furniture, furnishings, fixtures, or decorative objects of the Governor's Mansion, the structures thereon, or the landscaping of the grounds.

(c) The commission shall catalog and maintain a descriptive, photographic inventory of the antique furnishings in the private quarters and of all articles of furniture, fixtures, and decorative objects used or displayed in the state rooms of the Governor's Mansion.

(d) The commission shall employ or utilize the services of a full-time curator to catalog and maintain the inventory, to aid in the care and upkeep of the furnishings, to train Governor's Mansion docents, and to assist and advise the commission in the furtherance of the purposes of this section.

(e) The commission may receive on behalf of the state contributions, bequests, and gifts of money, furniture, works of art, memorabilia, or other property consistent with the purposes for which the commission is created. Title to all property which is acquired by the commission shall vest in the state and shall be held in trust by the commission to further the purposes of this section. No gifts, contributions, or bequests shall be accepted for the Governor's Mansion without the approval of the commission.

(f) The commission may authorize corporations not for profit, incorporated in accordance with chapter 617 and approved by the Department of State, to operate for the benefit of the Governor's Mansion. Any such corporation shall operate under contract to the commission. The commission shall adopt rules

prescribing material conditions of the contract, including, but not limited to, provisions which prescribe procedures for acquiring and disposing of property by the corporation, which describe the relationship of the corporation to the commission, and which require the corporation to disclose material provisions of the contract to donors of gifts, contributions, or bequests.

(g) The commission also shall adopt rules governing the use of the state rooms of the Governor's Mansion, the selection and acquisition of furnishings and decorations for these rooms, and the acceptance of gifts, contributions, bequests, or loans of property.

(4) The Department of Environmental Protection and the Department of State shall provide reasonable assistance when requested by the commission.

History.--s. 1, ch. 57-61; s. 1, ch. 61-30; s. 10, ch. 63-400; ss. 22, 35, ch. 69-106; s. 2, ch. 75-70; s. 4, ch. 78-323; ss. 1, 3, 4, ch. 81-13; ss. 1, 4, ch. 82-46; s. 55, ch. 85-349; ss. 1, 2, 3, ch. 88-15; s. 5, ch. 91-429; s. 213, ch. 92-279; s. 55, ch. 92-326; s. 110, ch. 94-356; s. 856, ch. 95-148.

Note.--Deleted in the reorganization of the Department of Management Services by s. 3, ch. 97-296. Section 4, ch. 97-296, requires the Division of Statutory Revision to prepare a reviser's bill for submission to the 1998 Regular Session of the Legislature substituting references to the Department of Management Services in the Florida Statutes for references to divisions, bureaus, or other units of that department.

TAB 3

Staff Summary:

In *Fla. Gaming Control Comm'n v Tampa Bay Downs, Inc.*, 395 So. 3d 619 (Fla. 1st DCA 2024) and *Tampa Bay Downs, Inc v. Fla. Gaming Control Comm.*, 22-1121RU (DOAH Aug. 9, 2022), the Division of Administrative Hearings found, and the First District Court of Appeal held, that the [Florida Gaming Control C]ommission's "interpretation of [section 550.0951(3)(c)1.] constitutes an unpromulgated rule because it imposes a specific tax rate on [Tampa Bay Downs, Inc.] that was not established via proper rulemaking procedures." *Id.* at 621-22. A similar case is pending at DOAH, *Tampa Bay Downs, Inc. v. Fla. Gaming Control Comm'n*, Case No. 22-1127, in which Tampa Bay Downs seeks a refund of taxes it paid on handle collected on intertrack and simulcast wagering activities, has been pending since April 12, 2022, and continued to April 15, 2025, in order to accommodate settlement negotiations between the parties.

On March 5, 2025, JAPC requested the commission advise when it would initiate rulemaking. While it is possible that the commission will no longer rely on the tax rate at issue at DOAH and the First DCA, to date the commission has not advised JAPC what it intends to do.

BEN ALBRITTON
President



Representative Tobin Rogers "Toby" Overdorf, Chair
Senator Erin Grall, Vice Chair
Senator Mack Bernard
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Tina Scott Polsky
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
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Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

DANIEL PEREZ
Speaker



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

March 5, 2025

Ms. Renee Harkins, Chief Attorney
Florida Gaming Control Commission
4070 Esplanade Way
Suite 250
Tallahassee, Florida 32399

RE: Florida Gaming Control Commission

Dear Ms. Harkins:

I have reviewed *Fla. Gaming Control Comm'n v Tampa Bay Downs, Inc.*, 395 So. 3d 619 (Fla. 1st DCA 2024) and *Tampa Bay Downs, Inc v. Fla. Gaming Control Comm.*, 22-1121RU (DOAH Aug. 9, 2022). The Division of Administrative Hearing found, and the First District Court of Appeal held, that the commission's "interpretation of [section 550.0951(3)(c)1.] constitutes an unpromulgated rule because it imposes a specific tax rate on [Tampa Bay Downs, Inc.] that was not established via proper rulemaking procedures." *Id.* at 621-22.

To date, it does not appear that the commission has initiated rulemaking. Please advise the committee at its earliest convenience when rulemaking will commence.

Sincerely,

A handwritten signature in blue ink that reads "Marjorie C. Holladay".

Marjorie C. Holladay
Chief Attorney

cc: Ms. Elina Valentine, General Counsel

MCH:tf #1738

Select Year: 2024 ▼

The 2024 Florida Statutes (including 2025 Special Session C)

Title XXXIII
REGULATION OF TRADE, COMMERCE, INVESTMENTS, AND
SOLICITATIONS

Chapter 550
PARI-MUTUEL
WAGERING

[View Entire Chapter](#)

550.0951 Payment of daily license fee and taxes; penalties.—

(1) DAILY LICENSE FEE.—

(a) Each person engaged in the business of conducting race meetings or jai alai games under this chapter, hereinafter referred to as the “permitholder,” “licensee,” or “permittee,” shall pay to the commission, for the use of the commission, a daily license fee on each live or simulcast pari-mutuel event of \$100 for each horserace and \$80 for each dograce and \$40 for each jai alai game conducted at a racetrack or fronton licensed under this chapter. In addition to the tax exemption specified in s. [550.09514\(1\)](#) of \$360,000 or \$500,000 per greyhound permitholder per state fiscal year, each greyhound permitholder shall receive in the current state fiscal year a tax credit equal to the number of live greyhound races conducted in the previous state fiscal year times the daily license fee specified for each dograce in this subsection applicable for the previous state fiscal year. This tax credit and the exemption in s. [550.09514\(1\)](#) apply to any tax imposed by this chapter or the daily license fees imposed by this chapter except during any charity or scholarship performances conducted pursuant to s. [550.0351](#). Each permitholder shall pay daily license fees not to exceed \$500 per day on any simulcast races or games on which such permitholder accepts wagers regardless of the number of out-of-state events taken or the number of out-of-state locations from which such events are taken. This license fee shall be deposited with the Chief Financial Officer to the credit of the Pari-mutuel Wagering Trust Fund.

(b) Each permitholder that cannot utilize the full amount of the exemption of \$360,000 or \$500,000 provided in s. [550.09514\(1\)](#) or the daily license fee credit provided in this section may, after notifying the commission in writing, elect once per state fiscal year on a form provided by the commission to transfer such exemption or credit or any portion thereof to any greyhound permitholder which acts as a host track to such permitholder for the purpose of intertrack wagering. Once an election to transfer such exemption or credit is filed with the commission, it may not be rescinded. The commission shall disapprove the transfer when the amount of the exemption or credit or portion thereof is unavailable to the transferring permitholder or when the permitholder who is entitled to transfer the exemption or credit or who is entitled to receive the exemption or credit owes taxes to the state pursuant to a deficiency letter or administrative complaint issued by the commission. Upon approval of the transfer by the commission, the transferred tax exemption or credit is effective for the next payment period as specified in subsection (5). The exemption or credit transferred to such host track may be applied by such host track against any taxes imposed by this chapter or daily license fees imposed by this chapter. The greyhound permitholder host track to which such exemption or credit is transferred shall reimburse such permitholder the exact monetary value of such transferred exemption or credit as actually applied against the taxes and daily license fees of the host track. The commission shall ensure that all transfers of exemption or credit are made in accordance with this subsection and has the authority to adopt rules to ensure the implementation of this section.

(2) ADMISSION TAX.—

(a) An admission tax equal to 15 percent of the admission charge for entrance to the permitholder’s facility and grandstand area, or 10 cents, whichever is greater, is imposed on each person attending a horserace, dograce, or jai alai game. The permitholder shall be responsible for collecting the admission tax.

(b) No admission tax under this chapter or chapter 212 shall be imposed on any free passes or complimentary cards issued to persons for which there is no cost to the person for admission to pari-mutuel events.

(c) A permitholder may issue tax-free passes to its officers, officials, and employees or other persons actually engaged in working at the racetrack, including accredited press representatives such as reporters and editors, and may also issue tax-free passes to other permitholders for the use of their officers and officials. The permitholder shall file with the commission a list of all persons to whom tax-free passes are issued under this paragraph.

(3) TAX ON HANDLE.—Each permitholder shall pay a tax on contributions to pari-mutuel pools, the aggregate of which is hereinafter referred to as “handle,” on races or games conducted by the permitholder. The tax is imposed daily and is based on the total contributions to all pari-mutuel pools conducted during the daily performance. If a permitholder conducts more than one performance daily, the tax is imposed on each performance separately.

(a) The tax on handle for quarter horse racing is 1.0 percent of the handle.

(b)1. The tax on handle for dogracing is 5.5 percent of the handle, except that for live charity performances held pursuant to s. [550.0351](#), and for intertrack wagering on such charity performances at a guest greyhound track within the market area of the host, the tax is 7.6 percent of the handle.

2. The tax on handle for jai alai is 7.1 percent of the handle.

(c)1. The tax on handle for intertrack wagering is 2.0 percent of the handle if the host track is a horse track, 3.3 percent if the host track is a harness track, 5.5 percent if the host track is a dog track, and 7.1 percent if the host track is a jai alai fronton. The tax on handle for intertrack wagering is 0.5 percent if the host track and the guest track are thoroughbred permitholders or if the guest track is located outside the market area of the host track and within the market area of a thoroughbred permitholder currently conducting a live race meet. The tax on handle for intertrack wagering on rebroadcasts of simulcast thoroughbred horseraces is 2.4 percent of the handle and 1.5 percent of the handle for intertrack wagering on rebroadcasts of simulcast harness horseraces. The tax shall be deposited into the Pari-mutuel Wagering Trust Fund.

2. The tax on handle for intertrack wagers accepted by any dog track located in an area of the state in which there are only three permitholders, all of which are greyhound permitholders, located in three contiguous counties, from any greyhound permitholder also located within such area or any dog track or jai alai fronton located as specified in s. [550.615](#)(6) or (9), on races or games received from the same class of permitholder located within the same market area is 3.9 percent if the host facility is a greyhound permitholder and, if the host facility is a jai alai permitholder, the rate shall be 6.1 percent except that it shall be 2.3 percent on handle at such time as the total tax on intertrack handle paid to the commission by the permitholder during the current state fiscal year exceeds the total tax on intertrack handle paid to the commission by the permitholder during the 1992-1993 state fiscal year.

(d) Notwithstanding any other provision of this chapter, in order to protect the Florida jai alai industry, effective July 1, 2000, a jai alai permitholder may not be taxed on live handle at a rate higher than 2 percent.

(4) BREAKS TAX.—Effective October 1, 1996, each permitholder conducting jai alai performances shall pay a tax equal to the breaks. The “breaks” represents that portion of each pari-mutuel pool which is not redistributed to the contributors or withheld by the permitholder as commission.

(5) PAYMENT AND DISPOSITION OF FEES AND TAXES.—Payments imposed by this section must be paid to the commission. The commission shall deposit these sums with the Chief Financial Officer, to the credit of the Pari-mutuel Wagering Trust Fund, hereby established. The permitholder shall remit to the commission payment for the daily license fee, the admission tax, the tax on handle, and the breaks tax. Such payments must be remitted by 3 p.m. on the 5th day of each calendar month for taxes imposed and collected for the preceding calendar month. If the 5th day of the calendar month falls on a weekend, payments must be remitted by 3 p.m. the first Monday following the weekend. Permitholders shall file a report under oath by the 5th day of each calendar month for all taxes remitted during the preceding calendar month. Such payments must be accompanied by a report under oath showing the total of all admissions, the pari-mutuel wagering activities for the preceding calendar month, and such other information as may be prescribed by the commission.

(6) PENALTIES.—

(a) The failure of any permitholder to make payments as prescribed in subsection (5) is a violation of this section, and the permitholder may be subjected by the commission to a civil penalty of up to \$1,000 for each day the tax payment is not remitted. All penalties imposed and collected shall be deposited in the General Revenue Fund. If a permitholder fails to pay penalties imposed by order of the commission under this subsection, the commission may suspend or revoke the license of the permitholder, cancel the permit of the permitholder, or deny issuance of any further license or permit to the permitholder.

(b) In addition to the civil penalty prescribed in paragraph (a), any willful or wanton failure by any permitholder to make payments of the daily license fee, admission tax, tax on handle, or breaks tax constitutes sufficient grounds for the commission to suspend or revoke the license of the permitholder, to cancel the permit of the permitholder, or to deny issuance of any further license or permit to the permitholder.

History.—s. 15, ch. 92-348; s. 2, ch. 94-328; ss. 4, 26, ch. 96-364; s. 2, ch. 98-190; ss. 5, 6, ch. 98-217; s. 6, ch. 2000-354; s. 654, ch. 2003-261; s. 7, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 15, ch. 2022-7; s. 6, ch. 2024-115.

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

TAMPA BAY DOWNS, INC.,

Petitioner,

vs.

Case No. 22-1121RU

FLORIDA GAMING CONTROL COMMISSION,

Respondent.

FINAL ORDER

An administrative hearing was held in this case on July 11, 2022, in Tallahassee, Florida, and by Zoom conferencing before James H. Peterson, III, Administrative Law Judge with the Division of Administrative Hearings (DOAH).

APPEARANCES

For Petitioners:	J. Stephen Menton, Esquire Tana D. Storey, Esquire Rutledge Ecenia, P.A. 119 South Monroe Street, Suite 202 Tallahassee, Florida 32301
For Respondent:	Marc D. Taupier, Esquire Emily A. Alvarado, Esquire Florida Gaming Control Commission 2601 Blair Stone Road Tallahassee, Florida 32399

STATEMENT OF THE ISSUE

Whether the Florida Gaming Control Commission's (Respondent or Commission)¹ interpretation of section 550.0951(3)(c)1., Florida Statutes,² regarding the tax rate applicable to the handle generated by intertrack wagering (ITW) on out-of-state races by pari-mutuel permitholders constitutes an invalid unadopted rule in violation of section 120.54(1)(a), Florida Statutes.

PRELIMINARY STATEMENT

In a letter dated September 2, 2021, Tampa Bay Downs, Inc. (TBD or Petitioner), notified Respondent that it would file a challenge to the alleged unadopted rule pursuant to section 120.56(4) and would seek to recover its attorney's fees and costs pursuant to section 120.595(4), unless Respondent ceased reliance on the rule and proceeded to rulemaking.

On April 11, 2022, Petitioner filed a Petition Challenging Agency Statement Defined as an Unadopted Rule. Thereafter, the parties agreed to extend the time for holding the final hearing beyond the statutory 30-day period and the final hearing was scheduled and held on July 11, 2022.

At the final hearing, TBD presented the testimony of its vice president of finance, Greg A. Gelyon, and Respondent's revenue program administrator, Tracy Swain, and offered 13 exhibits, which were received into evidence as

¹ As of July 1, 2022, the Commission assumed all duties of the Department of Business and Professional Regulation's Division of Pari-mutuel Wagering. The Commission was substituted as the named party Respondent in this proceeding by Order dated July 6, 2022. All references to Respondent shall include reference to the current Commission, as well as the former Division of Pari-mutuel Wagering.

² All references to the Florida Statutes are to the 2021 codification of the Florida Statutes, unless otherwise noted. The revised amendments were enacted in 2022 to effectuate the transfer of responsibilities to the Commission, but such amendments did not otherwise contain substantive amendments to chapter 550.

Exhibits P-1 through P-13. Respondent presented the testimony of Tracy Swain and offered four exhibits received into evidence as Exhibits R-1 through R-4.

The proceedings were recorded and a transcript was ordered. The parties were given until July 29, 2022, to file proposed final orders. The one-volume Transcript was filed on July 20, 2022. Thereafter, the parties timely filed their respective Proposed Final Orders, both of which were considered in rendering this Final Order.

FINDINGS OF FACT³

1. Chapter 550, Florida's Pari-mutuel Wagering Act, governs the conduct of pari-mutuel wagering activities in Florida. Respondent is tasked with implementing and administering chapter 550 and regulating the pari-mutuel industry.

2. Each pari-mutuel permitholder must obtain an annual operating license in order to conduct pari-mutuel activities pursuant to its pari-mutuel permit, which generally includes the authority to conduct racing or games, as well as conduct simulcast and ITW activities. The issue in this proceeding involves the interpretation and application of the statutory tax rate by Respondent relative to the conduct of simulcast and ITW activities.

3. "Simulcast," as pertinent here, means "receiving at an in-state location events occurring live at an out-of-state location." § 550.002(32), Fla. Stat.

4. ITW means "a particular form of pari-mutuel wagering in which wagers are accepted at a permitted, in-state track, fronton, or pari-mutuel facility, on a race or game transmitted from and performed live at, or simulcast signal rebroadcast from, another in-state pari-mutuel facility." An "intertrack wager" is a "form of pari-mutuel wagering in which wagers are accepted at a

³ Findings of Fact 1 through 19 are derived from the parties' admitted facts section of their Joint Pre-Hearing Stipulation.

permitted, in-state track, fronton, or pari-mutuel facility on a race or game transmitted from and performed at, or simulcast signal rebroadcast from, another in-state pari-mutuel facility.” § 550.002(17), Fla. Stat.

5. The pari-mutuel facility that broadcasts the simulcast signal which is subject to an intertrack wager is referred to as a “host track.” § 550.002(16), Fla. Stat. The pari-mutuel facility that receives the signal broadcast from the host track and receives or accepts an intertrack wager thereon is the “guest track.” § 550.002(12), Fla. Stat.

6. As set forth in section 550.0951(3), pari-mutuel facilities conducting ITW are required to pay taxes on the “handle,” which is the “aggregate contributions to pari-mutuel pools,” including amounts collected on the out-of-state rebroadcast races. § 550.002(13), Fla. Stat.

7. Section 550.0951(3)(c)1. sets forth the tax rate for ITW activities.

8. The applicable tax rate under section 550.0951(3)(c)1. varies depending on the type of pari-mutuel activity permitted at the host track, as well as the type of pari-mutuel activities permitted at the guest track conducting ITW and the location of the facilities. Section 550.0951(3)(c)1. is applicable to all pari-mutuel permitholders conducting simulcast and intertrack wagers.

9. Section 550.0951(3)(c)1. provides:

The tax on handle for intertrack wagering is 2.0 percent of the handle if the host track is a horse track, 3.3 percent if the host track is a harness track, 5.5 percent if the host track is a dog track, and 7.1 percent if the host track is a jai alai fronton. The tax on handle for intertrack wagering is 0.5 percent if the host track and the guest track are thoroughbred permitholders or if the guest track is located outside the market area of the host track and within the market area of a thoroughbred permitholder currently conducting a live race meet. The tax on handle for intertrack wagering on rebroadcasts of simulcast thoroughbred horseraces is 2.4 percent of the handle and 1.5 percent of the handle for intertrack wagering on rebroadcasts of simulcast

harness horseraces. The tax shall be deposited into the Pari-mutuel Wagering Trust Fund.

10. Market area is defined in section 550.002(19) as “an area within 25 miles of a permitholder’s track or fronton.”

11. Section 550.0951 was amended in 2000, to provide for tax breaks to the pari-mutuel industry, including, specifically, thoroughbred permitholders.

12. The Commission is the state agency tasked with implementing and administering chapter 550 and regulating the pari-mutuel industry, including the adoption of administrative rules. The Commission has authority to adopt administrative rules pursuant to sections 550.0251 and 550.3511(10).

13. TBD is a Florida for-profit corporation, located in Hillsborough County, Florida. TBD holds a pari-mutuel thoroughbred horseracing permit (Pari-Mutuel Permit #320) and an annual license to operate a pari-mutuel facility in Hillsborough County. Pursuant to such permit and annual license, TBD is authorized to broadcast and receive signals for ITW and conduct ITW thereon.

14. TBD has operated, and continues to operate, a live thoroughbred meet year round, from July 1 through June 30 of each fiscal year. At all material times hereto, TBD was, and is, conducting live race meets.

15. As a thoroughbred permitholder, TBD contracts with other pari-mutuel facilities, including Daytona Beach Kennel Club (DBKC), a greyhound permitholder, to conduct ITW on out-of-state greyhound races re-broadcast through DBKC. In that instance, DBKC is a host track and TBD is a guest track, and TBD accepts wagers thereon. The other tracks TBD has contracted with for ITW activities include License Acquisitions, LLC, d/b/a Palm Beach Kennel Club; Orange Park Kennel Club, Inc., d/b/a Bestbet; Jacksonville Kennel Club, Inc., d/b/a Bestbet; Bayard Raceways, Inc., d/b/a St. Johns Greyhound Park; and Penn Sanford, LLC, d/b/a Orlando Kennel Club.

16. The specific tax provision of section 550.0951(3)(c)1. at issue in this proceeding is:

. . . The tax on handle for intertrack wagering is 0.5 percent if the host track and the guest track are thoroughbred permitholders *or if the guest track is located outside the market area of the host track and within the market area of a thoroughbred permitholder currently conducting a live race meet.* (Emphasis added).

