

61A-3.0141 Special Restaurant Licenses.

(1) Special restaurant licenses in excess of the quota limitation set forth in subsection 561.20(1), Florida Statutes, shall be issued to otherwise qualified applicants for establishments that are qualifying bona-fide restaurants engaged primarily in the service of food and non-alcoholic beverages, if they qualify as special restaurant licensees as set forth in subsection (2) of this rule. Special restaurant licensees must continually comply with each and every requirement of both subsections (2) and (3) of this rule as a condition of holding a license. Qualifying restaurants must meet the requirements of this rule in addition to any other requirements of the beverage law. ~~The suffix "SRX" shall be made a part of the license numbers of all such licenses issued after January 1, 1958.~~

(2) Special restaurant licenses shall be issued only to applicants for licenses in restaurants meeting the criteria set forth herein.

(a) ~~Except in the counties of Alachua, Brevard, Broward, Citrus, for premises with a cocktail lounge or open bar, Dade, Pasco, St. Lucie, Walton, Martin, Nassau, Okaloosa, Okeechobee, Osceola, Hendry, Highlands, Hillsborough, Indian River, Lake, and Orange County with respect to Orlando, Winter Park, and Maitland, each of the above being controlled by general law or special act,~~ a A qualifying restaurant must have a service area occupying 2,500 or more square feet of floor space, except in counties controlled by special act.

1. The required square footage shall ~~not~~ include only the any space contained in a permanently covered area ~~an uncovered or not permanently covered area adjacent to~~ of the premises where because food service is ~~not~~ available at all times of operations. The required square footage may include floor space in an outdoor seating area if the area is included on the licensed premises sketch, equipped with a rain-excluding covering from above affixed permanently to the structure, and suitable for services of meals at all times of operation without regard to unforeseeable conditions.

2. The required square footage shall be contiguous and under the management and control of a single licensed restaurant establishment.

3. Kitchens, food service areas, pantries, storage rooms, offices, and toilets, used exclusively in the operation of the restaurant shall be included in the required square footage.

4. Measurements of the required square footage will be taken from the outside of qualifying structures or permanently covered areas.

(b) ~~Except in the counties of Alachua, Brevard, Broward, Dade, Hendry, Highlands, Walton, Hillsborough, Indian River, Pasco, Martin, Nassau, Okaloosa, St. Lucie, Osceola, and Orange County with respect to Orlando, Winter Park, and Maitland, each of the above being controlled by general law or special act,~~ a A qualifying restaurant must have accommodations for the service and seating of 150 or more patrons at tables at one time, except in counties controlled by special act.

1. The tables and seating must be located within the square footage area meeting the criteria of floor space provided for in paragraph (2)(a) of this rule.

2. The tables must be of adequate size to accommodate the service of full course meals in accordance with the number of chairs or other seating facilities provided at the table.

3. Seating at counters used to serve food shall be included in the minimum seating requirements.

(c) Except in those counties and municipalities controlled by ~~general law or~~ special act, as set forth in paragraph (2)(b) of this rule, a qualifying restaurant must have sufficient ~~all~~ equipment on the premises for the preparation and service of ~~150~~ full course meals ~~on the premises~~ at one time to the number of seats required by the applicable general law or special act.

(d) An applicant for a special restaurant ~~an SRX~~-license must either hold, or have applied for, the appropriate restaurant license issued by the Division of Hotels and Restaurants prior to issuance of the temporary special restaurant ~~SRX~~ license by the Division of Alcoholic Beverages and Tobacco. The applicant restaurant must hold the appropriate restaurant license before it will be eligible for a permanent special restaurant ~~SRX~~ license.

(e) A qualifying restaurant must comply with all fire safety laws relating to the operation of a restaurant.