This provision provides for two situations where the tax on handle is 0.5 percent (rather than the specified higher tax rate). At issue in this proceeding is the second situation (emphasized above), which mandates the application of the 0.5 percent rate when the guest track is located outside the market area of the host track and within the market area of a thoroughbred permitholder currently conducting a live race meet.

17. Pursuant to contracts with the host tracks referenced above, TBD has paid the higher tax rate of 5.5 percent through the host tracks with which it contracted. All taxes collected on the handle for ITW by pari-mutuel facilities are remitted to the Commission and deposited in the Pari-mutuel Wagering Trust Fund pursuant to section 550.0951(3)(c)1.

18. The Commission agrees that the first requirement for the application of the lower tax rate is that a guest track must be located outside the market area of the host track. With respect to TBD serving as the guest track, all of the aforementioned host tracks lie outside Hillsborough County and outside TBD's market area.

19. Based on its interpretation of section 550.0951(3)(c)1., Respondent has required and continues to require that the higher tax rate of 5.5 percent be applied to TBD's ITW activities as a guest track on a regular, on-going basis.

20. Although TBD is a guest track located outside the market area of the host track and is within its own market area in which it is conducting a live thoroughbred race meet, the Commission interprets the statute to require the application of the 5.5 percent tax rate to TBD's ITW activities with out-of-

market host tracks because TBD does not lie within the market area of *another* thoroughbred permitholder conducting a live race meet.

21. The Commission has not promulgated its interpretation at issue in this proceeding as a rule.

22. TBD filed requests for tax refunds asserting that there was an overpayment (or payment in error) of the tax on handle which was remitted at the tax rate of 5.5 percent rather than 0.5 percent. Those tax refund requests were denied by Respondent based on its view that there was no tax overpayment. The tax refund denials are the subject of a related challenge scheduled for hearing in September 2022. *See Tampa Bay Downs, Inc. v. Fla. Gaming Control Comm'n*, DOAH Case No. 22-1127.

23. At the final hearing, the Commission's designated representative, Ms. Swain, explained the agency interpretation as follows:

Q. Ms. Swain, can you walk us through how you applied in this case the section regarding tax statutes in connection with the definition?

A. The way it's been applied is that when a host track sends their signal to a guest, if they are outside of the market area of that host track, which is outside the 25 miles but within the market area of a thoroughbred that is currently conducting a live meet, that we apply the .5 to those guest tracks. If there is not a -- if one -- if they're within the market area of the host or they're not within the market area of the thoroughbred conducting a live meet, it is applied to be 5.5 percent or 3.9, depending on the location of where they are in the state.

24. As explained by Ms. Swain, the Commission does not view TBD as qualifying for the lower tax rate because it is not located within the market area of *another* thoroughbred permitholder conducting a live race meet. Even though the statute does not include the word "another," the Commission interprets the statute to not include the permitholder within its own market area.

25. The Commission provided examples as to how it applies this statute using Derby Lane and Tampa Greyhound, both of which are greyhound permitholders located in the market area of TBD. Both Derby Lane and Tampa Greyhound are deemed entitled to 0.5 percent tax rate on signals from DBKC since they are located within the market area of TBD, a thoroughbred permitholder conducting a live race meet. But, under the Commission's interpretation, wagering on the *same* signal from DBKC at TBD would result in the application of the 5.5 percent tax rate since it is not within the market area of *another* thoroughbred permitholder conducting a live race meet.

26. Similarly, the Commission has informed DBKC that Dania Jai Alai located in Broward County is entitled to the 0.5 percent tax rate when wagering on the same signal TBD receives from DBKC since Dania Jai Alai lies within the market area of a thoroughbred permitholder operating a live race meet.

27. The Commission acknowledges that there are instances where two thoroughbred permitholders are located at and operate at the same facility. For example, Gulfstream Park Racing Association (Gulfstream) and Gulfstream Park Thoroughbred After Racing Program, Inc. (GTARP), both operate at the Gulfstream Park racetrack. The Commission did not explain how it would interpret the definition of market area in such instance where two thoroughbred permitholders operate at the same location (i.e., would Gulfstream lie within the market area of GTARP).

28. Based on its interpretation of section 550.0951(3)(c)1., the Commission has required, and continues to require, the higher tax rate of 5.5 percent be applied to TBD's ITW activities on signals received from host tracks outside its market area.

29. The Commission's regulatory responsibilities include the adoption of "reasonable rules for the control, supervision, and direction of all applicants, permittees, and licensees and for the holding, conducting, and operating of all

racetracks, race meets, and races held in this state.” The statutes expressly require the rules to be uniform in their application and effect. § 550.0251(3), Fla. Stat.; *see also* § 550.3551, Fla. Stat. The Commission may levy fines and penalties against pari-mutuel permitholders that do not comply with chapter 550, including the failure to remit the taxes on handles at the rates determined by the Commission. §§ 550.0251(10) and 550.0951(6), Fla. Stat.

30. TBD’s contention that the lower tax rate of 0.5 percent should apply to its ITW based on the signals from out-of-market host tracks is entirely consistent with the statutory language.

31. The Commission’s interpretation that for TBD to qualify for the 0.5 percent tax rate, there must be another thoroughbred permitholder operating a live race meet within TBD’s market area is an agency statement, which is generally applicable and has the force and effect of law but has not been adopted as a rule.

32. As a matter of fact, the Commission’s interpretation of section 550.0951(3)(c)1. is an agency statement, which is generally applied and constitutes an agency rule that has not been promulgated.

CONCLUSIONS OF LAW

33. DOAH has jurisdiction over this case pursuant to sections 120.56(4), 120.569, and 120.57(1).

34. The Florida Administrative Procedures Act, chapter 120 (the APA), imposes limitations and obligations on policymaking by executive agencies. The Commission is an “agency” within the meaning of section 120.52(1) and is subject to the rulemaking requirements of section 120.54. *See* §§ 16.71 and 120.52(1), Fla. Stat.

35. Section 120.56(4) provides substantially affected parties the ability to challenge agency policies that have not been adopted through the formal rulemaking process. The parties stipulated, and the evidence confirms, that Petitioner has standing to initiate this proceeding under section 120.56(4).

36. TBD bears the burden of proof to establish by a preponderance of the evidence: (1) the substance of the agency statement(s) and (2) facts sufficient to show that the agency has not adopted the statement(s) according to required rulemaking procedures. *See* §§ 120.56(1)(e) and 120.56(4)(a), Fla. Stat. Once TBD satisfies this burden, then the Commission has the burden of proving rulemaking is not feasible and practicable as provided in section 120.54(1)(a).

37. TBD met its burden and demonstrated that the Commission's interpretation of section 550.0951(3)(c)1. is an agency statement meeting the definition of a rule under section 120.52(16), which has not been adopted through formal rulemaking as required by the APA.

38. Section 120.54(1)(a) requires agencies to follow the rulemaking procedures to enunciate policies which meet the definition of a "rule." The Legislature has made it clear that agencies must adopt policies that meet the definition of a "rule" through the formal rulemaking process set forth in the APA. "Rulemaking is not a matter of agency discretion. Each agency statement defined as a rule by s. 120.52 shall be adopted by the rulemaking procedure provided by this section as soon as feasible and practicable." § 120.54(1)(a), Fla. Stat.

39. Section 120.52(16) defines a rule as "each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. . . ."

40. Section 120.52(20) defines an "unadopted rule" as "an agency statement that meets the definition of the term 'rule,' but that has not been adopted pursuant to the requirements of s. 120.54."

41. An administrative agency is required to promulgate rules on "those statements which are intended by their own effect to create rights or to require compliance, or otherwise to have the direct and consistent effect of

law.” *Coventry First, LLC v. State, Off. of Ins. Regul.*, 38 So. 3d 200 (Fla. 1st DCA 2010)(quoting *Ag. for Health Care Admin. v. Custom Mobility, Inc.*, 995 So. 2d 984, 986 (Fla. 1st DCA 2008)); *see also Grabba-Leaf, LLC v. Fla. Dep’t of Bus. and Pro. Regul.*, 257 So. 3d 1205 (Fla. 1st DCA 2018).

42. While agency statements qualifying as “rules” are often reduced to writing, the existence or form of writing is not dispositive to the determination of whether there has been an agency statement meeting the definition of a rule. *See Dep’t of High. Saf. & Motor Veh. v. Schluter*, 705 So. 2d 81, 84 (Fla. 1st DCA 1997). An agency cannot avoid the statutory definition of a rule in section 120.52(16) by simply refraining from memorializing the agency statement in clear written terms. *See Schluter*, 705 So. 2d at 86.

43. An agency statement can be any declaration, expression, or communication that requires compliance or otherwise has the direct and consistent effect of law. *Fla. Qtr. Horse Racing Ass’n, Inc., et al v. Dep’t of Bus. and Pro. Regul., Div. of Pari-mutuel Wagering*, DOAH Case No. 14-5796RU, ¶ 57 (DOAH Final Order May 6, 2013).

44. The focus in determining whether an agency statement is a rule within the meaning of section 120.52(16) is the effect of the statement rather than the label ascribed to it by the agency. *Balsam v. Dep’t of Health and Rehab. Serv.*, 452 So. 2d 976, 977 (Fla. 1st DCA 1984).

45. A generally applicable statement purports to affect a category or class of persons or activities. *See McCarthy v. Dep’t of Ins.*, 479 So. 2d 135 (Fla. 2d DCA 1985); *Schluter*, 705 So. 2d at 83; *see also Fla. Qtr. Horse Track Ass’n v. Dept. of Bus. and Pro. Regul., Div. of Pari-mutuel Wagering*, 133 So. 3d 1118, 1119-120 (Fla. 1st DCA 2014).

46. An agency statement interpreting a statute is “generally applicable” if it is intended to create rights, to require compliance, or to otherwise have the direct and consistent effect of law and purports to affect a category or class of persons or activities. *See McCarthy*, 479 So. 2d at 136; *Schluter*, 705 So. 2d

at 83. The statement is not required to apply universally to every person or activity within the agency jurisdiction. It is sufficient that the statement applies uniformly to a class of persons or activities over which the agency may properly exercise authority. *Schluter*, 705 So. 2d at 83.

47. In this case, the evidence established that the Commission's interpretation of section 550.0951(3)(c)1. is applied to every pari-mutuel permitholder conducting ITW activities. Thus, the Commission's interpretation is a statement of general applicability. The remaining questions are: (i) whether the challenged agency statement gives section 550.0951(3)(c)1., a meaning not readily apparent from its plain language, and, if so, (ii) whether the agency statement has the direct and consistent effect of law.

48. "An agency's interpretation of a statute is a rule if it gives the statute a meaning not readily apparent from a literal reading . . ." *Beverly Enterprises-Fla., Inc. v. Dep't of Health and Rehab. Serv.*, 573 So. 2d 19, 22-23 (Fla. 1st DCA 1990). "The test is whether an agency statement reiterates a law, or declares what is 'readily apparent' from the text of a law." See *Grabba-Leaf*, 257 So. 3d at 1210.

49. The Commission claims that in requiring the higher tax rate in section 550.0951(3)(c)1. it is not interpreting section 550.0951(3)(c)1., but simply applying the plain meaning of the statute.

50. The plain language of section 550.0951(3)(c)1. provides that the applicable tax rate on handle is 0.5 percent "if the guest track is located outside the market area of the host track and within the market area of a thoroughbred permitholder currently conducting a live race meet."

51. Despite the statutory language setting forth the criteria for the 0.5 percent tax rate, Respondent has consistently imposed a higher tax rate on a thoroughbred permitholder that is a "guest track" while conducting live racing as a thoroughbred permitholder. This interpretation is premised upon Respondent's view that a thoroughbred permitholder cannot qualify for the

lower rate if it is not located within the market area of “another” thoroughbred permitholder.

52. While Respondent interprets the requirement that a thoroughbred permitholder serving as a guest track must lie within the market area of “another” thoroughbred permitholder in order to qualify for the lower tax rate, the statute does not include the term “another.” Rather, the statute unambiguously refers to the market area of “a thoroughbred permitholder.”

53. The word “another” does not appear anywhere in the statutory language of section 550.0951(3)(c)1., and is it *not* readily apparent from reading the plain language of the statute that the guest track has to be within the market area of another thoroughbred track to receive the lower tax rate.

54. The Commission’s interpretation is not simply an application of the existing language, it clearly requires reading the word “*another*” into the statute even though that word is not contained in the law. *See Grabba-Leaf*, 257 So. 3d at 1210-11 (holding that whether an agency’s statement regarding the taxation of loose leaf tobacco is an unadopted rule “[b]ecause the statute does not clearly include whole leaf tobacco wraps, we conclude that the Department cannot by memorandum extend the statutory definition to cover them and disregard its rulemaking obligations.”).

55. The Commission’s alternative argument that its interpretation is correct because the statute does not specifically state the permitholder may be located within its own market is without merit. “Taxes cannot be imposed except in clear and unequivocal language. Taxation by implication is not permitted.” *Fla. S & L Servs., Inc. v. Dep’t of Rev.*, 443 So. 2d 120, 122 (Fla. 1st DCA 1983). The “authority to tax must be strictly construed.” *Dep’t of Rev. v. GTE Mobilnet of Tampa, Inc.*, 727 So. 2d 1125, 1128 (Fla. 2d DCA 1999). “The primary consideration in the construction and interpretation of tax statutes is to ascertain and give effect to legislative intent, determined primarily from the language of the statute.” *Dep’t of Rev. v. James B. Pirtie*

Constr. Co., Inc., 690 So. 2d 709, 711 (Fla. 4th DCA 1997); *Dep't of Rev. v. GTE Mobilnet of Tampa, Inc.*, 727 So. 2d at 1128. "It is a fundamental rule of construction that tax laws are to be construed strongly in favor of the taxpayer and against the government, and that all ambiguities or doubts are to be resolved in favor of the taxpayer. This salutary principle is found in the reason that the duty to pay taxes, while necessary to the business of the sovereign, is still a duty of pure statutory creation and taxes may be collected only within the clear definite boundaries recited by statute." *Maas Bros., Inc. v. Dickinson*, 195 So. 2d 193, 198 (Fla. 1967)(internal citations omitted); *GTE Mobilnet of Tampa, Inc.*, 727 So. 2d at 1128.

56. Significantly, the Commission's interpretation is not entitled to any deference in this proceeding. The issues here are to be reviewed *de novo*. Art. 5, § 21, Fla. Const.; *Kanter Real Estate, LLC v. Dep't of Envtl. Prot.*, 267 So. 3d 483, 487 (Fla. 2019).

57. The challenged agency statement has the direct and consistent effect of law. The authority to proscribe taxes on pari-mutuel wagering activities, however, lies with the Florida Legislature. It is the Commission's duty to interpret the tax statutes in accordance with the purpose and intent of the law. *Grabba-Leaf*, 257 So. 3d at 1208. Here, the Legislative staff analysis makes it clear the legislation adopted in 2000 giving rise to the tax statute at issue was a deliberate effort to afford tax breaks to the pari-mutuel industry as a whole, and specifically to thoroughbred permitholders. The varying tax rates in the statute are dependent on several factors including the status of the guest track in relation to a thoroughbred permitholder operating a live race meet. By requiring a higher tax rate for ITW activities conducted by a thoroughbred permitholder guest track conducting a live race meet unless there is *another* thoroughbred permitholder operating a live race meet in the market area, the Commission, is improperly and unlawfully increasing the tax burden on handle collected on the ITW activities conducted at facilities like TBD.

58. If a statement of general applicability creates or extinguishes rights, privileges, or entitlement, then the statement is a rule. As explained by the First District Court of Appeal in *State of Florida, Department of Administration, Division of Personnel v. Harvey*, 356 So. 2d 323, 325 (Fla. 1st DCA 1977):

The breadth of the definition [of “rule”] in Section 120.52(1[6]) indicates that the legislature intended the term to cover a great variety of agency statements regardless of how the agency designates them. Any agency statement is a rule if it “purports in and of itself to create certain rights and adversely affect others,” *Stevens*, 344 So. 2d at 296, or serves “by (its) own effect to create rights, or to require compliance, or otherwise to have the direct and consistent effect of law.” *McDonald v. Dep’t of Banking & Fin.*, 346 So. 2d 569, 581 (Fla. 1st DCA 1977). See also *Straughn v. O’Riordan*, 338 So. 2d 832 (Fla. 1976); *Price Wise Buying Group v. Nuzum*, 343 So. 2d 115 (Fla. 1st DCA 1977).

59. In applying its interpretation of this statute for years and preliminarily denying the tax refunds sought by TBD based on its interpretation of the statute, the Commission has confirmed its intent to continue to rely on the agency statement at issue and determine *pari-mutuel* permitholder’s substantial interests based thereon. Because the Commission’s statement has the force and effect of law, it is an invalid unpromulgated rule.

60. In sum, TBD met its burden of demonstrating that Respondent’s interpretation of section 550.0951(3)(c)1. imposing a tax rate of 5.5 percent instead of 0.5 percent on ITW activities as set forth above constitutes an unadopted rule.

61. Because TBD met its burden, to avoid a finding that it has violated section 120.56(4), the Commission must demonstrate that rulemaking was neither practicable nor feasible. The Commission did not offer any evidence that it was not practicable to engage in rulemaking nor did it present any

evidence regarding the feasibility or lack of feasibility of rulemaking. The statute includes a presumption that rulemaking is feasible and practical, *see* § 120.54(1)(a), Fla. Stat, and that presumption has not been rebutted.

62. A petitioner who prevails in a section 120.56(4) proceeding is entitled to reasonable costs and attorneys' fees under section 120.595(4). Petitioner has requested such an award of attorneys' fees and costs in this proceeding.

63. Section 120.595(4)(a) provides that, if an appellate court or an administrative law judge determines that all or part of any agency statement violates section 120.54(1)(a), a judgment or order shall be entered against the agency for reasonable costs and attorney's fees, unless the agency demonstrates that the statement is required by the federal government to implement or retain a delegated or approved program or to meet a condition to receipt of federal funds. The Commission does not claim that its interpretation is based on any federal requirement. Accordingly, an award of fees is warranted.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is

ORDERED that the Respondent's interpretation of the tax rate applicable to ITW activities is a statement meeting the definition of a rule that has not been adopted pursuant to section 120.54(1). Respondent must immediately discontinue all reliance upon the statement or any substantially similar statement as a basis for agency action.

The undersigned reserves jurisdiction to determine, if necessary, the amount of attorneys' fees and costs Petitioner should be awarded. Should the parties be unable to amicably resolve this issue, Petitioner shall file with DOAH a written request with the undersigned seeking resolution of the matter.

DONE AND ORDERED this 9th day of August, 2022, in Tallahassee, Leon
County, Florida.



JAMES H. PETERSON, III
Administrative Law Judge
Division of Administrative Hearings
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 9th day of August, 2022.

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Notice of Administrative Appeal with the agency clerk of the Division of Administrative Hearings and a second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the appellate district where the party resides. The Notice of Administrative Appeal must be filed within 30 days of rendition of the order to be reviewed.

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D2022-2802

FLORIDA GAMING CONTROL
COMMISSION,

Appellant,

v.

TAMPA BAY DOWNS, INC.,

Appellee.

On appeal from the Division of Administrative Hearings.
James H. Peterson, III, Administrative Law Judge.

September 11, 2024

M.K. THOMAS, J.

Appellee, Tampa Bay Downs, filed a successful unpromulgated rule challenge after the Division of Pari-Mutuel Wagering (organized under the Florida Gaming Control Commission) denied a request for a tax refund that would have shifted an applied tax rate on handle, the aggregate contributions to pari-mutuel pools, from 5.5% to 0.5% per subsection 550.0951(3)(c)1., Florida Statutes. The Commission appealed, asserting the administrative law judge (ALJ) misinterpreted the operative language of the section and relevant statutory terms to arrive at a conclusion that does not comport with the plain language of the subsection. We disagree and affirm. The Commission's interpretation of the subsection is not readily

apparent from the plain language of its text and constitutes an unpromulgated rule subject to challenge under section 120.56(4)(a), Florida Statutes.

This Court reviews de novo an ALJ's conclusions of law in an unadopted rule challenge. *See Grabba-Leaf, LLC v. Dep't of Bus. and Pro. Regul.*, 257 So. 3d 1205, 1207 (Fla. 1st DCA 2018). An agency statement purporting to set forth a rule or policy cannot be enforced unless adopted by certain statutory procedures. *See* § 120.54(1)(a), Fla. Stat. In general, "if an agency statement merely reiterates a law or restates what is 'readily apparent' from the text of a law, the statement is not considered a rule." *Dep't of Health v. Leafly Holdings, Inc.*, 369 So. 3d 333, 337 (Fla. 1st DCA 2023). That said, where an "agency statement of general applicability implements, interprets, or prescribes law or policy," then the statement amounts to a rule. *See* §§ 120.52(16), 120.56(4)(a), Fla. Stat.

Section 550.0951 governs the payment of daily license fees and taxes by applicable pari-mutuel facilities such as those operated by Appellee and provides:

Each permitholder shall pay a tax on contributions to pari-mutuel pools, the aggregate of which is hereinafter referred to as "handle" on races or games conducted by the permitholder. The tax is imposed daily and is based on the total contributions to all pari-mutuel pools conducted during the daily performance.

§ 550.0951(3), Fla. Stat. The issue on appeal centers on varied tax rates provided in subsection 550.0951(3)(c)1., the disputed portion of which reads:

The tax on handle for intertrack wagering is 0.5 percent if the host track and the guest track are thoroughbred permitholders or *if the guest track is located outside the market area of the host track and within the market area of a thoroughbred permitholder currently conducting a live race meet.*

§ 550.0951(3)(c)1., Fla. Stat. (emphasis added).

The ALJ accepted Appellee's position that, as a thoroughbred permitholder operating a pari-mutuel facility that conducts intertrack wagering on simulcast events, their facility thus qualifies as a guest track.* As such, as a thoroughbred permitholder and a guest track, Appellee meets the subsection's requirements to be accorded the 0.5% tax rate, and the Division's denial of the request then amounts to an unpromulgated rule. The Commission's interpretation of the statutory language focuses on the term "market area," which is defined as "an area within 25 miles of a permitholder's track or fronton." § 550.002(18), Fla. Stat. Substituted with its definition, the Commission then reads subsection 550.0951(3)(c)1. as according the 0.5% tax rate to a qualifying guest track only where it is within 25 miles of *another* thoroughbred permitholder conducting a live meet.

We must determine if the Commission's interpretation of the subsection is a derivation readily apparent from the plain language of its text, or if such an interpretation and resulting denial of the tax refund then constitutes an "unadopted rule" pursuant to subsection 120.52(20), Florida Statutes. The Commission's interpretation stands on the implication that the statutory language "within the market area of a thoroughbred permitholder currently conducting a live race meet" is plainly understood to mean a *separate* or *other* thoroughbred permitholder hosting a live meet within 25 miles of a guest track, regardless of the possibility that a thoroughbred permitholder may qualify as a guest track. This interpretation of the subsection goes beyond its plain language by adding or implying additional terms that change its meaning. The language of the section does not preclude a thoroughbred permitholder operating as a host track and meeting

* Section 550.002, Florida Statutes, defines a guest track as "a track or fronton receiving or accepting an intertrack wager" and intertrack wager as a "form of pari-mutuel wagering in which wagers are accepted at a permitted, in-stake track, fronton, or pari-mutuel facility on a race or game transmitted from and performed live at, or simulcast signal rebroadcast from, another in-state pari-mutuel facility." § 550.002(11), (16), Fla. Stat.

the criteria for a guest track from qualifying for the 0.5% tax rate on handle.

We reject the Commission's alternative argument that, if there is any ambiguity as to the meaning of the statute, we may look to the legislative intent behind section 550.0951(3)(c)1. as creating a tax exemption which must be "strictly construed against the party claiming [the exemption] . . . and any ambiguity should be resolved against the taxpayer and against the exemption." *Genesis Ministries, Inc. v. Brown*, 250 So. 3d 865, 868 (Fla. 1st DCA 2018); *see also Maas Bros., Inc. v Dickinson*, 195 So. 2d 193, 198 (Fla. 1967). Subsection 550.0951(c)(3)1., through its plain language, only imposes tax rates dependent upon the class of host track and certain criteria for qualifying guest tracks. Even if we were to "strictly construe" statutes creating tax exemptions, the subsection does not imply an exemption to a standard rate or an "exception for something that otherwise would be within the scope of the taxing statute." *Dep't of Rev. of State v. GTA Mobilnet of Tampa, Inc.*, 727 So. 2d 1125, 1128 (Fla. 2d DCA 1999). Absent conditional language in setting forth the varied rates, the at-issue portion of the subsection only sets a 0.5% tax rate where the guest track is within 25 miles of a thoroughbred permitholder, criteria satisfied by Appellee.

The final order is affirmed. The Commission's interpretation of the statute constitutes an unpromulgated rule because it imposes a specific tax rate on Appellee that was not established via proper rulemaking procedures.

AFFIRMED.

LEWIS and WINOKUR, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Elina Valentine, Deputy General Counsel, Office of the General Counsel, Florida Gaming Control Commission, Tallahassee, for Appellant.

J. Stephen Menton, Tana D. Storey, and Gary R. Rutledge, Rutledge Ecenia, P.A., Tallahassee, for Appellee.

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING

TAMPA BAY DOWNS, INC.,

Petitioner,

CASE NO. _____

v.

DEPARTMENT OF BUSINESS
AND PROFESSIONAL REGULATION,
DIVISION OF PARI-MUTUEL
WAGERING,

Respondent.

**PETITION CONTESTING DENIAL OF TAX REFUND REQUEST
AND PETITION FOR FORMAL ADMINISTRATIVE HEARING**

Petitioner, TAMPA BAY DOWNS, INC. (“TBD” or the “Petitioner”), pursuant to sections 72.011, 120.569, 120.57(1), 120.57(1)(e), 120.80(14)(b), and 215.26, Florida Statutes,¹ files this Petition contesting the denial of TBD’s requests for tax refunds of overpayments of taxes paid to the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering for the tax on handle generated by intertrack wagering including intertrack wagering on simulcast out-of-state races. In support of this Petition, TBD states:

Parties

1. Petitioner TBD is a for profit Florida corporation located in Tampa, Florida, and is a licensed thoroughbred pari-mutuel permitholder (Pari-Mutuel Permit #320). TBD’s address is 11225 Race Track Road, Tampa, FL 33626. For purposes of this proceeding, TBD’s address, telephone number and email address are those of its undersigned counsel.

¹ All references to the Florida Statutes are to the 2021 codification.

fronton or pari-mutuel facility, on a race or game transmitted from and performed live at, or simulcast signal rebroadcast from, another in-state pari-mutuel facility.” See §550.002(17), Fla. Stat.

6. As set forth in section 550.0951(3), Florida Statutes, pari-mutuel facilities conducting intertrack wagering are required to pay taxes on the “handle.” The “handle” is the “aggregate contributions to pari-mutuel pools” including amounts collected on the out-of-state rebroadcast races. A “host track” is defined as “a track or fronton conducting a live or simulcast race or game that is the subject of an intertrack wager.” Pertinent to this case, the Host Tracks (i.e., DBKC, JKC, St. Johns, Orange Park, OKC and PBKC), provided signals to TBD for intertrack wagering. See §550.002(16), Fla. Stat. Through contracts with the Host Tracks, TBD conducts and/or conducted intertrack wagering on out-of-state greyhound races re-broadcast through the Host Tracks.² TBD is a “guest track” because it received the signals from the host tracks and accepted wagers thereon. See §550.002(12), Fla. Stat.

7. By statute, TBD is ultimately responsible for payment of the tax on the handle collected on these intertrack wagering activities.

8. The applicable tax rate under section 550.0951(3)(c)1., Florida Statutes, varies depending on the type of pari-mutuel activity permitted at the host track, as well as the type of pari-mutuel activities permitted at the guest tracks conducting intertrack wagering and the location of those facilities.

9. With respect to the tax on handle, section 550.0951(3)(c)1., Florida Statutes, provides:

² TBD currently conducts intertrack wagering with DBKC pursuant to contract. TBD has paid taxes on the handle for intertrack wagering with the other Host Tracks within the past three years as set forth in the Refund Requests.

13. TBD is a guest track within the market area of “a thoroughbred permitholder currently conducting a live race meet” and is therefore entitled to the lower tax rate based on the plain statutory language set forth in section 550.0951(3)(c)1., Florida Statutes. While the applicable tax rate on handle for TBD’s intertrack wagering activities conducted pursuant to its contracts with the Host Tracks is 0.5%, TBD has paid through the Host Tracks a tax rate of 5.5% which exceeds the 0.5% tax rate set by statute.

Tax Refund Requests

14. Section 215.26, Florida Statutes, authorizes the Comptroller or his designee (in this case, the Department of Business and Professional Regulation) to refund taxes paid in error. See §§72.011(2)(b)3., 120.80(14) and 215.26, Fla. Stat. Section 215.26, Florida Statutes, states, in pertinent part, that:

(1) The Chief Financial Officer may refund to the person who paid same, or his or her heirs, personal representatives, or assigns, any moneys paid into the State Treasury which constitute:

- (a) An overpayment of any tax, license, or account due;
- (b) A payment where no tax, license, or account is due; and
- (c) Any payment made into the State Treasury in error;

and if any such payment has been credited to an appropriation, such appropriation shall at the time of making any such refund, be charged therewith. There are appropriated from the proper respective funds from time to time such sums as may be necessary for such refunds.

15. Section 550.0951, Florida Statutes, requires taxes on handle to be remitted through a host track even though the guest track, such as TBD, is ultimately responsible for payment of the tax on handle.

16. All of the Host Tracks remitted to the State the taxes on handle for the intertrack wagering activities conducted with TBD over the last several years at the tax rate of 5.5%.

there has been no overpayment . . . therefore no refund is due.” (hereinafter referred to as the “Refund Denial Letters”). See Composite Exhibit B.

21. Instead of applying the tax rate of 0.5% specified in section 550.0951(3)(c)1., Florida Statutes, the Division claims in the Refund Denial Letters that a rate of 5.5% is applicable to the intertrack wagering activities conducted by TBD pursuant to its contracts with the Host Tracks. See Composite Exhibit B.

22. The Division’s position that the lower tax rate is not applicable to TBD is apparently premised on an unpromulgated interpretation that a thoroughbred permitholder, such as TBD, cannot qualify for the lower tax rate within its own market area. In other words, the Division contends that the 0.5% tax rate is only available to a guest track which is also a thoroughbred permitholder if it is located within the market area of “another” thoroughbred permitholder conducting a live race meet. The statute, however, does not include the term “another.” The statute unambiguously refers to the market area of “a thoroughbred permitholder.” (emphasis added)

23. The interpretation asserted by the Division in the Refund Denial Letters is not set forth on the face of the statute, not supported by the plain language of the statute and has not been adopted as a rule by the Division.

24. The Refund Denial Letters notified TBD that it had 60 days to contest the denial of the requested refunds. The instant Petition is timely filed.

Substantial Interests Affected

25. TBD’s substantial interests are affected because it has paid taxes on handle for certain intertrack wagering activities in excess of the amount due pursuant to section

- f. Whether Orange Park has overpaid the tax on handle due for the intertrack wagering activities conducted by TBD through its contract with Orange Park;
- g. Whether OKC has overpaid the tax on handle due for the intertrack wagering activities conducted by TBD through its contract with OKC;
- h. Whether PBKC has overpaid the tax on handle due for the intertrack wagering activities conducted by TBD through its contract with PBKC;
- i. Whether the Division's denial of the requested refund is clearly erroneous;
- j. Whether the Division's denial of the requested refunds is contrary to the plain language of section 550.0951(3)(c)1., Florida Statutes;
- k. Whether TBD is entitled to the tax refunds requested;
- l. Whether the Division's interpretation of section 550.0951(3)(c)1., Florida Statutes, is an agency statement of general applicability which has not been adopted as a rule in violation of section 120.54, Florida Statutes;
- m. Whether TBD qualifies for the 0.5% tax rate set forth in section 550.0951(3)(c)1., Florida Statutes, when it serves as both guest track and the thoroughbred permitholder operating live; and
- n. Whether the Division's interpretation of section 550.0951(3)(c)1., Florida Statutes, is an invalid exercise of delegated legislative authority.

Concise Statement of Ultimate Facts

28. As set forth above, instead of the lower tax rate of 0.5% set forth in section 550.0951(3)(c)1., Florida Statutes, the Division has applied and continues to erroneously apply a tax rate of 5.5% to the intertrack wagering activities conducted by TBD pursuant to its contracts with the Host Tracks.

significant tax relief for the pari-mutuel wagering industry,” including specific tax reductions for thoroughbred permitholders. The relevant portions of bill analysis state:

TAX REDUCTIONS:

Thoroughbreds: [Similar to HB 945]

- Live and simulcast thoroughbred rates reduced as follows:
 - Calder/Tropical reduced from 1.25% to 0.5%
 - Gulfstream Park reduced from 2.0% to 0.5%
 - Hialeah Park remains at 0.2%
 - Tampa Bay Downs remains at 0.5%
- ITW reduced from 3.3% to 2%
- ITW between thoroughbreds reduced from 3.3% to 0.5% or if the guest track is located outside the market area of the host track and within the market area of a live thoroughbred permitholder reduced from 3.3% to 0.5%
- ITW of ISW stays at 2.4%
- The bill also amends legislation passed in 1998 Session which would have raised tax rates in 2001 to their prior higher levels and implements, effective July 1, 2001, a uniform live tax rate of 0.5% for all thoroughbred tracks. [Emphasis added.]

See Fla. Comm. on Reg. Ind., CS for CS for SB 770 and SB 286, Final Staff Analysis (May 10, 2000) (on file with Fla. State Archives), pp. 1, 4-5.

32. The interpretation applied by the Division as justification to levy a higher tax on TBD is not supported by the plain language of the statute or the legislative intent to provide tax reductions.

33. The Division’s interpretation of section 550.0951(3)(c)1., Florida Statutes, constitutes an agency statement of general applicability that has not been adopted as rule in

Statutes and Rules Entitling Relief

37. The statutes and rules which are applicable in this case and that support TBD's Refund Requests include, but are not limited to, sections 72.011, 120.54, 120.56, 120.569, 120.57(1), 120.57(1)(e), 120.80(14), 215.26, and 550.0951, Florida Statutes, and chapter 28-110, F.A.C.

Demand for Relief

38. Petitioner requests the following relief:

- a. That this matter be referred to the Division of Administrative Hearings for a formal administrative hearing to be conducted before an Administrative Law Judge pursuant to Sections 120.569 and 120.57(1), Florida Statutes;
- b. That Recommended and Final Orders be entered determining that: (1) the Division's interpretation of section 550.0951(3)(c)1., Florida Statutes, is clearly erroneous; (2) the Division's denial of the tax Refund Requests was in error; (3) the Division's interpretation constitutes an unadopted rule on which the Division may not rely to deny the instant tax Refund Request; and (4) Petitioner is entitled to the Requested Tax Refunds plus interest;
- c. That TBD be awarded its fees and costs for this action pursuant to section 120.595(4) and/or section 120.80(14)(b)5., Florida Statutes; and
- d. Such further other relief as deemed appropriate.

November 9, 2021

Via Email

Louis Trombetta, Director
Division of Pari-Mutuel Wagering
Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-1035

Re: Tampa Bay Downs, Inc. Request for Refund

Dear Lou:

This firm represents Tampa Bay Downs, Inc. ("TBD"), a thoroughbred permitholder (Permit #320), located in Tampa, Florida. Pursuant to Section 215.26, Florida Statutes, TBD files the enclosed DBPR Request for Refund Form seeking a refund of an overpayment of taxes on handle, or taxes otherwise charged in error, in the amount of \$110,328.78 paid into the State Treasury by Daytona Beach Kennel Club ("DBKC").

DBKC and TBD have conducted and continue to conduct intertrack and simulcast wagering ("ITW/SW"). Pursuant to Section 550.0951(3), Florida Statutes, DBKC, as the host track, remits the tax on handle, but TBD, as the guest track, is ultimately responsible for paying that amount to DBKC. DBKC has assigned to TBD any and all of its rights to recover the tax on handle paid by DBKC pursuant to Section 550.0951(3), Florida Statutes, arising from the ITW/SW activities conducted with TBD. A copy of the assignment and detail supporting the refund amount are attached to the attached Refund Request Form.

With respect to the wagering activities with TBD, from October 31, 2018, through November 1, 2021, DBKC paid into the State Treasury at total of \$ 121,361.65, which represents the tax on handle at the tax rate of 5.5%. Section 550.0951(3)(c)1., Florida Statutes, however, provides that the applicable tax rate on handle with respect to TBD is 0.5%. Thus, TBD seeks a tax refund of \$110,328.78, which represents the amount of the tax overpayment for the aforementioned tax period.

EXHIBIT A

Application for Refund



Pursuant to the provisions of Section 215.26, Florida Statutes, I hereby apply for a refund, and that a State Warrant be drawn in the favor of:

Payee: Tampa Bay Downs, Inc. Amount: \$ 110,328.78 (detail attached)

Address: 11225 Race Track Rd,

City: Tampa State: FL Zip: 33626

Reason for Claim: Amount of tax paid exceeded that required by Section 550.0951(3)(c)1., Fla. Stat.

Phone#: 813-855-4401 x 1316 Application, File or License#: Pari-Mutuel Permit #320

Certified true and correct this 9th day of November, 2021

X

Gregory Jolyon
Applicant Signature

For Agency Use Only

Object Refund
Code Amount

____ \$ _____
____ \$ _____
____ \$ _____

DO NOT WRITE BELOW THIS LINE-DBPR PERSONNEL ONLY

ACCOUNT NAME	FLAIR ACCOUNT CODE	AUTHORIZED	STATUTE
<input type="checkbox"/> PRTF	79-50-2-547001-79050100-00-000100	_____	455.219
GENERAL REVENUE			
<input type="checkbox"/> PMW TAXES	79-74-1-000245-79100400-00-000300	_____	550.09
<input type="checkbox"/> OTP	79-74-1-000245-79400300-00-000320	_____	565.12
<input type="checkbox"/> OTP INTERNET TAXES	79-74-1-000245-79400300-00-000320	_____	210.276
TRUST FUNDS			
<input type="checkbox"/> FLORIDA BOXING COMM. FEES	79-50-2-547001-79050400-00-000100	_____	548.035
<input type="checkbox"/> FLORIDA BOXING COMM. LICENSES	79-50-2-547001-79050400-00-000200	_____	548.025
<input type="checkbox"/> FLORIDA BOXING COMM. TAXES	79-50-2-547001-79050400-00-000300	_____	548.06, 548.061
<input type="checkbox"/> FLORIDA BOXING COMM. MISC	79-50-2-547001-79050400-00-000400	_____	548.035
<input type="checkbox"/> FLORIDA BOXING COMM. FINES & BONDS	79-50-2-547001-79050400-00-001200	_____	548.014, 548.075
<input type="checkbox"/> CHILD AND FARM LABOR	79-50-2-547001-79050600-00-000100	_____	455
<input type="checkbox"/> PMW TF FEES	79-20-2-520001-79100400-00-000100	_____	550.09, 550.10
<input type="checkbox"/> PMW TF LICENSES	79-20-2-520001-79100400-00-000200	_____	550.09
<input type="checkbox"/> PMW TF TAXES	79-20-2-520001-79100400-00-000300	_____	550.09
<input type="checkbox"/> PMW TF MISC	79-20-2-520001-79100400-00-000400	_____	550.09
<input type="checkbox"/> PMW TF FEES	79-20-2-520001-79100400-00-001200	_____	550.09, 550.10
<input type="checkbox"/> SLOT COM/ADDICTIVE GAMBLING	79-20-2-520001-79100500-00-000130	_____	550.09, 550.10
<input type="checkbox"/> SLOT GENERAL OCC. LICENSE	79-20-2-520001-79100500-00-000132	_____	550.09
<input type="checkbox"/> SLOT BUSINESS OCC. LICENSE	79-20-2-520001-79100500-00-000133	_____	550.09
<input type="checkbox"/> SLOT PROFESSIONAL OCC. LICENSE	79-20-2-520001-79100500-00-000134	_____	550.09
<input type="checkbox"/> SLOT TAXES	79-20-2-520001-79100500-00-000335	_____	550.09, 550.10
<input type="checkbox"/> SLOT FINES	79-20-2-520001-79100500-00-001200	_____	550.09, 550.10
<input type="checkbox"/> SLOT MISCELLANEOUS REVENUE	79-20-2-520001-79100500-00-000400	_____	550
<input type="checkbox"/> H & R FEES	79-50-2-375001-79200100-00-000100	_____	509.251, 509.261, 509.3
<input type="checkbox"/> H & R LICENSES	79-50-2-375001-79200100-00-000200	_____	509.251, 509.261, 509.3
<input type="checkbox"/> H & R MISC	79-50-2-375001-79200100-00-000400	_____	509.251, 509.261, 399.0
<input type="checkbox"/> H & R FINES	79-50-2-375001-79200100-00-001200	_____	509.251, 509.261, 399.0
<input type="checkbox"/> DIV OF FLORIDA CONDOMINIUMS-FEES	79-50-2-289001-79800100-00-000100	_____	498.017
<input type="checkbox"/> DIV OF FLORIDA CONDOMINIUMS-LICENSE	79-50-2-289001-79800100-00-000200	_____	498.017
<input type="checkbox"/> DIV OF FLORIDA CONDOMINIUMS-MISC	79-50-2-289001-79800100-00-000400	_____	498.017
<input type="checkbox"/> DIV OF FLORIDA CONDOMINIUMS-FINES	79-50-2-289001-79800100-00-001200	_____	498.017
<input type="checkbox"/> AB&T FEES	79-20-2-022001-79400300-00-000100	_____	561.19, 563.564, 565.02
<input type="checkbox"/> AB&T LICENSE	79-20-2-022001-79400300-00-000200	_____	561.19, 563.564, 565.02
<input type="checkbox"/> AB&T TAXES	79-20-2-022001-79400300-00-000311	_____	561.12
<input type="checkbox"/> AB&T MISC	79-20-2-022001-79400300-00-000400	_____	561.19, 563.564, 565.02
<input type="checkbox"/> AB&T FINES	79-20-2-022001-79400300-00-001200	_____	561.19, 563.564, 565.02
<input type="checkbox"/> CIGARETTE TAX COLL.-TAXES.	79-74-2-086001-79400300-00-000312	_____	210.04
<input type="checkbox"/> CIGARETTE SURCHARGE	79-20-2-086001-79400300-00-000313	_____	210.011
<input type="checkbox"/> OTP SURCHARGE	79-20-2-086001-79400300-00-000319	_____	210.011

Validation #: _____ LicenseEase Year: _____ Organization Code: _____

mm/dd/yyyy

Certified true and correct this _____ day of _____, 20____

Signature of Authorized Agency Person

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Title

WHEREAS, Assignee believes that the applicable tax rate on handle relative to the ITW Activities was 0.5% rather than the 5.5% based on the plain language of Section 550.0951(3)(c)1., Florida Statutes;

WHEREAS, Assignor has not sought and does not intend to seek reimbursement for the taxes paid on handle as referenced above or that may be paid after the effective date of this Assignment, but prior to the Assignee's filing of a refund request and acknowledges that Assignee intends to seek a refund of the taxes paid in error.