(3) Full course meals must be available at all times when the restaurant is serving alcoholic beverages, except alcoholic beverage service may continue until food service is completed to the final seating of restaurant patrons for full course meals. A full course meal as required by this rule must include each of the following separate items:

1. Salad or vegetable;

2. Entrée;

3. Beverage; and

4. Bread.

(4) Qualifying restaurants receiving a special restaurant license after April 18, 1972, must, in addition to continuing to comply with the requirements set forth for initial licensure, also maintain the required revenue percentage and the required records, as set forth in paragraph (a) or (b) below, on a bi-monthly basis. Additionally, qualifying restaurants must meet at all times the following operating requirements:

(a) At least 51 percent of total gross revenues must come from retail sale on the licensed premises of food and non-alcoholic beverages. Proceeds of catering sales shall not be included in the calculation of total gross revenues. Catering sales include food or non-alcoholic beverage sales prepared by the licensee on the licensed premises for service by the licensee outside the licensed premises.

1. Qualifying restaurants must maintain separate records of all purchases and all gross retail sales, which shall be produced to the Division as specified herein ~~of food and non-alcoholic beverages and all purchases and gross retail sales of alcoholic beverages.~~

2. The records required in subparagraph ~~(4)(a)1.~~ ~~(3)(a)1.~~ of this rule must be maintained on the premises, or other designated place approved in writing by the division, for a period of 3 years and shall be made available within 14 days upon demand by ~~an~~ officer of the division. ~~The division shall approve written requests to maintain the aforementioned records off the premises when the place to be designated is the business office, open 8 hours per work day, of a corporate officer, attorney, or accountant; the place to be designated is located in the State of Florida; and the place to be designated is precisely identified by complete mailing address.~~

3. Since the initial burden is on the applicant for the ~~holder of the~~ special restaurant license to demonstrate compliance with the requirements for the license, the records required to be kept shall be legible; and clear; ~~and in the English language.~~

4. The required percentage shall be computed by adding all gross sales of food and non-alcoholic beverages, and ~~alcoholic beverages~~ and thereafter dividing that sum into the total of all the gross revenues. ~~of food plus non-alcoholic beverages.~~

(b) Restaurants issued special restaurant licenses prior to April 18, 1972 but after September 1, 1969 shall be required to derive at least 30 percent of gross revenues from the sale of food and non-alcoholic beverages.

(c) Restaurants holding special restaurant licenses issued prior to September 1, 1969 are not required to derive any fixed amount of gross revenue from the sale of food and non-alcoholic beverages but must operate as a bona fide restaurant and meet the other requirements of this rule.

~~(d) Full course meals must be available at all times when the restaurant is serving alcoholic beverages except alcoholic beverage service may continue until food service is completed to the final seating of restaurant patrons for full course meals. A full course meal as required by this rule must include the following:~~

~~1. Salad or vegetable;~~

~~2. Entree;~~

~~3. Beverage; and~~

~~4. Bread.~~

(e) For purposes of determining required percentages, an alcoholic beverage means the retail price of a serving of beer, wine, straight distilled spirits, or a mixed drink.

~~(5)(4)~~ Establishments obtaining and operating under a temporary initial license as provided in Section 561.181(2), Florida Statutes, or under a temporary transfer license as provided in Section 561.331, Florida Statutes, shall be investigated by the division during said operation and prior to issuance of a permanent license to verify ~~insure~~ that the establishment is a qualifying ~~bona fide~~

restaurant primarily engaged in food and non-alcoholic beverage sales and service and that the requirements of this rule have been met. The failure of an establishment to operate as a qualifying ~~bona fide~~ restaurant during said period of time shall result in denial of the application for a special restaurant license. ~~An application for a special restaurant license from an establishment which has had a prior application for a special restaurant license denied during the previous 30 day period will be accepted by the division. The recent denial of the prior application will, however, be deemed a disclosure on the face of the subsequent application of a reason to deny such subsequent application. Accordingly, in such cases, no temporary initial license will be issued for a period of 30 days to allow the division inspectors to ensure that the reason to deny has been abated.~~

Specific Authority 561.11 FS. Law Implemented 20.165, 561.01(11), 561.20(2)(a)4, 561.17, 561.18, 561.19, 561.29. FS. History—New 8-23-90, Amended 5-19-91, 10-22-91, Formerly 7A-3.0141, Amended _____.