NOW THEREFORE, Daytona Beach Kennel Club, Inc., as Assignor, hereby assigns, transfers and conveys to Tampa Bay Downs, Inc., as Assignee, any and all rights which Assignor has to recover the tax on handled paid by Assignor pursuant to Section 550.0951(3), Florida Statutes, by virtue of the intertrack wagering activities conducted with Assignee, which was remitted to or which may be paid to the Florida Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, including those transactions reflected on the attached Exhibit documenting the tax payments for which Assignee seeks to claim a refund of taxes paid for multiple transactions during the time period reflected on the attached as well as taxes on handle paid in the future above the 0.5% rate. Assignor agrees it has not and will not itself seek a refund or take a credit on the taxes that are the subject of this Assignment.

IN WITNESS WHEREOF, the parties hereto executed this Assignment as of the day and year above stated.

Daytona Beach Kennel Club, Inc. (Assignor)	Tampa Bay Downs, Inc. (Assignee)
	
By: Fred Guzman, President & GM	By: VP Finance
FEIN: 	

November 30, 2021

Via Email

Louis Trombetta, Director
Division of Pari-Mutuel Wagering
Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-1035

Re: Tampa Bay Downs, Inc. Request for Refund

Dear Lou:

This firm represents Tampa Bay Downs, Inc. ("TBD"), a thoroughbred permitholder (Permit #320), located in Tampa, Florida. Pursuant to Section 215.26, Florida Statutes, TBD files the enclosed DBPR Request for Refund Form seeking a refund of an overpayment of taxes on handle, or taxes otherwise charged in error, in the amount of \$84,965.95.

Jacksonville Kennel Club, Inc. d/b/a Bestbet, Bayard Raceways, Inc. d/b/a St. Johns Greyhound Park, Orange Park Kennel Club Inc., d/b/a Bestbet and Penn Sanford, LLC d/b/a Orlando Kennel Club (collectively the "Host Tracks") previously conducted intertrack and simulcast wagering ("ITW/SW") with TBD. Pursuant to Section 550.0951(3), Florida Statutes, the Host Tracks remitted the tax on handle to the state, but TBD, as the guest track, is ultimately responsible for paying that amount to the Host Tracks. The Host Tracks have assigned to TBD any and all of their rights to recover the tax on handle paid by them pursuant to Section 550.0951(3), Florida Statutes, arising from the ITW/SW activities conducted with TBD. A copy of the assignments and detail supporting the refund amounts are included with the attached Refund Request Form.

With respect to the wagering activities with TBD, from October 31, 2018, through November 1, 2021, the Host Tracks paid into the State Treasury at total of \$93,462.54, which represents the tax on handle at the tax rate of 5.5%. Section 550.0951(3)(c)1., Florida Statutes, however, provides that the applicable tax rate on handle with respect to TBD is 0.5%. Thus, TBD seeks a tax refund of \$84,965.95, which represents the amount of the tax overpayment for the aforementioned tax period.

Application for Refund



Pursuant to the provisions of Section 215.26, Florida Statutes, I hereby apply for a refund, and that a State Warrant be drawn in the favor of:

Payee: Tampa Bay Downs, Inc.Amount: \$ \$84,965.95 (detail attached)Address: 11225 Race Track Rd,City: TampaState: FLZip: 33626Reason for Claim: Amount of tax paid exceeded that required by Section 550.0951(3)(c)1., Fla. Stat.Phone#: 813-855-4401 x 1316Application, File or License#: Pari-Mutuel Permit #320

For Agency Use Only

Object Code	Refund Amount
_____	\$ _____
_____	\$ _____
_____	\$ _____

Certified true and correct this 30TH day of November, 2021

X Gregory Gelyon
Applicant Signature

DO NOT WRITE BELOW THIS LINE-DBPR PERSONNEL ONLY

ACCOUNT NAME	FLAIR ACCOUNT CODE	AUTHORIZED	STATUTE
<input type="checkbox"/> PRTF	79-50-2-547001-79050100-00-000100	_____	455.219
GENERAL REVENUE			
<input type="checkbox"/> PMW TAXES	79-74-1-000245-79100400-00-000300	_____	550.09
<input type="checkbox"/> OTP	79-74-1-000245-79400300-00-000320	_____	565.12
<input type="checkbox"/> OTP INTERNET TAXES	79-74-1-000245-79400300-00-000320	_____	210.276
TRUST FUNDS			
<input type="checkbox"/> FLORIDA BOXING COMM. FEES	79-50-2-547001-79050400-00-000100	_____	548.035
<input type="checkbox"/> FLORIDA BOXING COMM. LICENSES	79-50-2-547001-79050400-00-000200	_____	548.025
<input type="checkbox"/> FLORIDA BOXING COMM. TAXES	79-50-2-547001-79050400-00-000300	_____	548.06, 548.061
<input type="checkbox"/> FLORIDA BOXING COMM. MISC	79-50-2-547001-79050400-00-000400	_____	548.035
<input type="checkbox"/> FLORIDA BOXING COMM. FINES & BONDS	79-50-2-547001-79050400-00-001200	_____	548.014, 548.075
<input type="checkbox"/> CHILD AND FARM LABOR	79-50-2-547001-79050600-00-000100	_____	455
<input type="checkbox"/> PMW TF FEES	79-20-2-520001-79100400-00-000100	_____	550.09, 550.10
<input type="checkbox"/> PMW TF LICENSES	79-20-2-520001-79100400-00-000200	_____	550.09
<input type="checkbox"/> PMW TF TAXES	79-20-2-520001-79100400-00-000300	_____	550.09
<input type="checkbox"/> PMW TF MISC	79-20-2-520001-79100400-00-000400	_____	550.09
<input type="checkbox"/> PMW TF FEES	79-20-2-520001-79100400-00-001200	_____	550.09, 550.10
<input type="checkbox"/> SLOT COM/ADDICTIVE GAMBLING	79-20-2-520001-79100500-00-000130	_____	550.09, 550.10
<input type="checkbox"/> SLOT GENERAL OCC. LICENSE	79-20-2-520001-79100500-00-000132	_____	550.09
<input type="checkbox"/> SLOT BUSINESS OCC. LICENSE	79-20-2-520001-79100500-00-000133	_____	550.09
<input type="checkbox"/> SLOT PROFESSIONAL OCC. LICENSE	79-20-2-520001-79100500-00-000134	_____	550.09
<input type="checkbox"/> SLOT TAXES	79-20-2-520001-79100500-00-000335	_____	550.09, 550.10
<input type="checkbox"/> SLOT FINES	79-20-2-520001-79100500-00-001200	_____	550.09, 550.10
<input type="checkbox"/> SLOT MISCELLANEOUS REVENUE	79-20-2-520001-79100500-00-000400	_____	550
<input type="checkbox"/> H & R FEES	79-50-2-375001-79200100-00-000100	_____	509.251, 509.261, 509.3
<input type="checkbox"/> H & R LICENSES	79-50-2-375001-79200100-00-000200	_____	509.251, 509.261, 509.3
<input type="checkbox"/> H & R MISC	79-50-2-375001-79200100-00-000400	_____	509.251, 509.261, 399.0
<input type="checkbox"/> H & R FINES	79-50-2-375001-79200100-00-001200	_____	509.251, 509.261, 399.0
<input type="checkbox"/> DIV OF FLORIDA CONDOMINIUMS-FEES	79-50-2-289001-79800100-00-000100	_____	498.017
<input type="checkbox"/> DIV OF FLORIDA CONDOMINIUMS-LICENSE	79-50-2-289001-79800100-00-000200	_____	498.017
<input type="checkbox"/> DIV OF FLORIDA CONDOMINIUMS-MISC	79-50-2-289001-79800100-00-000400	_____	498.017
<input type="checkbox"/> DIV OF FLORIDA CONDOMINIUMS-FINES	79-50-2-289001-79800100-00-001200	_____	498.017
<input type="checkbox"/> AB&T FEES	79-20-2-022001-79400300-00-000100	_____	561.19, 563.564, 565.02
<input type="checkbox"/> AB&T LICENSE	79-20-2-022001-79400300-00-000200	_____	561.19, 563.564, 565.02
<input type="checkbox"/> AB&T TAXES	79-20-2-022001-79400300-00-000311	_____	561.12
<input type="checkbox"/> AB&T MISC	79-20-2-022001-79400300-00-000400	_____	561.19, 563.564, 565.02
<input type="checkbox"/> AB&T FINES	79-20-2-022001-79400300-00-001200	_____	561.19, 563.564, 565.02
<input type="checkbox"/> CIGARETTE TAX COLL.-TAXES	79-74-2-086001-79400300-00-000312	_____	210.04
<input type="checkbox"/> CIGARETTE SURCHARGE	79-20-2-086001-79400300-00-000313	_____	210.011
<input type="checkbox"/> OTP SURCHARGE	79-20-2-086001-79400300-00-000319	_____	210.011

Validation #: _____ LicenseEase Year: _____ Organization Code: _____

mm/dd/yyyy

Certified true and correct this _____ day of _____, 20 _____

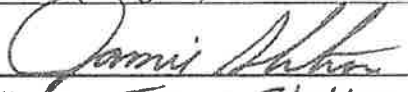
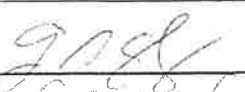

Signature of Authorized Agency Person

56

Title

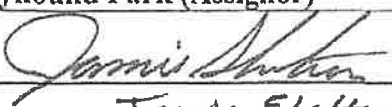
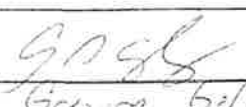

NOW THEREFORE, Jacksonville Kennel Club, Inc. d/b/a bestbet, as Assignor, hereby assigns, transfers and conveys to Tampa Bay Downs, Inc., as Assignee, any and all rights which Assignor has to recover relative to the tax on handled paid by Assignor pursuant to Section 550.0951(3), Florida Statutes, by virtue of the intertrack wagering activities conducted with Assignee, which was remitted to the Florida Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, for the transactions reflected on the attached Exhibit documenting the tax payments for which Assignee seeks to claim a refund of taxes paid for multiple transactions during the three year period immediately preceding the Effective Date of this Assignment. Assignor agrees it has not and will not itself seek a refund or take a credit on the taxes that are the subject of this Assignment. Assignee agrees that it will defend, indemnify, and hold Assignor and its affiliates and successors harmless from and against any and all claims, damages, and liabilities, including attorney's fees, related to the claim of refund.

IN WITNESS WHEREOF, the parties hereto executed this Assignment as of the day and year above stated.

Jacksonville Kennel Club, Inc. d/b/a bestbet (Assignor)	Tampa Bay Downs, Inc. (Assignee)
	
By: <u>Jamie Shelton</u>	By: <u>Gregory Galyon</u>
FEIN: 	<u>VP Finance</u>

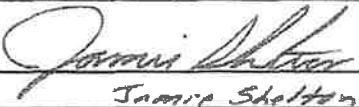
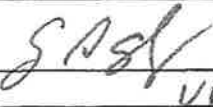
NOW THEREFORE, Bayard Raceways, Inc. d/b/a St. Johns Greyhound Park, as Assignor, hereby assigns, transfers and conveys to Tampa Bay Downs, Inc., as Assignee, any and all rights which Assignor has to recover relative to the tax on handled paid by Assignor pursuant to Section 550.0951(3), Florida Statutes, by virtue of the intertrack wagering activities conducted with Assignee, which was remitted to the Florida Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, for the transactions reflected on the attached Exhibit documenting the tax payments for which Assignee seeks to claim a refund of taxes paid for multiple transactions during the three year period immediately preceding the Effective Date of this Assignment. Assignor agrees it has not and will not itself seek a refund or take a credit on the taxes that are the subject of this Assignment. Assignee agrees that it will defend, indemnify, and hold Assignor and its affiliates and successors harmless from and against any and all claims, damages, and liabilities, including attorney's fees, related to the claim of refund.

IN WITNESS WHEREOF, the parties hereto executed this Assignment as of the day and year above stated.

Bayard Raceways, Inc. d/b/a St. Johns Greyhound Park (Assignor)	Tampa Bay Downs, Inc. (Assignee)
	
By: <u>Jamir Shelton</u>	By: <u>Gregory Gilyon</u>
FEIN: 	<u>UP FINANCE</u>

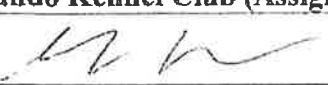
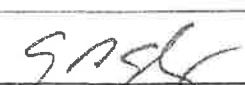
NOW THEREFORE, Orange Park Kennel Club, Inc. d/b/a bestbet, as Assignor, hereby assigns, transfers and conveys to Tampa Bay Downs, Inc., as Assignee, any and all rights which Assignor has to recover relative to the tax on handled paid by Assignor pursuant to Section 550.0951(3), Florida Statutes, by virtue of the intertrack wagering activities conducted with Assignee, which was remitted to the Florida Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, for the transactions reflected on the attached Exhibit documenting the tax payments for which Assignee seeks to claim a refund of taxes paid for multiple transactions during the three year period immediately preceding the Effective Date of this Assignment. Assignor agrees it has not and will not itself seek a refund or take a credit on the taxes that are the subject of this Assignment. Assignee agrees that it will defend, indemnify, and hold Assignor and its affiliates and successors harmless from and against any and all claims, damages, and liabilities, including attorney's fees, related to the claim of refund.

IN WITNESS WHEREOF, the parties hereto executed this Assignment as of the day and year above stated.

Orange Park Kennel Club, Inc. d/b/a bestbet (Assignor)	Tampa Bay Downs, Inc. (Assignee)
	
By: <u>Jamie Shelton</u>	By: <u>VP FINANCE</u>
FEIN: XXXXXXXXXX	<u>Gregory Gelyan</u>

NOW THEREFORE, Penn Sanford, LLC d/b/a Sanford Orlando Kennel Club, as Assignor, hereby assigns, transfers and conveys to Tampa Bay Downs, Inc., as Assignee, any and all rights which Assignor has to recover relative to the tax on handled paid by Assignor pursuant to Section 550.0951(3), Florida Statutes, by virtue of the intertrack wagering activities conducted with Assignee, which was remitted to the Florida Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, for the transactions reflected on the attached Exhibit documenting the tax payments for which Assignee seeks to claim a refund of taxes paid for multiple transactions during the three year period immediately preceding the Effective Date of this Assignment. Assignor agrees it has not and will not itself seek a refund or take a credit on the taxes that are the subject of this Assignment. Assignee agrees that it will defend, indemnify, and hold assignor and its affiliates and successors harmless from and against any and all claims, damages and liabilities, including attorneys' fees, related to the claim of refund.

IN WITNESS WHEREOF, the parties hereto executed this Assignment as of the day and year above stated.

Penn Sanford, LLC d/b/a Sanford Orlando Kennel Club (Assignor)	Tampa Bay Downs, Inc. (Assignee)
	
By: General Manager	By: VP FINANCE
FEIN: [REDACTED]	Gregory Gelman

Greyhound Report

Date Range: 10/31/2018 - 11/01/2021

Report By: Track

Race Type: All

Locations: All Locations

Tracks: All Tracks

Host: Sanford

Track	Handle	Paid Tax 5.5%	0.005%	Tax Credit Due
Sanford-Orlando - Night	95,379.00	5,245.85	476.90	4,768.95
Sanford-Orlando Kennel Club	490,654.00	26,985.97	2,453.27	24,532.70
	586,033.00	32,231.82	2,930.17	29,301.65

Please process the refund request at your earliest convenience. If you require additional information or have any questions, please contact me at tana@rutledge-ecenia.com or (850) 681-6788. Thank you for your prompt attention to this matter.

Sincerely,

Tana D. Storey

Tana D. Storey

TDS/sa

cc: DBPR, Agency Clerk

Tracy Swain, PMW

Greg Geylon, Tampa Bay Downs, Inc.

Assignment of Rights to Refund of Tax

This Assignment is entered into this 1st day of November, 2021 (“Effective Date”), between License Acquisitions, LLC d/b/a Palm Beach Kennel Club (“Assignor”) and Tampa Bay Downs, Inc. (“Assignee”), for the assignment of the right to seek refund of taxes paid into the State Treasury.

WHEREAS, Assignor is a greyhound pari-mutuel permitholder that conducted intertrack wagering activities as the host track, pursuant to Chapter 550, Florida Statutes, transmitting the out-of-state/in-state signals of various greyhound races through its facility located in Palm Beach County, Florida, to the Assignee during the past three years. Assignee is a thoroughbred pari-mutuel permitholder that conducted intertrack wagering activities as the guest track pursuant to Chapter 550, Florida Statutes, receiving the out-of-state/in-state greyhound signal at its thoroughbred racetrack in Hillsborough County, Florida (hereinafter “ITW Activities”);

WHEREAS, With respect to all ITW Activities as defined herein, Assignor paid 5.5% percent of the handle on such ITW Activities to the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering as set forth in Section 550.0951(3), Florida Statutes (“Tax Payments”);

WHEREAS, Assignor recouped such Tax Payments from Assignee;

WHEREAS, Assignee believes that the applicable tax rate on handle relative to the ITW Activities was 0.5% rather than the 5.5% based on the plain language of Section 550.0951(3)(c)1., Florida Statutes; and

WHEREAS, Assignor has not sought and does not intend to seek reimbursement for the taxes paid on handle as referenced above and acknowledges that Assignee intends to seek a refund of the taxes paid in error.

Greyhound Report

Date Range: 10/31/2018 - 11/01/2021

Report By: Track

Race Type: All

Locations: All Locations

Tracks: All Tracks

Host: Palm Beach Kennel Club

Track	Handle	Paid Tax 5.5%	0.005%	Tax Credit Due
PBKC Summer Evening	63,645.00	3,500.48	318.23	3,182.25
PBKC Summer Matinee	311,496.00	17,132.28	1,557.48	15,574.80
Palm Beach KC Matinee	857,420.00	47,158.10	4,287.10	42,871.00
Palm Beach KC Night	160,858.00	8,847.19	804.29	8,042.90
	1,393,419.00	76,638.05	6,967.10	69,670.95

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

TAMPA BAY DOWNS, INC.,

Petitioner,

vs.

Case No. 22-1127

FLORIDA GAMING CONTROL
COMMISSION,

Respondent.

_____ /

ORDER GRANTING CONTINUANCE

This cause came before the undersigned on an Agreed Motion for Continuance ("Motion"), filed on March 3, 2025. There is a pending settlement, which constitutes good cause for a continuance. The undersigned being fully advised, it is, therefore,

ORDERED that:

1. The Motion is granted, and the final hearing scheduled for March 26, 2025, is canceled.
2. The parties shall confer and advise the undersigned in writing no later than April 15, 2025, as to the status of this matter and as to the length of time required for the final hearing and several mutually-agreeable dates for rescheduling the final hearing, after May 26, 2025, should one be necessary. Failure to timely advise gives rise to the conclusion that this matter has been amicably resolved, and accordingly the file will be closed.

DONE AND ORDERED this 6th day of March, 2025, in Tallahassee, Leon County, Florida.



JAMES H. PETERSON, III
Administrative Law Judge
DOAH Tallahassee Office

TAB 4

Staff summary:

The Division of Alcoholic Beverages and Tobacco in the Department of Business and Professional Regulation lists on its website “Licenses and Permits for Alcoholic Beverages,” which includes a permit for a “Cigar Wholesale Dealer” pursuant to section 210.65(2), F.S. An application for a cigar wholesale dealer permit, DBPR ABT-6006, is also available on the division’s website.

Neither section 210.65, F.S., nor any other statute, provides authority for a cigar wholesale dealer permit. The wholesale of cigars is not regulated by the division.

Inclusion of this information on the division’s website may constitute an unadopted rule for which there is no statutory authority.

BEN ALBRITTON
President



Representative Tobin Rogers "Toby" Overdorf, Chair
Senator Erin Grall, Vice Chair
Senator Mack Bernard
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Tina Scott Polsky
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

DANIEL PEREZ
Speaker



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

March 5, 2025

Ms. Susan Swartz
Rules Attorney
Office of the General Counsel
Florida Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-2202

RE: DBPR: Division of Alcoholic Beverages and Tobacco

Dear Ms. Swartz:

I have reviewed the division's website, and it has come to my attention the listing of "Licenses and Permits for Alcoholic Beverages" includes a permit for a "Cigar Wholesale Dealer" pursuant to section 210.65(2). Likewise, an application for a cigar wholesale dealer permit, DBPR ABT-6006, is available on the division's website.

Neither section 210.65 nor any other statute provides authority for such a permit; further, it does not appear that the division regulates the wholesale of cigars and does not require a permit to distribute cigars in Florida.

It appears listing of the permit and the application are of general applicability and may constitute unadopted rules for which there is no statutory authority.

Please remove the Cigar Wholesale Dealer Permit from the listing of licenses and permits and remove the application from the division's website.

As always, please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Marjorie C. Holladay".

Marjorie C. Holladay
Chief Attorney

cc: Mr. Jerome Worley, Director
MCH:tf #1739

**INSTRUCTIONS FOR COMPLETING
DBPR ABT- 6006
DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
APPLICATION FOR CIGAR WHOLESALE DEALER PERMIT**

If you have any questions or need assistance in completing this application, please contact the Division of Alcoholic Beverages & Tobacco's (AB&T) local district office. Please submit your completed application and required fee(s) to your local district office. This application may be submitted by mail, through appointment, or it can be dropped off. A District Office Address and Contact Information Sheet can be found on AB&T's page of the DBPR web site at the link provided below.

[Local ABT District Licensing Offices](#)

GENERAL INSTRUCTIONS

Submitting Your Application

Applications for Cigar Wholesale Dealer permits are filed with the Division of Alcoholic Beverages and Tobacco. Please complete all information. All questions must be answered fully and truthfully. You must provide an original application and all signatures must be original. If eligible, a temporary license may be purchased.

This permit may not be transferred or change its location. If you sell the business, the new owner must apply for a new permit. If you desire to change the location, you must apply for a new permit.

Note: When applicable, you must submit a legible and executed copy of any agreements which require a percentage payment from the business operation.

A separate application must be filed for each place of business at which a cigar wholesale dealer proposes to engage in business.

If eligible, a temporary license may be purchased for \$25.00. The permanent license fee is \$25.00.

Contact Person

All communications regarding your application and invoices for payments of initial and renewal fees will be sent to the applicant/permit holder at the mailing or email address provided. However, if you would like for us to communicate with someone other than the applicant regarding your application, please provide the name and contact information for that person in the "License Information" section. Your named contact person will be permitted to make changes to the application paperwork on your behalf (except Related Party Personal Information Sheet) and we will communicate directly with them regarding any application issues or deficiencies, and you will not be copied by the division with the correspondence. Once the application is approved, all invoices and any subsequent communications will be sent to the mailing address of the licensee.

APPLICATION REQUIREMENTS

Affidavit of Applicant

Read and sign in the presence of a notary. The affidavit must be signed by the individual applicant, each partner of a general partnership, a general partner of a general partnership of a limited partnership, a managing member, manager, or officer of a limited liability company, each partner of a limited liability partnership, or one of the officers of a corporate applicant.

Registration of Legal Entity

All corporations, domestic or foreign; general partnerships; limited liability companies; and limited partnerships are required to be registered with the Florida Department of State, Division of Corporations. If you have not already registered, you will need to contact the Department of State at (850) 488-9000 or www.sunbiz.org for further information. Your application will be considered incomplete without this active registration.

Federal Employer's Identification Number (FEIN)

All licensees who pay wages to one or more employees must have a Federal Employer's Identification Number. Contact the Internal Revenue Service (IRS) at 1-800-829-3676 and request Form #SS4.

Related Party Personal Information

This section of the application must be completed by each applicant or person(s) directly connected with the business, unless they are a current licensee. The signature of each person filling out this section of the application must be an original. This will include the sole proprietor, all partners, officers, directors, individual share holders owning more than ½ of 1 percent of stock in non-public corporations, all partners of each general partnership, all general partners of a limited partnership, all managing members or managers of a limited liability company, partners of a limited liability partnership, and persons directly interested and receiving financial proceeds from the business. It is important that each individual discloses any arrests they have had within the past 5 years, even if they were charged, but not formally arrested, and regardless of the disposition.

Copy of Arrest Disposition

If the applicant answers "yes" to any of the criminal background questions asked in this application, provide a copy of the Arrest Disposition to ensure the applicant is qualified, pursuant to Statute and Rule.

Applicable Statute: 210.15, Florida Statutes.

Directly/Indirectly Interested Person

A direct interest is created by a person or entity having an interest with the applicant in the business sought to be permitted and, includes but is not limited to:

1. an interest which is created by virtue of the interested party deriving revenue from the sale of cigars;
2. a person or entity having the right to receive revenue based on a contractual relationship related to the control of the sale of cigars;
3. a person or entity who has a right to a percentage payment from the proceeds of the business pursuant to a lease;
4. a guarantor on a lease or loan;
5. a co-signer on a lease or loan.

An indirect interest includes, but is not limited to, any person or entity that derives revenue from the permit solely through a contractual relationship with the permit holder, the substance of which is not related to the control of the sale of cigar products.

Note: Direct and indirect interests must be disclosed in the "DISCLOSURE OF INTERESTED PARTIES" section of the application.

APPLICATION CHECKLIST

TRANSACTION	APPLICATION REQUIREMENTS
New Permit for Wholesale Dealer of Cigars Only (CGR)	<input type="checkbox"/> Complete DBPR ABT-6006 Division of Alcoholic Beverages and Tobacco Application for Cigar Wholesale Dealer Permit <input type="checkbox"/> Pay \$25 fee if requesting an initial temporary permit (make check payable to the Division of Alcoholic Beverages and Tobacco)

**DBPR ABT-6006 – Division of Alcoholic Beverages and Tobacco
Application for Cigar Wholesale Dealer Permit**

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**DBPR Form AB&T
ABT-6006
Revised 02/2013**

If you have any questions or need assistance in completing this application, please contact the Division of Alcoholic Beverages & Tobacco's (AB&T) local district office. Please submit your completed application and required fee(s) to your local district office. This application may be submitted by mail, through appointment, or it can be dropped off. A District Office Address and Contact Information Sheet can be found on AB&T's web site at the link provided below:

[Local ABT District Licensing Offices](#)

SECTION 1 - CHECK TRANSACTION REQUESTED

Transaction Type:

- | | |
|--|---|
| <input type="checkbox"/> New Permit | <input type="checkbox"/> Change to Legal Entity |
| <input type="checkbox"/> Change to Related Parties | <input type="checkbox"/> Change of Business Name
(only in connection with the above) |

Do you wish to purchase a Temporary Permit?

☐ Yes ☐ No

SECTION 2 – LICENSE INFORMATION

If the applicant is a corporation or other legal entity, enter the name and the document number as registered with the Florida Department of State Division of Corporations on the line below.

FEIN Number	Business Telephone Number	E-Mail Address (Optional)
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Full Name of Applicant: (This is the name the permit will be issued in)	Department of State Document #
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Business Name (D/B/A)

Location Address (Street and Number)

City	County	State	Zip Code
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Mailing Address (Street or P.O. Box)

City	State	Zip Code
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Contact Person - This section is optional, see application instructions for details

Contact Person	Telephone Number ext
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E-Mail Address (Optional)

Mailing Address (Street or P.O. Box)

City	State	Zip Code
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ABT District Office Received Date Stamp

SECTION 3 – RELATED PARTY PERSONAL INFORMATION

This section must be completed for each person directly connected with the business, unless they are a current licensee.

	Business Name (D/B/A)					
1.	Full Name of Individual					
	Social Security Number*			Home Telephone Number		Date of Birth
	Race	Sex	Height	Weight	Eye Color	Hair Color
2.	Are you a U.S. citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, immigration card number or passport number:					
3.	Home Address (Street and Number)					
	City				State	Zip Code
4.	Have you, as an individual or as a principal of an entity, had a permit revoked by the division within the previous 2 years? <input type="checkbox"/> Yes <input type="checkbox"/> No				Permit Number	
5.	Have you ever been adjudicated as owing \$500 or more in delinquent cigarette taxes? <input type="checkbox"/> Yes <input type="checkbox"/> No					
6.	Have you ever been convicted of selling stolen or counterfeit cigarettes, receiving stolen cigarettes, or being involved in the counterfeiting of cigarettes? <input type="checkbox"/> Yes <input type="checkbox"/> No					
7.	Have you been convicted within the past 5 years of any offense against the cigarette laws of this state or convicted in this state, any other state, or the United States during the past 5 years of any offense designated as a felony by such state or the United States, or to a corporation, any of whose officers have been so convicted. The term "convicted" shall include an adjudication of guilt on a plea of guilty or a plea of nolo contendere, or the forfeiture of a bond when charged with a crime? <input type="checkbox"/> Yes <input type="checkbox"/> No					
8.	Have you ever imported, or caused to be imported, into the United States any cigarette in violation of 19 U.S.C. s. 1681a? <input type="checkbox"/> Yes <input type="checkbox"/> No					

SECTION 4 – DISCLOSURE OF INTERESTED PARTIES

Note: Failure to disclose an interest, direct or indirect, could result in denial, suspension and/or revocation of your license. You MUST list all persons and entities in the entire ownership structure. **To determine which of those persons must submit fingerprints and a Related Party Personal Information sheet, see the fingerprint section in the application instructions.**

Business Name (D/B/A)

1. When applicable, complete the appropriate section below. **Attach extra sheets if necessary.**

Title/Position	Name	Stock %
CORPORATION– List all officers, directors, and stockholders		
GENERAL PARTNERSHIP – List all general partners		
LIMITED LIABILITY COMPANY – List all managers (member & non-member), directors, officers, and members		
LIMITED PARTNERSHIP – List all general and limited partners.		
LIMITED LIABILITY PARTNERSHIP – List all partners		

OTHER INTERESTS

These questions must be answered about this business for every person or entity listed as the applicant

1. Are there any persons or entities not disclosed who derive revenue from the business?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Are there any persons or entities not disclosed that have the right to receive revenue based on a contractual relationship related to the control of the sale of cigars?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Are there any persons or entities not disclosed who have a right to a percentage payment from the proceeds of the business pursuant to the lease?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Are there any persons or entities not disclosed who have guaranteed or co-signed a loan?	<input type="checkbox"/> Yes <input type="checkbox"/> No

If you answered yes to any of the above questions, a copy of the agreement must be submitted with this application.

**SECTION 5 - AFFIDAVIT OF APPLICANT
NOTARIZATION REQUIRED**

Business Name (D/B/A) _____

"I, the undersigned individually, or on behalf of a legal entity, hereby swear or affirm under penalty of perjury that the facts set forth in the forgoing application are in all respects true and correct. I further agree this place of business may be inspected and searched during business hours or at any time business is being conducted on the premises, without a search warrant by authorized agents or employees of the Division of Alcoholic Beverages and Tobacco, the Sheriff, his Deputies, and Police Officers for the purposes of determining compliance with the cigarette laws.

I swear under oath or affirmation under penalty of perjury as provided for in Sections 559.791, 562.45 and 837.06, Florida Statutes, that the foregoing information is true and that no other person or entity except as indicated herein has an interest in the tobacco permit, and all of the above listed persons or entities meet the qualifications necessary to hold an interest in the cigar permit."

STATE OF _____

COUNTY OF _____

APPLICANT SIGNATURE

APPLICANT SIGNATURE

The foregoing was () Sworn to and Subscribed OR () Acknowledged Before me this _____ Day
of _____, 20____, By _____ who is () personally
(print name(s) of person(s) making statement)

known to me OR () who produced _____ as identification.

Notary Public Commission Expires: _____

SECTION 6 - CURRENT PERMITTEE UPDATE DATA SHEET

This section is to be completed for all **current** cigar wholesale dealer permit holders listed on the application to ensure the most up to date information is captured.

Business Name (D/B/A)

Last Name	First	M.I.
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Current Permit Number(s)

Date of Birth	Social Security Number*
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Street Address

City	State	Zip Code
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Last Name	First	M.I.
-----------	-------	------

Current Permit Number(s)

Date of Birth	Social Security Number*
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Street Address

City	State	Zip Code
------	-------	----------

Last Name	First	M.I.
-----------	-------	------

Current Permit Number(s)

Date of Birth	Social Security Number*
---------------	-------------------------

Street Address

City	State	Zip Code
------	-------	----------

Last Name	First	M.I.
-----------	-------	------

Current Permit Number(s)

Date of Birth	Social Security Number*
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Street Address

City	State	Zip Code
------	-------	----------

Last Name	First	M.I.
-----------	-------	------

Current Permit Number(s)

Date of Birth	Social Security Number*
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Street Address

City	State	Zip Code
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FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES					
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY	
PACKAGE SALES – OFF PREMISES LICENSES FOR BEER AND WINE ONLY					
1APS \$28 / \$56 / \$84 / \$112 / \$140 (fee based on county population)	APS	563.02	Products Permitted	Beer.	FORM 6001
			Type of Sale	Package sales for off-premises consumption.	
			Other Terms	Compliance with Florida Beverage Law.	
1APS - DRY \$28 / \$56 / \$84 / \$112 / \$140	D – DRY	568.01	Products Permitted	Beer. No more than 6.243% of alcohol by volume or 5% by weight.	FORM 6001
			Type of Sale	Package sales for off-premises consumption.	
			Other Terms	Only applicable to Florida's dry counties Lafayette and Liberty. Compliance with Florida Beverage Law.	
2APS \$84 / \$112 / \$140 / \$168 / \$196 (fee based on county population)	APS	564.02	Products Permitted	Beer; Wine.	FORM 6001
			Type of Sale	Package sales for off-premises consumption.	
			Other Terms	Compliance with Florida Beverage Law.	
2APS - DRY \$84 / \$112 / \$140 / \$168 / \$196 (fee based on county population)	D – DRY	568.01	Products Permitted	Beer; Wine. No more than 6.243% of alcohol by volume or 5% by weight.	FORM 6001
			Type of Sale	Package sales for off-premises consumption.	
			Other Terms	Only applicable to Florida's dry counties Lafayette and Liberty. Compliance with Florida Beverage Law.	
CONSUMPTION ON PREMISES LICENSES FOR BEER AND WINE ONLY					
1COP \$56 / \$112 / \$168 / \$224 / \$280 (fee based on county population)	COP	563.02	Products Permitted	Beer.	FORM 6001
			Type of Sale	By the drink or in sealed containers for consumption on or off the premises where sold.	
			Other Terms	Compliance with Florida Beverage Law.	
1COP - DRY \$56 / \$112 / \$168 / \$224 / \$280 (fee based on county population)	D – DRY	568.01	Products Permitted	Beer. No more than 6.243% of alcohol by volume or 5% by weight.	FORM 6001
			Type of Sale	By the drink or in sealed containers for consumption on or off the premises where sold.	
			Other Terms	Only applicable to Florida's dry counties Lafayette and Liberty. Compliance with Florida Beverage Law.	
2COP \$168 / \$224 / \$280 / \$336 / \$392 (fee based on county population)	COP	564.02	Products Permitted	Beer; Wine.	FORM 6001
			Type of Sale	By the drink or in sealed containers for consumption on or off the premises where sold.	
			Other Terms	Compliance with Florida Beverage Law.	

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES						
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
CONSUMPTION ON PREMISES LICENSES FOR BEER AND WINE ONLY						
2COP - DRY \$168 / \$224 / \$280 / \$336 / \$392 (fee based on county population)	D – DRY	568.01	Products Permitted	Beer; Wine. No more than 6.243% of alcohol by volume or 5% by weight.		FORM 6001
			Type of Sale	By the drink or in sealed containers for consumption on or off the premises where sold.		
			Other Terms	Only applicable to Florida's dry counties Lafayette and Liberty. Compliance with Florida Beverage Law.		
QUOTA BEVERAGE LICENSES						
Quota 3DPS / 3CPS / 3BPS / 3APS / 3PS \$468 / \$643.50 / \$975 / \$1170 / \$1365 (fee based on county population)	QUOTA	561.19 561.20(6) 565.02(1)(a)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	Package sales for off-premises consumption.		
			Other Terms	Must maintain the licensed premises in an active manner in which the licensed premises are open for business to the public for the bona fide retail sale of authorized alcoholic beverages during regular and reasonable business hours for the minimum hours per day and days per year as specified in s. 561.29(h) or (i), F.S., as applicable to the license. Must notify the Division of any period of inactive status or seek a waiver of these active operation requirements if eligible. Refer to additional product restrictions and premises limitations in s. 565.04, F.S.		
Quota 8COP / 7COP / 6COP / 5COP / 4COP \$624 / \$858 / \$1300 / \$1560 / \$1820 (fee based on county population)	QUOTA	561.19 561.20(6) 565.02(1)(b-f)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink or in sealed containers for consumption on or off the premises where sold.		
			Other Terms	Must maintain the licensed premises in an active manner in which the licensed premises are open for business to the public for the bona fide retail sale of authorized alcoholic beverages during regular and reasonable business hours for the minimum hours per day and days per year as specified in s. 561.29(h) or (i), as applicable to the license. Must notify the Division of any period of inactive status or seek a waiver of these active operation requirements if eligible. Refer to additional product restrictions in s. 565.045, F.S.		

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES						
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
SPECIALTY LICENSES – FOOD SERVICE ESTABLISHMENTS, CATERERS, AND CULINARY EDUCATION PROGRAMS						
Special Food Service Establishment 8COP / 7COP / 6COP / 5COP / 4COP \$624 / \$858 / \$1300 / \$1560 / \$1820 (fee based on county population)	SFS	561.20(2)(a)4	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises or in a sealed container meeting the requirements of s. 561.20(2)(a)4, F.S., for consumption off premises.		
			Other Terms	Must have 2,000 square feet of service area, be 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 derive at least 51 percent of gross food and beverage revenue from the sale of food and nonalcoholic beverages. May not operate as a package store and may not sell intoxicating beverages after the hours of serving or consumption of food have elapsed.		
			Restrictions	May not operate as a package store and may not sell intoxicating beverages after the hours of serving or consumption of food have elapsed. License may not be moved to a new location.		
Caterer \$1820	13CT	561.20(2)(a)5	Products Permitted	Beer; Wine; Liquor.		FORM 6011
			Type of Sale	By the drink for consumption on the premises only of any catered event at which the licensee is providing prepared food.		
			Other Terms	Must be licensed by the Div. of Hotels & Restaurants under ch. 509, F.S., and derive at least 51% of gross food and beverage revenue from sales of food and nonalcoholic beverages at each catered event. Must purchase alcoholic beverages through a licensed vendor.		
			Restrictions	May not store alcoholic beverages to be sold or served at a catered event. Alcoholic beverages not used at the event must remain with the customer or be returned to the vendor for credit or reimbursement.		

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES					
TYPE AND FEE	CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
SPECIALTY LICENSES – FOOD SERVICE ESTABLISHMENTS, CATERERS, AND CULINARY EDUCATION PROGRAMS					
Culinary Education Program \$1820	CEP	561.20(2)(a)6	Products Permitted	Beer; Wine; Liquor.	FORM 6025
			Type of Sale	By the drink for consumption on premises only.	
			Other Terms	Must be a qualifying culinary education program as defined in s. 381.0072(2), F.S., which is licensed as a public food service establishment by the Div. of Hotels & Restaurants. If the program provides catering services, the license also allows the sale and consumption of alcoholic beverages on the premises of a catered event at which the licensee is also providing prepared food.	
			Restrictions	Alcoholic beverages may only be consumed in areas designated for the consumption of alcoholic beverages by the licensee in the license application. Alcoholic beverages may not be removed from designated areas.	
SPECIALTY LICENSES – MOTELS/HOTELS					
79 Special Motel / Hotel 8COP / 7COP / 6COP / 5COP / 4COP \$624 / \$858 / \$1300 / \$1560 / \$1820 (fee based on county population)	S	561.20(2)(a)1	Products Permitted	Beer; Wine; Liquor.	FORM 6001
			Type of Sale	By the drink or in sealed containers for consumption on or off the premises where sold.	
			Other Terms	Must have 80 guest rooms or more in a county of less than 50,000 residents or 100 guest rooms or more in a county of greater than 50,000 residents.	
			Restrictions	License may only be issued to the owner or lessee. License must remain in the name of the owner or lessee and can only be renewed in the name of the owner or lessee. License may not be moved to a new location.	
Special Motel / Hotel: Historic Motel / Hotel 8COP / 7COP / 6COP / 5COP / 4COP \$624 / \$858 / \$1300 / \$1560 / \$1820 (fee based on county population)	SH	561.20(2)(a)1	Products Permitted	Beer; Wine; Liquor.	FORM 6001
			Type of Sale	By the drink or in sealed containers for consumption on or off the premises where sold	
			Other Terms	Must be a bona fide hotel or motel located in a historic structure as defined in s. 561.01(21), F.S., with fewer than 100 guest rooms. Must be licensed as a public lodging establishment and derive at least 51% of gross revenue from the rental of guest rooms.	
			Restrictions	License may only be issued to the owner or lessee. License must remain in the name of the owner or lessee and can only be renewed in the name of the owner or lessee. License may not be moved to a new location.	

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES					REGULATIONS OF LICENSE ACTIVITY		APPLICATION
TYPE AND FEE		CLASS	STATUTE				
SPECIALTY LICENSES – MOTELS/HOTELS							
Special Motel / Hotel: Historic Motel / Hotel in Qualifying Municipalities 4COP \$1820	SHQM	561.20(2)(a)1	Products Permitted	Beer; Wine; Liquor		FORM 6001	
			Type of Sale	By the drink for consumption on premises only.			
			Other Terms	Must be a bona fide hotel or motel located in a historic structure of at least 10 and no more than 25 guest rooms in municipalities having a population between 25,000 and 35,000 residents according to the 1998 UF Bureau of Economic and Business Research Estimates of Population. Must derive at least 60% of gross revenue from the rental of rooms and sales of food and nonalcoholic beverages.			
			Restrictions	Qualifying municipalities include: Cooper City; Hallandale; Homestead; Jupiter; Lake Worth; Lauderdale Lakes; North Lauderdale; Oakland Park; Ormond Beach; Palm Beach Gardens; Plant City; Riviera Beach; Wellington; Winter Haven; Winter Springs. License may only be issued to the owner or lessee. License must remain in the name of the owner or lessee and can only be renewed in the name of the owner or lessee. License may not be moved to a new location.			
80							
OTHER SPECIALTY LICENSES – BOWLING, AIRPORT VENDORS, CIVIC CENTERS, AND OTHER SPECIAL LICENSES							
Special Horse Breeders 8COP / 7COP / 6COP / 5COP / 4COP \$624 / \$858 / \$1300 / \$1560 / \$1820 (fee based on county population)	HBX	561.20(10)	Products Permitted	Beer; Wine; Liquor.		FORM 6001	
			Type of Sale	By the drink for consumption on premises only.			
			Other Terms	Issued to any marketing association of horse breeders organized under the laws of the state. Applicable only in and for facilities used by the association for public auction of its products.			
			Restrictions	License must remain in the name of the owner or lessee.			
Special Bowling Alley 8COP / 7COP / 6COP / 5COP / 4COP \$624 / \$858 / \$1300 / \$1560 / \$1820 (fee based on county population)	SBX	561.20(2)(c)	Products Permitted	Beer; Wine; Liquor.		FORM 6001	
			Type of Sale	By the drink for consumption on premises only.			
			Other Terms	Issued only to the owner or lessee of a bowling establishment having 12 or more lanes and all necessary equipment to operate.			
			Restrictions	License must remain in the name of the owner or lessee. License may not be moved to a new location.			

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES					
TYPE AND FEE	CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
OTHER SPECIALTY LICENSES – BOWLING, AIRPORT VENDORS, CIVIC CENTERS, AND OTHER SPECIAL LICENSES					
Special Horse Breeders 8COP / 7COP / 6COP / 5COP / 4COP \$624 / \$858 / \$1300 / \$1560 / \$1820 (fee based on county population)	HBX	561.20(10)	Products Permitted	Beer; Wine; Liquor.	FORM 6001
			Type of Sale	By the drink for consumption on premises only.	
			Other Terms	Issued to any marketing association of horse breeders organized under the laws of the state. Applicable only in and for facilities used by the association for public auction of its products.	
			Restrictions	License must remain in the name of the owner or lessee.	
Special Bowling Alley 8COP / 7COP / 6COP / 5COP / 4COP \$624 / \$858 / \$1300 / \$1560 / \$1820 (fee based on county population)	SBX	561.20(2)(c)	Products Permitted	Beer; Wine; Liquor.	FORM 6001
			Type of Sale	By the drink for consumption on premises only.	
			Other Terms	Issued only to the owner or lessee of a bowling establishment having 12 or more lanes and all necessary equipment to operate.	
			Restrictions	License must remain in the name of the owner or lessee. License may not be moved to a new location.	
Special Airport 8COP / 7COP / 6COP / 5COP / 4COP \$624 / \$858 / \$1300 / \$1560 / \$1820 (fee based on county population)	SAL	561.20(2)(f) 561.01(12) 561.01(13)	Products Permitted	Beer; Wine; Liquor.	FORM 6001
			Type of Sale	By the drink for consumption on premises only.	
			Other Terms	“Special airport license” means a vendor license to sell certain alcoholic beverages only on those airport premises which have been designated in the United States National Airport System Plan, 49 U.S.C. s. 1711, as air carrier airports, commuter airports, and reliever airports. Issued to restaurants that are a part of, or serve, qualifying publicly owned or leased airports. Licensee may 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 while airborne.	
			Restrictions	Sales are limited to four places or locations in control of the licensee. License may not be transferred to a new location except under the conditions specified in s. 561.20(2)(f).	

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES						
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
OTHER SPECIALTY LICENSES – BOWLING, AIRPORT VENDORS, CIVIC CENTERS, AND OTHER SPECIAL LICENSES						
Special Civic Center 8COP / 7COP / 6COP / 5COP / 4COP \$250	SCX	561.20(2)(h)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only.		
			Other Terms	Issued to any civic center authority or sports arena authority which is authorized by state law or local government ordinance or owned by a political subdivision of the state.		
			Restrictions	License shall at all times remain the exclusive property of the authority. License may be transferred to a qualified applicant authorized by contract with the authority to provide food service, but the license shall revert back to the authority upon termination of the contract.		
Special County Commissioner 8COP / 7COP / 6COP / 5COP / 4COP \$624 / \$858 / \$1300 / \$1560 / \$1820 (fee based on county population)	SCC	561.20(2)(d)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only.		
			Other Terms	Issued to county commissioners for facilities which are owned and operated by the county. License may be transferred from one qualified county facility to another upon written notification to the division.		
Special Act 8COP / 7COP / 6COP / 5COP / 4COP \$624 / \$858 / \$1300 / \$1560 / \$1820 (fee based on county population)	SA	Special Act	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only.		
			Other Terms	See applicable Special Acts for specific requirements.		
Special Act – Limited Location 8COP / 7COP / 6COP / 5COP / 4COP \$624 / \$858 / \$1300 / \$1560 / \$1820 (fee based on county population)	SAX	Special Act	Products Permitted	Beer; Wine; Liquor		FORM 6001
			Type of Sale	By the drink for consumption on premises only.		
			Other Terms	See applicable Special Acts for specific requirements.		
			Restrictions	License may not change location from original address.		

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES						
TYPE AND FEE	CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION	
OTHER SPECIALTY LICENSES – BOWLING, AIRPORT VENDORS, CIVIC CENTERS, AND OTHER SPECIAL LICENSES						
Destination Entertainment Venue (Craft Distilleries only) 8COP / 7COP / 6COP / 5COP / 4COP \$624 / \$858 / \$1300 / \$1560 / \$1820 (fee based on county population)	DEV	561.20(2)(a)4	Products Permitted	Beer; Wine; Liquor.	FORM 6001	
			Type of Sale	By the drink for consumption on premises only		
			Other Terms	Issued to a craft distillery for the premises included on the licensed premises sketch on file with the division, including its souvenir gift shop or tasting room. Licensee is allowed to only sell alcoholic beverages manufactured by other manufacturers and acquired through a distributor.		
			Restrictions	Licensees located within the same destination entertainment venue must share identical ownership, and distill, blend, or rectify at least 50,000 gallons of branded products per calendar year. No more than three craft distilleries may be licensed as a vendor in a community redevelopment area.		
Mobile Food Dispensing Vehicles (City of Gainesville only) 4COP \$1820	MFDV	2021-245	Products Permitted	Beer; Wine; Liquor.	FORM 6001	
			Type of Sale	By the drink for consumption on premises only in a food truck park located in Innovation Square, Gainesville, FL.		
			Other Terms	Issued to a mobile food dispensing vehicle in a food truck park located in Innovation Square, Gainesville, FL. Authorizes patrons to consume the alcoholic beverages within the food truck park as long as the food truck park has permanent fencing; municipal water, sewer, and solid waste; sun sails; tables; and seating.		
			Restrictions	Licensee is prohibited from selling alcoholic beverages by the package for consumption outside of the food truck park.		
RAILROADS, STEAMSHIPS, BUSES, AIRLINES, AIRLINE PASSENGER LOUNGES, PASSENGER VESSELS, AND BOATS						
Railroad Transit Station \$2,500	RTS	565.02(2)	Products Permitted	Beer; Wine; Liquor.	FORM 6001	
			Type of Sale	By the drink for consumption on premises only. Beverages sold may be consumed in all areas within the station and on a passenger train.		
			Other Terms	Operators of interstate railroads and sleeping cars shall keep separate the alcoholic beverages intended for sale on passenger trains and those intended for sale in the railroad transit station.		
			Restrictions	License may not be transferred to a location beyond the railroad transit station.		

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES						
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
RAILROADS, STEAMSHIPS, BUSES, AIRLINES, AIRLINE PASSENGER LOUNGES, PASSENGER VESSELS, AND BOATS						
Railroads \$2,500 for Master License \$10 for each dining, club, parlor, buffet or observations car	IX	565.02(2)	Products Permitted	Beer; Wine; Liquor.		FORM 6020
			Type of Sale	By the drink for consumption on premises of designated rail cars only.		
			Other Terms	Sales permitted for consumption in any dining, club, parlor, buffet, or observation car of a passenger train. Certified copies of the licenses issued to the operators must be posted in designated cars.		
			Restrictions	Licensee may not purchase or sell any liquor on a passenger train except in miniature bottles of not more than 2 ounces.		
Steamships/Buses/Airplanes \$1,100 for Master License \$25 for each steamship, bus or airplane	X	565.02(3)	Products Permitted	Beer; Wine; Liquor.		FORM 6020
			Type of Sale	By the drink for consumption on premises only. Sales permitted only to passengers.		
			Other Terms	Must be engaged in interstate or foreign commerce or plying between fixed terminals and upon fixed schedules. Renewal of such a license must specify the total number of steamships, buses, or airplanes in the fleet that operated in this state during the preceding license year.		
			Restrictions	Licensees may purchase liquor for resale only in miniature bottles of not more than 2 ounces or in individual containers of not less than one-fifth of 1 gallon. Sales are only permitted while in transit. Sales on airplanes are not permitted while airplanes are in airports.		
RAILROADS, STEAMSHIPS, BUSES, AIRLINES, AIRLINE PASSENGER LOUNGES, PASSENGER VESSELS, AND BOATS						
Airline Passenger Lounges \$1,100 per lounge	XL	565.02(3)(a)2	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only. Sales permitted only to ticketed passengers and their guests.		
			Other Terms	Issued to licensed airlines operating no more than one (1) passenger waiting lounge at each of its terminals at airports for ticketed passengers whose flights are scheduled to depart within 24 hours of service.		
			Restrictions	Licensees may purchase liquor for resale only in miniature bottles of not more than 2 ounces or in individual containers of not less than one-fifth of 1 gallon.		

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES						
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
RAILROADS, STEAMSHIPS, BUSES, AIRLINES, AIRLINE PASSENGER LOUNGES, PASSENGER VESSELS, AND BOATS						
				Products Permitted	Beer; Wine; Liquor.	
Passenger Vessels (Cruise Ships) \$1,100 per vessel	PVP	565.02(9)	Type of Sale	Sales permitted for consumption on board only. Sales permitted for no more than 24 hours before departure while the vessel is moored at a dock or wharf in a port of Florida and at any time while located in Florida territorial waters in transit to or from international waters.		
				Other Terms For sale on passenger vessels engaged exclusively in foreign commerce with cabin berth capacity for at least 75 passengers. One permit is required for each vessel and shall name the vessel for which it is issued. Permittees are not required to obtain beverages, cigarettes, or other tobacco products from licensees under the Beverage Law or chapter 210. Permittees must comply with capacity accounting and quarterly reporting to the division pursuant to s. 565.02(9), F.S.		
Special Boats – Excursion/Charter 8COP / 7COP / 6COP / 5COP / 4COP \$624 / \$858 / \$1300 / \$1560 / \$1820 (fee based on county population in the home port of the boat)	SPX	565.02(3)(a)	Products Permitted	Beer; Wine; Liquor.		
				Type of Sale	By the drink for consumption on premises only.	
			Other Terms	Issued to an operator of a pleasure, excursion, sightseeing, or charter boat with a Coast Guard-approved capacity of at least 125 passengers and hosts regular round-trip runs of not more than 100 miles in each direction. Must not exceed regular round-trip runs of more than 100 miles in each direction. Licensee may sell and serve alcoholic beverages to passengers during a scheduled or chartered cruise and for a period of no longer than one hour prior to departure from the docking facility or marina. Not eligible for any boat which plies upon or is anchored upon the waters of any lake within this state. Note: An operator of a pleasure, excursion, sightseeing, or charter boat that does not qualify to obtain the SPX license may obtain a vendor license for consumption on the premises only.		
						FORM 6021
						FORM 6001

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES						
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
EVENT CENTER, PERFORMING ARTS FACILITIES AND PUBLIC FAIRS/EXPOSITIONS						
Event Center \$1820	EVNT	Ch. 2017-223 Ch. 2023-XXX	Products Permitted	Beer; Wine; Liquor.		FORM 6001
				Type of Sale	By the drink for consumption on premises only.	
				Other Terms	Issued to event centers that does not market itself primarily as a food service establishment, and derive no less than 51 percent of annual gross income from the sale of event center tickets and food and nonalcoholic beverages that are prepared, served and consumed on the premises. See applicable Special Acts for specific requirements.	
Performing Arts Center \$400	11PA-C	561.01(17) 561.20(2)(i)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only.		
			Other Terms	Issued to a facility consisting of not less than 200 seats which is owned and operated by a not-for-profit corporation qualified under the provisions of s. 501(c)(3) of the Internal Revenue Code. The facility must be used and occupied to promote development of any or all of the performing, visual, or fine arts. Sales and service of alcoholic beverages may occur only in conjunction with an artistic, educational, cultural, promotional, civic, or charitable event, except as part of food and beverage service for banquets or receptions. License shall at all times remain the exclusive property of the performing arts center. License may be transferred to a qualified applicant authorized by contract with the licensee to provide food and beverage service, but the license will revert back to the performing arts center upon termination of the contract.		
			Restrictions			
Symphony Orchestra \$400	11PA-O	565.02(8)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only. Sales permitted only within the enclosure in which the symphony normally and regularly performs and only during the hours in which the premises are in use for a cultural event under the auspices of the licensee.		
			Other Terms	Issued to a state-chartered legal entity not for profit organized for the purpose of supporting or managing the affairs of a symphony orchestra.		

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES						
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
EVENT CENTER, PERFORMING ARTS FACILITIES AND PUBLIC FAIRS/EXPOSITIONS						
Live Performance Theater \$400	11PA-LT	565.02(10)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only. Sales permitted only to patrons during any regularly scheduled live theater performance.		
			Other Terms	Issued to a state-chartered legal entity not for profit organized for the purpose of operating a theater with live performances and not fewer than 100 seats.		
			Restrictions	Licensee may not enter into any exclusive contract for use of the license.		
Special Public Fair/Expositions \$250	FEX	561.20(2)(g)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only.		
			Other Terms	Issued to any public fair or exposition which is organized in accordance with ch. 616, F.S. License may be used only in connection with special events held on the premises of the fairground. License may not be used during any youth agricultural activity or regularly scheduled public fair or exposition.		
			Restrictions	Licensee may not enter into any exclusive contract for use of the license. License may not be transferred.		
CLUB LICENSES – LODGES, FRATERNAL GROUPS, TENNIS/GOLF/BEACH CLUBS, AND OTHER CLUBS						
Subordinate Clubs or Lodges of National Fraternal or Benevolent Associations \$400	11C	561.20(7)(a)1 565.02(4)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only. Sales to members and nonresident guests only.		
			Other Terms	Issued to a bona fide club which has been at the time of application in continuous active existence and operation for a period of not less than 2 years in the county where it exists. However, any veterans' or fraternal organization of national scope need not have been in continuous active existence or operation for any required period of time prior to an application for license.		
			Restrictions	Licensee may not enter into any exclusive contract for use of the license. License may not be transferred.		
Non-profit Corporations or Clubs devoted to community, municipal, or county development \$400	11C	561.20(7)(a)3 565.02(4)	Products Permitted	Beer; Wine; Liquor		FORM 6001
			Type of Sale	By the drink for consumption on premises only. Sales to members and nonresident guests only.		
			Other Terms	Issued to a bona fide club which has been at the time of application for license in continuous active existence and operation for a period of not less than 2 years in the county. where it exists.		
			Restrictions	Licensee may not enter into any exclusive contract for use of the license. License may not be transferred.		

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES						
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
CLUB LICENSES – LODGES, FRATERNAL GROUPS, TENNIS/GOLF/BEACH CLUBS, AND OTHER CLUBS						
Clubs promoting showmen and amusement enterprises \$400	11C	561.20(7)(a)4 565.02(4)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only. Sales to members and nonresident guests only.		
			Other Terms	Issued to a bona fide club which has been at the time of application for license in continuous active existence and operation for a period of not less than 2 years in the county where it exists.		
Clubs promoting cultural relations of people of the same nationality \$400	11C	561.20(7)(a)6 565.02(4)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only. Sales to members and nonresident guests only.		
			Other Terms	Issued to a bona fide club which has been at the time of application for license in continuous active existence and operation for a period of not less than 2 years in the county where it exists.		
Tennis or Racquetball Club \$400	11C	561.20(7)(a)2 561.20(7)(a)(c) 565.02(4)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only. Sales to members and nonresident guests only.		
			Other Terms	Issued to a bona fide tennis club or four-walled indoor racquetball club in continuous active existence and operation for a period of not less than 2 years in the county where it exists. See s. 561.20(7)(c), F.S., for minimum courts and premises qualifications for this club license.		
Cabana or Beach Club \$400	11C	561.20(7)(a)2 561.20(7)(d) 565.02(4)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only. Sales to members and nonresident guests only.		
			Other Terms	Issued to a bona fide beach or cabana club in continuous active existence and operation for a period of not less than 2 years in the county where it exists. A qualifying club must consist of beach facilities, swimming pool, locker rooms or bathroom with 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.		

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES						
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
CLUB LICENSES – LODGES, FRATERNAL GROUPS, TENNIS/GOLF/BEACH CLUBS, AND OTHER CLUBS						
Golf Club \$400	11CG	561.20(7)(a)2 561.20(7)(b) 565.02(4)	Products Permitted	Beer; Wine; Liquor		FORM 6001
			Type of Sale	By the drink for consumption on premises only. Sales permitted to members and nonresident guests only.		
			Other Terms	Issued to a bona fide regular, standard golf course in continuous active existence and operation for a period of not less than 2 years in the county where it exists. A qualifying club must consist of at least 9 holes, clubhouse, locker rooms and attendant golf facilities, comprising at least 35 acres of land owned or leased by the club. A golf club license holder may sell alcoholic beverages to those other than members and their nonresident guests on days when the club is open to the public, limited to one event per year not exceeding 8 consecutive days. For each such day of service to nonmembers, the club shall obtain from the division for a fee of \$50 an extension of its license to permit such sales.		
Municipally-Owned Golf Club \$400	11CG-PC	561.20(7)(a)2 561.20(7)(b) 565.02(4)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only.		
			Other Terms	Issued only to a golf club operated by or on behalf of any incorporated municipality in this state. A qualifying club must consist of at least 9 holes, clubhouse, locker rooms, and attendant golf facilities, comprising at least 35 acres of land owned or leased by the club.		
SPECIAL LOCATION LICENSES – LIMITED TO SPECIFIC LOCATIONS OR FACILITIES AS AUTHORIZED BY STATUTE						
Bottle Club \$500	14BC	561.01(15) 561.14(6)	Products Permitted	Beer; Wine; Liquor.		FORM 6036
			Type of Sale	Sales of alcoholic beverages are not permitted.		
			Other Terms	“Bottle Club” means a commercial establishment operated for a profit wherein patrons consume alcoholic beverages which are brought onto the premises and not sold or supplied to the patrons by the establishment. Establishment must be located in a building or other enclosed permanent structure.		
			Restrictions	Licensee may not hold any other alcoholic beverage licenses for the premises while licensed as a bottle club. Purchases of alcoholic beverages for resale are not permitted.		

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES					REGULATIONS OF LICENSE ACTIVITY			APPLICATION	
TYPE AND FEE	CLASS	STATUTE	SPECIAL LOCATION LICENSES – LIMITED TO SPECIFIC LOCATIONS OR FACILITIES AS AUTHORIZED BY STATUTE						
Pari-Mutuel Facility \$675	12RT	565.02(5) 550.6315 551.119	Products Permitted	Beer; Wine; Liquor.	By the drink for consumption on premises only.	FORM 6001			
			Type of Sale		Sales permitted only within the enclosure in which pari-mutuel wagering is conducted. A caterer licensed as provided in s. 551.119, F.S., may sell within the facility on any day it is open for slot machine play.				
			Other Terms						
			Products Permitted	Beer; Wine; Liquor.					
Club (Hillsborough County) \$1750	11CS	Ch.63-1412, Laws of Florida	Type of Sale	By the drink for consumption on premises only.		FORM 6001			
			Other Terms	For Hillsborough County only. License may be issued to the holder of a license issued under s. 561.34(1), F.S. (1961) that was in existence on October 1, 1963 which was the effective date of the act. License allows service to resident guests as well as members and nonresident guests.					
				License may not be moved to another location. License must remain in the name of the holder to which it was originally issued. License may not be renewed in a different name. License may not be transferred.					
			Restrictions						
American Legion Post \$500	11AL	561.20(11)	Products Permitted	Beer; Wine; Liquor.	By the drink for consumption on premises only.	FORM 6001			
			Type of Sale		Issued to historic American Legion Posts in Florida chartered prior to September 16, 1919. Sales may be made to resident guests as well as members and nonresident guests. Revenue generated from the sale of alcoholic beverages which exceeds the cost of operation must be donated to a local non-profit charitable organization on an annual basis or maintained in an emergency fund not to exceed the costs of operation of the American Legion Post from the prior calendar year.				
			Other Terms						

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES					
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY	
SPECIAL LOCATION LICENSES – LIMITED TO SPECIFIC LOCATIONS OR FACILITIES AS AUTHORIZED BY STATUTE					
John & Mable Ringling Museum of Art \$400	11CT	565.02(11)	Products Permitted	Beer; Wine; Liquor.	FORM 6001
			Type of Sale	By the drink for consumption on premises only.	
			Other Terms	Issued to the Board of Trustees of the John & Mable Ringling Museum of Art or the board's designee. Sales permitted on the premises of the museum in conjunction with artistic, educational, cultural, civic, or charitable events held under the auspices of the licensee.	
Sacramental Wine Permit No Fee.	SWP	564.03	Products Permitted	Wine.	FORM 6038
			Type of Sale	No sales permitted. Permit authorizes the purchase of wine for sacramental purposes.	
			Other Terms	Any religious order, monastery, church or religious body, or any minister, pastor, priest or rabbi may obtain a permit to purchase wine from a distributor or retailer for sacramental purposes. Requires a sworn application, stating the name of the applicant, the religious purpose for which the wine is to be used, the amount to be purchased, and from whom the purchase is to be made.	
Special Restaurant Issued Pursuant to Prior Laws 8COP / 7COP / 6COP / 5COP / 4COP \$624 / \$858 / \$1300 / \$1560 / \$1820 (fee based on county population)	SR	561.20(2)(a)	Products Permitted	Beer; Wine; Liquor.	Transfer of Ownership Only. License is not available for new applicants.
			Type of Sale	For licenses issued pre-1958: By the drink or in sealed containers for consumption on or off the premises where sold. For licenses issued post-1958: By the drink for consumption on premises only.	
			Other Terms	Contact the Division to discuss minimum premises and operating requirements applicable to any particular SR license which was issued pursuant to prior laws and has remained in continuous active operation. Special provisions of law may apply to individual licenses based on date and location of original license issuance for these special licenses.	

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES						
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
LIMITED PERMITS – TEMPORARY PERMITS, TEMPORARY PREMISES EXTENSIONS, AND OTHER LIMITED PERMITS						
Temporary Permit \$25	ODP	561.422	Products Permitted	Beer; Wine; Liquor.		FORM 6003
			Type of Sale	By the drink for consumption on premises only for a period not to exceed 3 days.		
			Other Terms	Issued to a bona fide nonprofit civic organization, charitable organization, municipality, or county to sell alcoholic beverages for consumption on the premises only for a period not to exceed 3 days, subject to any state law or municipal or county ordinance regulating the time of sale. See s.561.422, F.S., for special requirements applicable to municipal and county applicants. Limited to 12 permits per calendar year.		
Temporary Permit Pursuant to Special Act \$25	SODP	Special Acts	Products Permitted	Beer; Wine; Liquor.		FORM 6003
			Type of Sale	By the drink for consumption on premises only for a period not to exceed 3 days.		
			Other Terms	Issued to bona fide non-profit civic organizations pursuant to terms of special acts governing issuance of temporary permits in certain localities. See special acts.		
Temporary Extension of Premises \$100	TXP	561.01(11)	Products Permitted	As permitted by corresponding primary license.		FORM 6029
			Type of Sale	As permitted by corresponding primary license.		
			Other Terms	Limited permit issued for the expansion of the license premises to include a sidewalk or other outside area for special events. Requires written approval from the county or municipality attesting to compliance with local ordinances for the extension area of the premises.		

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES						
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
LIMITED PERMITS – TEMPORARY PERMITS, TEMPORARY PREMISES EXTENSIONS, AND OTHER LIMITED PERMITS						
Special Temporary Extension of Premises \$100 per calendar year	STXP	Ch. 2017-212	Products Permitted	Beer; Wine; Liquor.		FORM 6029
			Type of Sale	By the drink or in sealed containers for consumption on or off the premises during certain events.		
			Other Terms	Limited permit issued to a business located in the City of Jacksonville, within the Stadium District during a special event. Allows businesses licensed to sell alcohol on the licensed premises to sell alcohol for off premises consumption. Requires written approval from the municipality attesting to compliance with local ordinances for the extension area of the premises.		
			Restrictions	Sales may be made for consumption off the licensed premises but still within the Stadium District during a special event.		
Temporary Convention Permit No Fee.	TCP	561.421	Products Permitted	Beer; Wine; Liquor.		Submit Letter
			Type of Sale	By the drink for consumption on premises only.		
			Other Terms	Permit authorizes manufacturers and distributors to display products licensed under the Beverage Law in convention halls, coliseums, and similar type buildings where there is an existing beverage license. Permit is valid for not more than 5 days.		
Non-Member Sales Permit for Golf Clubs \$50 per day	NMSP	565.02(4)	Products Permitted	Beer; Wine; Liquor.		Submit Letter
			Type of Sale	By the drink for consumption on premises only.		
			Other Terms	Issued to holders of golf club licenses (11CG) to authorize limited sales to those other than members and their nonresident guests on days when the club is open to the public. Limited to one event per year not to exceed 8 consecutive days.		

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES						APPLICATION
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		
LIMITED PERMITS – TEMPORARY PERMITS, TEMPORARY PREMISES EXTENSIONS, AND OTHER LIMITED PERMITS						
Special Sales License \$25	SSL	561.20(12)	Products Permitted	Beer; Wine; Liquor		FORM 6003
			Type of Sale	Package sales for off-premises consumption.		
			Other Terms	Valid for 3 days. Issued to a person or an organization for the limited purpose of: a sale pursuant to a levy and execution; a sale by an insurance company in possession of alcoholic beverages; a bankruptcy sale; a sale resulting from a license suspension or revocation; a sale of damaged goods by a common carrier; sale by a bona fide wine collector; or a sale of packaged alcoholic beverages pursuant to part V of chapter 679. Distributors may purchase packaged alcoholic beverages at a special sale authorized by this special license.		
Temporary Special Event Permit (City of Inverness & City of Ocala Only) No Fee.	TSE	Ch. 2022-46 Ch. 2022-253	Products Permitted	Beer; Wine; Liquor		FORM 60XX
			Type of Sale	By the drink for consumption on premises or in open containers to be removed from the licensee's premises within a special zone.		
			Other Terms	Permit authorizes a bona fide licensed vendor operating a licensed premises during a special event approved or declared by a city or local authority to temporarily sell alcoholic beverages in open containers for consumption on the premises or in open containers to be removed from the licensee's premises by patrons and consumed within a special zone created by the city to sell alcoholic beverages for consumption only on premises for the duration of the event, subject to any state law or municipal or county ordinance regulating the time for selling such beverages.		

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES						
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
CHILD LICENSES – LICENSES CORRESPONDING TO A PRIMARY LICENSE TYPE AT A LICENSED PREMISES						
Additional Points of Sale/Service More than 3 Rooms with Permanent Bars \$1000	3M	565.02(1)(g)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only.		
			Other Terms	Required for any spirituous alcoholic beverage vendor operating a place of business where consumption on the premises is permitted and which has more than three separate rooms or enclosures in which permanent bars or counters are located from which alcoholic beverages are served for consumption on the licensed premises. Permanent bars or counters do not include service bars not accessible to the public or portable or temporary bars being used for a single occasion or event.		
Additional Points of Sale/Service For Theme Parks \$1500 for up to 5 Additional Bars \$2500 for 6-10 Additional Bars \$3500 for more than 10 Additional Bars	3M	565.02(6) 565.02(7)(d)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only.		
			Other Terms	Required for Theme Park operators having a place of business where consumption on the premises is permitted and which has bars from which alcoholic beverages are served for consumption on the licensed premises.		
Portable Bars at Golf Club \$100	11CX	565.02(1)(g)	Products Permitted	Beer; Wine; Liquor.		FORM 6001
			Type of Sale	By the drink for consumption on premises only.		
			Other Terms	Can only be issued to a Golf Club (11CG or 11CG PC) license holder. May operate service or portable bars on contiguous property.		
Portable Bars at Golf Club Operating as Vendor Other Than 11CG/11CG-PC \$100	GC	565.02(1)(g)	Products Permitted	As permitted by corresponding primary license.		FORM 6001
			Type of Sale	By the drink for consumption on premises only.		
			Other Terms	Additional license issued to golf clubs which are ineligible for an 11CG or 11CG PC license. Authorizes service of alcoholic beverages allowed by parent license at various points of sale on the licensed premises.		

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

VENDORS – ALCOHOLIC BEVERAGES						
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
CHILD LICENSES – LICENSES CORRESPONDING TO A PRIMARY LICENSE TYPE AT A LICENSED PREMISES						
Manufacturer of Malt Beverages in Vendor Premises \$500	CMBP	561.221(3) 563.02(2)	Products Permitted	Malt Beverages.		FORM 6001
			Type of Sale	By the drink for consumption on premises only.		
			Other Terms	Manufacturer engaged in the business of brewing malt beverage. Issued in connection with a primary consumption on premises vendor license.		
			Restrictions	May not brew more than 10,000 kegs per year.		
				Only for consumption on the premises or on contiguous licensed premises owned by the vendor.		
MANUFACTURERS – ALCOHOLIC BEVERAGES						
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
Manufacturer of Wine \$1000 per plant or branch		AMW	564.02(2)(a)	Engaged in manufacturing or bottling wine. License permits the manufacture of alcoholic beverages and the distribution of the same at wholesale to licensed distributors and to no one else within the state, unless authorized by statute.		FORM 6001
Manufacturer of Wine and Cordials \$2000 per plant or branch		BMWC	564.02(2)(b)	Engaged in manufacturing of wines and cordials. License permits the manufacture of alcoholic beverages and the distribution of the same at wholesale to licensed distributors and to no one else within the state, unless authorized by statute.		FORM 6001
Manufacturer of Malt Beverages \$3000 per plant or branch		CMB	563.02(2)	Engaged in brewing malt beverages. License permits the manufacture of alcoholic beverages and the distribution of the same at wholesale to licensed distributors and to no one else within the state, unless authorized by statute.		FORM 6001
Distiller of Spirituous Liquor \$4000 per plant or branch		DD	565.03(2)(a)1	Engaged in manufacturing distilled spirits. License permits the manufacture of alcoholic beverages and the distribution of the same at wholesale to licensed distributors and to no one else within the state, unless authorized by statute.		FORM 6001

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

MANUFACTURERS – ALCOHOLIC BEVERAGES					
TYPE AND FEE	CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
Distiller of Spirituous Liquor – Craft Distillery \$1,000 per plant or branch	DD(CD)	565.03(1)(b) 565.03(2)(d)2 565.03(2)(f) 565.17(2)	Engaged in manufacturing distilled spirits and distills, rectifies or blends 250,000 gallons or less of distilled spirits per calendar year. License permits the manufacture of alcoholic beverages and the distribution of the same at wholesale to licensed distributors and may sell face to face to consumers at its souvenir gift shop or tasting room. May conduct tastings and sales of distilled spirits produced by the craft distilleries at Florida fairs, trade shows, farmers markets, expositions, and festivals.		FORM 6001
Rectifier/Blender \$4000 per plant or branch	ERB	565.03(2)(a)3	Engaged in rectifying and blending spirituous liquors. License permits the manufacture of alcoholic beverages and the distribution of the same at wholesale to licensed distributors and to no one else within the state, unless authorized by statute.		FORM 6001
DISTRIBUTORS – ALCOHOLIC BEVERAGES					
TYPE AND FEE	CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY		APPLICATION
Distributor of Beer, Wine, and Liquor \$4000 per establishment or branch	KLD	565.03(3)	Engaged in distribution of spirituous, vinous, and malt beverages to vendors and distributors.		FORM 6001
Distributor of Beer, Wine, and Liquor in counties with a population of 15,000 or less \$1000 per establishment or branch	KLD2	565.03(3)	Engaged in distribution of spirituous, vinous, and malt beverages to vendors and distributors in counties having a population of 15,000 or less if the county has permitted such sales.		FORM 6001
Distributor of Beer and Wine \$1250 per establishment or branch	JDBW	564.02(3)(a)	Engaged in distribution of beer and/or wine to vendors and other distributors.		FORM 6001
Distributor of Alcoholic Beverages in Dry Counties \$1250 per establishment or branch	EDB	563.02(3)	Engaged in distribution of alcoholic beverages containing no more than 3.2% of alcohol by weight in dry counties.		FORM 6001
Distributor of Sacramental Wines \$50	JDSW	564.02(3)(b)	Issued to a bona fide religious order, monastery, church, or religious body that has a tax-exempt status as provided by s. 212.08(7)(m) or (p). Sales and distribution are limited to wines sold solely for religious or sacramental purposes to holders of valid permits obtained under s. 564.03, F.S.		FORM 6001
Alcoholic Beverages Importer \$500	IMPR	561.14(5) 565.03(4)	Importers, whether resident or nonresident, licensed to sell, or cause to be sold, shipped and invoiced, domestic and foreign alcoholic beverages to licensed manufacturers, distributors and no one else in the state. Licensed importers shall have no direct or indirect affiliation with any vendor licensed in this state. The holder of an importer's license shall be considered as having complied with the licensing requirements of a broker or sales agent.		FORM 6008

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO

LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

DISTRIBUTORS – ALCOHOLIC BEVERAGES					
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY	APPLICATION
Alcoholic Beverages Exporter No Fee.		MEXP	561.01(16)	“Exporter” means any person who sells alcoholic beverages to persons for use outside the state and includes a ship’s chandler and a duty free shop.	FORM 6026
Salesmen of Wine and Spirits \$50		LQS	561.68	Before any person may solicit or sell to vendors or become employed as a salesman of spirituous or vinous beverages for a licensed Florida distributor, a salesman’s license must be obtained. This license is not applicable to the solicitation or sale of cider.	FORM 6013
Brokers / Sales Agents \$500		BSA	561.14(4) 565.03(4)	Brokers or sales agents, whether resident or nonresident, licensed to sell, or cause to be sold, shipped, invoiced, alcoholic beverages to licensed manufacturers, distributors and no one else in the state. Such licensed brokers or sales agents, except as relates to malt beverages, only shall represent one or more primary American sources of supply, registered as such with the division, and may be compensated on a commission or remuneration basis and shall have no direct or indirect affiliation with any vendor licensed in this state.	FORM 6008
OTHER PERMITS – ALCOHOLIC BEVERAGES					
TYPE AND FEE		CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY	APPLICATION
Off-Premises Storage Permit No Fee.		OPS	562.03	Off premises storage of alcoholic beverages upon division approval.	FORM 6017
State Bonded Warehouse \$1		SBW	562.25(1)	Issued to an operator of any storage warehouse accepting for storage alcoholic beverages subject to tax under the Beverage Law. Bond required in an amount of not more than \$5,000 nor less than \$1,000, in the discretion of the division, with a surety company licensed to do business in the state as surety. The SBW permit is not applicable to a federal bonded warehouse owned wholly by, and operated solely for, a manufacturer or distributor licensed under the Beverage Law.	Submit Letter

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
LICENSES AND PERMITS FOR ALCOHOLIC BEVERAGES

BRAND REGISTRATIONS – ALCOHOLIC BEVERAGES				
TYPE AND FEE	CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY	APPLICATION
Beer \$30 per brand	BRND	563.045	Any manufacturer, brewer, bottler, distributor, or importer of malt beverages, whether licensed under the beverage laws of this state or not, must register its name and the brands or labels under which malt beverages are to be sold or moved. Registration is required prior to selling, offering for sale, moving, or causing to be moved, any malt beverages in this state. See statutory definition of “beer” and “malt beverages” in s. 563.01, F.S.	Online Registration
Wine \$15	BRND	564.045	All vinous beverages that require a federal label approval and are scheduled for shipment to a licensed distributor or importer within this state for the purpose of being sold within the state must be registered. See statutory definition of “wine” in s. 564.01, F.S.	Online Registration
Liquor \$30	BRND	565.095	All distilled spirits that require a federal label approval and are scheduled for shipment to a licensed distributor or importer within this state for the purpose of being sold within the state must be registered. See statutory definition of “liquor,” “distilled spirits,” “spirituous liquors,” “spirituous beverages,” and “distilled spirituous liquors” in s. 565.01, F.S.	Online Registration
Brand Registrant for Malt Beverages No Fee.	RGST	563.045	Licensure as a Brand Registrant authorizes the shipment of malt beverages that move or are caused to be moved, sold, or offered for sale within the state. The Brand Registrant must be licensed for each brand or label shipped into or within this state.	Online Registration
Primary American Source of Supply for Wine or Spirituous Beverages No Fee.	RGST	564.045 565.095	<p>“Primary American source of supply” means the manufacturer, vintner, winery, rectifier, or bottler, or their legally authorized exclusive agent, who, if the product cannot be secured directly from the manufacturer by an American distributor, is the source closest to the manufacturer in the channel of commerce from whom the product can be secured by an American distributor, or who, if the product can be secured directly from the manufacturer by an American distributor, is the manufacturer. It shall also include any applicant who directly purchases vinous beverages or spirituous liquors from a manufacturer, vintner, winery, rectifier, or bottler who represents that there is no primary American source of supply for the brand, and such applicant must petition the division for approval of licensure.</p> <p>Licensure as the Primary American Source of Supply authorizes the shipment of vinous or spirituous alcoholic beverages to distributors, importers, manufacturers, bonded warehouses and registered exporters within the state. The Primary American Source of Supply must be licensed for each product shipped within and without the state.</p>	Online Registration

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
PERMITS FOR CIGARETTES AND OTHER TOBACCO PRODUCTS

VENDORS – CIGARETTES AND OTHER TOBACCO PRODUCTS				
TYPE AND FEE	CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY	APPLICATION
Retail Tobacco Products Dealer \$50	RTPD	569.003	Issued to any person, firm, association, or corporation that seeks to deal, at retail, in tobacco products within this state, or to allow a tobacco products vending machine to be located on its premises in this state. One permit is required for each vending machine, place of business, or the premises where tobacco products are sold; however, if more than one vending machine is in single location or if nicotine products are sold both over the counter and through a vending machine at a single location, only one permit is required for that location. Purchases of cigarettes and other tobacco products must be made through a licensed wholesale dealer. Review chapter 569, F.S., for additional regulations applicable to the permit. A retail tobacco products dealer is not required to have a separate or additional retail nicotine products dealer permit to deal, at retail, in nicotine products or allow a nicotine products vending machine to be located on its premises.	FORM 6028
Retail Nicotine Products Dealer No Fee.	RNPD	569.32	Issued to any person, firm, association, or corporation that seeks to deal, at retail, in nicotine products within the state, or to allow a nicotine products vending machine to be located on its premises in the state. One permit is required for each vending machine, place of business, or the premises where nicotine products are sold; however, if more than one vending machine is in single location or if nicotine products are sold both over the counter and through a vending machine at a single location, only one permit is required for that location. Review chapter 569, F.S., for additional regulations applicable to the permit.	FORM 6028

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
PERMITS FOR CIGARETTES AND OTHER TOBACCO PRODUCTS

UPDATED 2023

MANUFACTURERS – CIGARETTES AND OTHER TOBACCO PRODUCTS				
TYPE AND FEE	CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY	APPLICATION
Cigarette Manufacturer \$100	CMFG	210.01(21) 210.15(1)	"Manufacturer" means any domestic person or entity with a valid permit under 26 U.S.C. s. 5712 that manufactures, fabricates, assembles, processes, or labels a finished cigarette.	FORM 6024
DISTRIBUTORS – CIGARETTES AND OTHER TOBACCO PRODUCTS				
TYPE AND FEE	CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY	APPLICATION
Cigarette Wholesale Dealer \$100	CWD	210.01(6) 210.15(1)	"Wholesale dealer" means any person located inside or outside this state who sells cigarettes to retail dealers or other persons for purposes of resale only. No retail sales of cigarettes may be made at a location for which a wholesale dealer, distributing agent, or exporter permit has been issued.	FORM 6024
Cigarette Distributing Agent \$100	CDA	210.01(14) 210.15(1)	"Distributing agent" means every person, firm or corporation in this state who acts as an agent for any person, firm or corporation outside or inside the state by receiving cigarettes in interstate or intrastate commerce and storing such cigarettes subject to distribution or delivery upon order from said principal to wholesale dealers and other distributing agents inside or outside this state. No retail sales of cigarettes may be made at a location for which a wholesale dealer, distributing agent, or exporter permit has been issued.	FORM 6024
Cigarette Importer \$100	CIMP	210.01(20) 210.15(1)	"Importer" means any person with a valid permit under 26 U.S.C. s. 5712 who imports into the United States, directly or indirectly, a finished cigarette for sale or distribution.	FORM 6024
Cigarette Exporter \$100	EXP	210.01(17) 210.15(1)	"Exporter" means a person who transports tax-exempt cigarettes into this state under bond for delivery beyond the borders of this state. Each permit shall entitle the permittee to store such cigarettes under bond at one location in this state pending shipment beyond the borders of this state. No retail sales of cigarettes may be made at a location for which a wholesale dealer, distributing agent, or exporter permit has been issued.	FORM 6024
Cigar Wholesale Dealer No Fee.	CGR	210.65(2)	The CGR permit provides a license registration for persons engaged solely in the sale and distribution of cigars to retail dealers for resale only. The permit is not necessary for persons licensed as a CWD or TWD.	FORM 6006

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO
PERMITS FOR CIGARETTES AND OTHER TOBACCO PRODUCTS

DISTRIBUTORS – CIGARETTES AND OTHER TOBACCO PRODUCTS				
TYPE AND FEE	CLASS	STATUTE	REGULATIONS OF LICENSE ACTIVITY	APPLICATION
Tobacco Wholesale Dealer/Distributor \$25	TWD	210.25(5)	<p>"Distributor" means:</p> <p>(a) Any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from outside the state any tobacco products for sale;</p> <p>(b) Any person who makes, manufactures, or fabricates tobacco products in this state for sale in this state; or</p> <p>(c) Any person engaged in the business of selling tobacco outside this state who ships or transports tobacco products to retailers in this state to be sold by those retailers.</p>	FORM 6005
		210.40	Bond required in the sum of \$25,000 and in a form prescribed by the division. Whenever it is the opinion of the division that the bond given by a licensee is inadequate in amount to fully protect the state, the division shall require an additional bond in such amount as is deemed sufficient.	
		210.25(12)	"Tobacco products" means loose tobacco suitable for smoking; snuff; snuff flour; cavendish; plug and twist tobacco; fine cuts and other chewing tobaccos; shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing; but "tobacco products" does not include cigarettes, as defined by s. 210.01(1), or cigars.	

Staff Summary:

Existing rule 61A-4.0371 of the Division of Alcoholic Beverages and Tobacco in the Department of Business and Professional Regulation grants an excise tax deduction for distributors of alcoholic beverages that become unsaleable through warehouse breakage, spoilage, evaporation, expiration, or unfit for human consumption. As it appears that the rule lacks statutory authority, JAPC requested the division repeal the rule.

BEN ALBRITTON
President



Representative Tobin Rogers "Toby" Overdorf, Chair
Senator Erin Grall, Vice Chair
Senator Mack Bernard
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Tina Scott Polsky
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger

DANIEL PEREZ
Speaker



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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

March 6, 2025

Ms. Susan Swartz, Rules Attorney
Office of the General Counsel
Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-6563

**RE: DBPR: Division of Alcoholic Beverages and Tobacco
Existing Rule 61A-4.0371**

Dear Ms. Swartz:

In accordance with the Committee's responsibilities pursuant to section 120.545(1) and Joint Rule 4.6 of the Florida Legislature, I have reviewed the above-referenced existing rule. I have the following comments.

61A-4.0371: What is the statutory authority for this rule? It does not appear that any of the statutes cited as laws implemented provide authority for the excise tax deductions described in the rule.

Upon review, it appears this rule should be repealed.

Please let me know if you have any questions. Otherwise, I look forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "Marjorie C. Holladay".

Marjorie C. Holladay
Chief Attorney

cc: Mr. Jerome Worley, Executive Director

MCH:df #195659

61A-4.0371 Excise Tax Deduction for Breakage and Spoilage of Alcoholic Beverages.

(1) Distributors which distribute malt, vinous, and spirituous beverages shall make an excise tax deduction in their monthly tax report for alcoholic beverages which have become unsaleable through warehouse breakage, spoilage, evaporation, expiration, or which have become unfit for human consumption in an amount equal to .49 percent of gross tax for vinous sales; .15 percent of gross tax for spirituous beverage sales; and .20 percent of gross tax for malt beverage sales or the actual breakage or spoilage destruction witnessed and documented by the division employee or other authorized person. The method of breakage for malt beverages (percentage or actual) must be elected annually and will be effective for 1 year unless the license is transferred or 100 percent of the stock is sold to a new owner. Distributors who engage in the sale of more than one type of alcoholic beverage shall utilize the provisions of this subsection for all sales of malt, wine, and liquor products.

(2) However, extraordinary losses, as defined hereafter in this subsection, of malt, vinous, and spirituous alcoholic beverages shall be excluded from the standard rates applied in subsection (1) above. Extraordinary losses of alcoholic beverages shall constitute unusual losses which are not expected to recur resulting from acts of God or nature, and accidents which occur during interstate or intrastate shipment from manufacturers to distributors, from distributor to distributor, and from distributor to retailer, or products recalled by manufacturers and destroyed by the distributor. Extraordinary losses shall not include losses from evaporation, breakage, or spoilage incurred on the licensed premises in the normal course of business which merely exceed the standard deductions referenced in subsection (1). The distributor shall notify the division immediately upon the occurrence of an extraordinary loss of merchandise. The actual gallonage of the extraordinary loss shall be deducted by the distributor. The distributor shall show proof of the extraordinary loss occurrence prior to recovery or crediting of any excise tax due on unsaleable alcoholic beverages by either providing a copy of a traffic accident investigation or incident report from the investigating agency when the loss occurs in transit, or be witnessed by an authorized division employee where the loss occurs on the premise of the distributor, or other appropriate documentation which clearly and objectively establishes the extraordinary loss. The distributor shall show proof of the destruction, dumping or recycling of the alcoholic beverages involved in the extraordinary loss occurrence by providing a statement to the division from the distributor's employee responsible for the destruction or recycling. The statement shall include a description of alcoholic beverages, by gallon and tax category, which have been destroyed or recycled and a statement as to the location of the extraordinary loss occurrence and the location of the site of destruction or recycling.

(3) The distributor shall notify the division to witness the remaining undamaged, invoiced inventory which is utilized by the distributor. The distributor reporting extraordinary breakage, spoilage or evaporation shall furnish proof that Florida Excise Taxes have not been recovered from any other source. Copies of all insurance claims and receipt of payments shall be provided by the distributor to the division upon request by the division. The actual gallonage of breakage, spoilage, or evaporation of alcoholic beverages shall be recorded on form BPR-648A effective January 14, 1987 and incorporated herein by reference and will contain the date of product destruction, quantity destroyed by tax classification, and a statement signed by the distributor's authorized employee or agent that the product was destroyed. A copy of form BPR-648A may be obtained by writing to the Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, 2601 Blair Stone Road, Tallahassee, Florida 32399-1022. All completed forms shall be maintained for a period of 3 years.

Rulemaking Authority 561.11 FS. Law Implemented 561.55(1), 563.05, 564.06, 565.12 FS. History—New 3-1-76, Formerly 7A-4.371, Amended 7-1-87, Formerly 7A-4.0371, Amended 2-24-94.

Staff summary:

Existing rule 61A-2.022 of the Division of Alcoholic Beverages and Tobacco in the Department of Business and Professional Regulation imposes administrative fines for certain violations. In addition to an unauthorized rule subsection, an unauthorized affirmation, and penalties imposed for violations of statutes that have been repealed, the rule includes penalty guidelines that do not comply with ranges of penalties authorized by section 561.29, F.S., and section 562.12, F.S.

BEN ALBRITTON
President



Representative Tobin Rogers "Toby" Overdorf, Chair
Senator Erin Grall, Vice Chair
Senator Mack Bernard
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Tina Scott Polsky
Senator Carlos Guillermo Smith
Senator Clay Yarborough
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Representative Meg Weinberger

DANIEL PEREZ
Speaker



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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

March 6, 2025

Ms. Susan Swartz, Rules Attorney
Office of the General Counsel
Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-6563

**RE: DBPR: Division of Alcoholic Beverages and Tobacco
Existing Rule 61A-2.022**

Dear Ms. Swartz:

In accordance with the Committee's responsibilities pursuant to section 120.545(1) and Joint Rule 4.6 of the Florida Legislature, I have reviewed the above-referenced existing rule. I have the following comments.

- 61A-2.022:** It appears that section 210.10 should be added as rulemaking authority.
Please explain why sections 120.57, 409.2598, and 559.79(3) are cited as laws implemented.
It appears that section 210.181 should be added as laws implemented.
Sections 561.501(5) was repealed by chapter 2009-20, and section 938.271 was transferred to section 938.27 by chapter 97-271. Further, it does not appear that section 938.27 should be cited as a law implemented.
- 61A-2.022(4):** Please correct the citations to section 859.06 and 959.061. Those statutes no longer exist.
Please explain the statutory authority for the "affirmation" described in this subsection. An affirmation is equivalent to an oath and statutory authority is therefore required. See Art. I, § 18, Fla. Const.; § 120.54(1)(e), Fla. Stat. See §§ 1.01(5), 92.52, Fla. Stat. Further, this affirmation may be unenforceable if not taken before a person authorized to administer oaths.

Ms. Susan Swartz
March 6, 2025
Page 2

61A-2.022(7): Please provide the statutory authority for this rule subsection. Absent authority, the rule should be amended to remove this subsection. *See* § 120.52(8)(b), Fla. Stat.

Penalty Guidelines: It would be helpful to number the violations and associated penalties in the rule text for easy identification.

As the statutory range of penalties differ, please differentiate those violations for which section 561.29 applies and those violations for which section 562.12 applies. *See* §§ 120.52(8)(c) and (d), .545(1)(i), Fla. Stat.

Also, please ensure compliance with those penalties. *See* § 120.52(8)(c), Fla. Stat.

The violation citing section 409.327 should be corrected or removed. Section 409.327 was repealed by chapter 96-175, Laws of Florida.

Also, it appears that the citation to section 561.29(f) and (g) should be section 561.69(1)(f) and (g). Please correct that citation.

Please correct the citation to section 561.01(1). That subsection simply defines "Division."

It is not necessary to list subsections (1) through (8) of section 561.24.

The violation citing section 561.501 should be corrected or removed. Section 561.50 was repealed by chapter 2009-20, Laws of Florida.

The violation citing section 565.09 should be corrected or removed. Section 565.09 was repealed by chapter 96-175, Laws of Florida.

Please correct the citation to section 859.06. That statute no longer exists. *See* ch. 97-162, Laws of Fla.

Please let me know if you have any questions. Otherwise, I look forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "Marjorie C. Holladay". The signature is fluid and cursive, with the first name being the most prominent.

Marjorie C. Holladay
Chief Attorney

cc: Mr. Jerome Worley, Interim Executive Director

MCH:df #195660

61A-2.022 Penalty Guidelines.

(1) This rule sets for the penalty guidelines which shall be imposed upon alcoholic beverage licensees and permittees who are supervised by the division. District supervisors, audit supervisors, and bureau chiefs are authorized to accept settlement offers that do not deviate from the penalty guidelines. The penalties provided below are based upon a single violation which the licensee committed or knew about; or a pattern of at least three violations on different dates within a 12-week period by employees, independent contractors, agents, or patrons on the licensed premises or in the scope of employment in which the licensee did not participate; or violations which were occurring in an open and notorious manner on the licensed premises.

(2) Businesses and non-profit charitable organizations issued alcoholic beverage licenses, permits, and brand registrations by the division are subject to discipline (warnings, corrective action, civil penalties, suspensions, revocations, reimbursement of cost, and forfeiture).

(3) The penalties for repetitive unlawful conduct shall be based on the same violations occurring within 36 months of the date of the first administrative proceeding notice.

(4) All stipulations accepted by the division shall include a written statement that the violation has been corrected and a written plan to prevent additional violations of the same law. All violations cited in the administrative action shall be corrected before any stipulation will be accepted by the division. All proceedings involving violations of Sections 562.11, 569.003, 569.005, 569.007, 859.06, and 859.061, F.S., and Chapter 893, F.S., must include an affirmation of compliance with Florida's Responsible Vendor-Dealer Acts (Sections 561.701 through 561.706, and 569.008, F.S.) as a part of the prevention plan required as an attachment to stipulations offered in settlement.

(5) All stipulations offering lower penalties than the guidelines must be approved by the director and shall include a written statement of mitigation in addition to the statement of correction and prevention plan required in subsection (4) of this rule.

(6) Reimbursement of cost shall include those expenses of each participating government agency involved in the investigation of the licensed premises. Expenses shall be limited to overtime, per diem, equipment and property rental, evidence purchased, supplies purchased, and other purchases directly related to conducting the investigation. The division shall keep and maintain an accurate log with receipts of expenses related to investigations of licensed premises. No reimbursement will be required if the total expenses are less than \$25.

(7) All civil penalties may be substituted with license or permit suspensions using the ratio of 1 day for each \$50; for example, a licensee could offer a 5-day license suspension instead of a \$250 civil penalty. No required suspensions may be substituted with civil penalties unless approved by the director.

(8) Licensees or permittees who violate the accepted stipulation agreement or final order shall be issued a new administrative action under the same case number for failing to comply with the stipulation or final order which will be considered a separate violation of state law and the penalty for the violation cited will double.

(9) No stipulation or order may exceed \$1,000 for violations arising out of a single transaction.

(10) Licensees may petition the division to amend any stipulation or final order by sending the petition to the Director, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, 2601 Blair Stone Road, Tallahassee, Florida 32399-1020. Petitions filed shall not automatically stay any effective dates in the stipulation or order unless the director authorizes the stay or amendment requested in the petition.

(11) The penalty guidelines set forth in the table that follows are intended to provide field offices and licensees or permittees with penalties that will be routinely imposed by the division for violations. The description of the violation in the table is intended to provide a brief description and not a complete statement of the statute.

STATUTE	VIOLATION	FIRST OCCURRENCE	SECOND OCCURRENCE	THIRD OCCURRENCE	FOURTH OCCURRENCE
409.2598, 559.79(3)	The licensee's failure to pay child support as determined by a court under section 409.2598, RS.	Suspension until compliance with court order			
210.06(3), 210.18	Possession of less than 500 packs of nontax paid cigarettes for purpose of resale	\$500 and excise tax	\$1000 and excise tax	\$2000 and excise tax	Revocation and excise tax
210.06(3), 210.18	Possession of 500 or more packs of nontax paid cigarettes	Revocation and excise tax			

210.15(1)(b)	Purchasing cigarettes for purpose of resale from other than a licensed wholesale dealer	\$1000	\$2000	Revocation	
210.65(2)	Purchasing other tobacco products for purpose of resale from other than a licensed wholesale dealer	\$1000	\$2000	Revocation	
Chapter 212	Failure to timely pay required taxes to Department of Revenue	Corrective action and satisfaction of debt to DOR or approved payment plan	\$250 and satisfaction of debt to DOR or approve payment plan	\$500 and satisfaction of debt to DOR or approved payment plan	Revocation
409.327	Pattern of Fraud	Revocation			

561.14(3)	Purchasing or acquiring alcoholic beverages for the purpose of resale from other than a Florida licensed distributor	\$1000	\$2000	Revocation	
561.15(3) and 561.29(f) and (g)	Licenses not qualified to be issued an alcoholic beverage license	Revocation			
561.01(1), 561.17, 561.33, and 569.003	Failing to file required application	\$500	\$1000	Revocation	
561.20	Failure to meet minimum qualifications of special license	<p>\$1000 and revocation without prejudice to obtain any other type license, but with prejudice to obtain the same type of special license for 5 years.</p> <p>Note: For each 2 month period a special restaurant license failed to meet the required food percentage the civil penalty shall be increased by \$1,000</p>			

561.20(6)	Having an interest in more than 30 percent of the quota licenses in one county	Revocation of all licenses exceeding the 30 percent cap			
561.22(1)	Manufacturer of alcoholic beverages having an interest in vendor's business or a vendor having an interest in a manufacturer's business	Revocation			
561.24(1)-(8)	Spirituuous liquor manufacturers having an interest in a distributor's or exporter's business	Revocation			

561.29(1)(c)	Maintaining a nuisance on the licensed premises	Revocation			
561.29(1)(d)	Maintaining a premises that is unsanitary	Revocation			
561.29(1)(h)-(i)	Failing to operate license the minimum required time	Revocation			
561.29(1)(j)	Failure to maintain and produce records of monthly sales and purchases of alcoholic beverages	Revocation			
561.32(4)	Unlawful transfer of ownership of quota license	Revocation			

561.38	Bond cancellation selling alcoholic beverages during time bond is not effective	Revocation			
561.42(1)	Manufacturer or distributor of alcoholic beverages having indirect or direct financial interest in vendor	Revocation			
561.42(1)-(8)	Manufacturer or distributor unlawfully giving gifts, loans of money or property, rebates, or extensions of credit	\$1000	\$2000	\$4000	Revocation

561.42(1)-(8)	Vendors accepting unlawful gifts, loans of money or property, rebates, or extensions of credit	\$1000	\$2000	\$4000	Revocation
561.50(1)	Late excise tax payments or reports	Corrective action	\$250	\$500	Revocation

561.501	Late surcharge payments or reports	Corrective action and 25 percent of total late surcharge principal payments plus interest if licensee is current with surcharge reports and payments, and did not willfully neglect compliance with surcharge law based on a written statement of mitigation	\$250 and 30 percent of total late surcharge principal payments plus interest if licensee is current with surcharge reports and payments, and did not willfully neglect compliance with surcharge law based on a written statement of mitigation	\$500 and 50 percent of total late surcharge principal payments plus interest if licensee is current with surcharge reports and payments, and did not willfully neglect compliance with surcharge law based on a written statement of mitigation	Revocation and 50 percent of total late surcharge principal payments plus interest if licensee is current with surcharge reports and payments, and did not willfully neglect compliance with surcharge law based on a written statement of mitigation
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561.55	Failure to maintain required records	Revocation			
561.665	Exploiting persons with dwarfism	\$1000	\$2000	\$4000	Revocation
562.01	Possession of one gallon or less of untaxed alcoholic beverages	\$500 and excise tax	\$1000 and excise tax	\$2000 and excise tax	Revocation and excise tax
562.01	Possessing more than one gallon of untaxed alcoholic beverages	\$1000 and excise tax	\$2000 and excise tax	\$4000 and excise tax	Revocation and excise tax
562.02	Possession of beverages not permitted to be sold under license	\$1000	\$2000	\$4000	Revocation
562.06	Sale off the licensed premises	\$500	\$1000	\$2000	Revocation

562.061	Misrepresentation of alcoholic beverages	\$1000 and a 20-day license suspension	Revocation		
562.11	Sale, or giving or serving alcoholic beverages to persons under the age of 21 or allowing them to consume alcoholic beverages	\$1000 and a 7-day license suspension	\$3000 and a 30-day license suspension	Revocation	
562.12	Selling alcoholic beverages in a manner not permitted by license or with expired license	\$500 or an amount equal to the correct license fee, whichever is greater	\$1000 or an amount equal to the correct license fee, whichever is greater	\$2000	Revocation
562.13	Employment of restricted persons	\$500	\$1000	\$2000	Revocation

562.131	Soliciting beverages	\$1000 and a 10-day license suspension	\$2000 and a 20-day license suspension	\$4000 and a 30-day license suspension	Revocation
562.20	Failure to file timely reports	Corrective action	\$250	\$500	Revocation
562.23	Conspiracy to violate the Beverage Law	\$1000	Revocation		
562.25(1)	Failure to obtain bonded warehouse permit	\$1000	Revocation		
562.26	Unlawful delivery by bonded warehouse operator	\$1000 and excise taxes due	Revocation		
562.32	Moving or concealing alcoholic beverages to evade taxes	Revocation and excise taxes due			

562.41(3)	Refusing to admit authorized law enforcement officers or division employees to licensed premises	\$1000	Revocation		
562.41(4)	Forcefully obstructing a division employee or law enforcement officer	\$1000 and a 30-day suspension	Revocation		
562.45	False entry into required records	Revocation, taxes, and penalties due			
562.451	Possession of moonshine	Revocation and excise taxes due			

562.454	Selling or serving alcoholic beverages after notice to close during riot	Revocation				
562.455	Adulterating liquor	Revocation				
562.50	Furnishing alcoholic beverages after notice to persons habitually addicted	\$1000 and 7-day suspension	\$2000 and 30-day suspension	Revocation		
562.51	Discrimination in service of alcoholic beverages	\$1000	\$2000 and a 20-day license suspension	\$4000 and a 30-day license suspension	Revocation	
563.021(1)	Selling malt beverages outside exclusive sales territories	\$1000	\$2000	\$4000	Revocation	
563.03	Vendor serving draft beer without correct tap	\$1000	\$2000	\$4000	Revocation	

563.045	Failure to register malt beverage brands or pay annual fee	\$100 per brand	\$200 per brand	\$400 per brand	Revocation
563.06	Selling malt beverages in unlawful container sizes or without "FL" stamp	\$1000	\$2000	\$4000	Revocation
564.041	Failure to register wine brands or pay annual fee	\$100 per brand	\$200 per brand	\$400 per brand	Revocation
564.045	Primary American source violations	\$1000	\$2000	\$4000	Revocation
564.05	Selling wine in unlawful container sizes	\$1000	\$2000	\$3000	Revocation

565.02(1)(g)	Failure to pay license tax on more than three rooms with bars	\$1000	\$2000	\$4000	Revocation
565.07	Sale or possession of distilled spirits greater than 153 proof	\$1000	\$2000	\$4000	Revocation
565.09	Failure to register spirituous liquor brands or pay registration fee	\$100 per brand	\$200 per brand	\$400 per brand	Revocation
565.095	Primary American source violations	\$1000	\$2000	\$4000	Revocation
565.10	Selling spirituous beverages in unlawful container sizes	\$1000	\$2000	\$4000	Revocation

832.05	Worthless check	No future personal checks to the division for 3 years	20-day suspension and no future personal checks to the division	Revocation	
Chapter 837	Perjury	Revocation			
559.791	False information on application	Revocation			
Chapter 849	Unlawful gambling	\$250 per type of unlawful game and forfeiture of all unlawful gross income received from participants	\$500 per type of unlawful game and forfeiture of all unlawful gross income received from participants	\$1000 per type of unlawful game and forfeiture of all unlawful gross income received from participants	Revocation

§§.06	Selling cigarettes or tobacco products to persons under 18	\$500	\$1000	\$2000 and a 20-day license suspension or cigarette permit	Revocation
Chapter 893	Controlled substances' violations	Revocation			
	Any felony not specifically listed in the above table	Revocation			
	Any misdemeanor not specifically listed in the above table	\$250	\$500	\$1000	Revocation
	Any noncriminal violation not specifically mentioned in the above table	\$250	\$500	\$1000	Revocation

Rulemaking Authority 561.11 FS. Law Implemented 120.57, 409.2598, 559.79(3), 561.29, 561.501(5), 939.01 FS., as created by Chapter 93-134, Laws of Florida. History—New 2-28-94.

TAB 5

BEN ALBRITTON
President



Representative Tobin Rogers "Toby" Overdorf, Chair
Senator Erin Grall, Vice Chair
Senator Mack Bernard
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Tina Scott Polsky
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger

DANIEL PEREZ
Speaker



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japc@leg.state.fl.us

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

March 24, 2025

Judge Darren Schwartz
Interim Director and Chief Judge
Division of Administrative Hearings
1230 Apalachee Parkway
Tallahassee, Florida 32301-3060

Dear Judge Schwartz:

The Joint Administrative Procedures Committee respectfully requests your attendance at the next meeting of the Committee to be held at 11:00 a.m., March 31, 2025, in Reed Hall, Room 102, House Office Building. The purpose of this request is to provide you the opportunity to respond to the questions raised by the members of the Committee following your presentation before the Committee on February 17, 2025. More specifically, as outlined in my letter of March 14, 2025:

- Representative Johnson asked if the Florida Evidence Code should apply to all DOAH hearings. Chair Overdorf indicated that he was also interested in this issue.
- Senator Gaetz discussed apparent inconsistencies and the timeliness of decisions related to cases referred to DOAH from the Commission on Ethics. Specifically, how long does it take for a matter to go from a referred ethics complaint to a DOAH resolution and are there any plans to improve on this timing? Senator Gaetz requested the information be specific to these types of matters.
- Senator Carlos Guillermo Smith asked for any recommendations to make ALJs more accountable that were not presented at the Committee meeting. You indicated that the recommended change presented to the Committee would mean the removal of career service status and that you would be happy to have further conversations on potential ways to address the issue.

Please let me know if you have any questions,

Sincerely,

A handwritten signature in cursive script, reading "Kenneth J. Plante".

Kenneth J. Plante
Coordinator

cc: Representative Tobin Rogers Overdorf
Senator Erin Grall

KJP:tf