

Notice of Change

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE NO.:     RULE TITLE:  
61A-3.0141    Special Restaurant Licenses

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with Section 120.54(3)(d)1., F.S., published in Vol. 42, No. 77, April 20, 2016 issue of the Florida Administrative Register.

**61A-3.0141 Special Food Service Restaurant Licenses.**

(1) ~~A qualifying food service establishment receiving a special food service license after April 18, 1972, must have a service area occupying 2,500 or more square feet. The required square footage shall include only the food service establishment's buildings and other contiguous outside areas which are under the management and control of the licensed food service establishment. must meet and continually comply with the requirements of this rule and the Beverage Law as a condition of holding a special restaurant license.~~

(2) ~~An applicant for a special food service license must hold the appropriate food service establishment license issued by the state agency with jurisdiction over the applicant prior to issuance of a temporary or permanent special food service license by the Division of Alcoholic Beverages and Tobacco. A special restaurant license shall be issued only to an applicant that is engaged in the sale and service of food and non-alcoholic beverages and that meets the criteria set forth herein.~~

~~(a) A qualifying food service establishment receiving a special restaurant license after April 18, 1972, must have a service area occupying 2,500 or more square feet. The required square footage shall include only the food service establishment's building and other outside areas which are contiguous to the building. The square footage shall be under the management and control of a single licensed food service establishment and be exclusively used in the operation of the food service establishment. Measurements of the required square footage will be taken from the outside of qualifying structures and outdoor spaces.~~

~~(b) A qualifying food service establishment receiving a special restaurant license after April 18, 1972, must have sufficient equipment and accommodations to serve and seat 150 or more patrons at tables at one time. The tables and seats must be for the exclusive use of the food service establishment and located within the service area meeting the criteria of paragraph (2)(a) of this rule. Seating at counters where food service is available at all times shall be included in the minimum table service requirements.~~

~~(c) An applicant for a special restaurant license must hold the appropriate food service establishment license issued by the Division of Hotels and Restaurants or the Department of Health prior to issuance of~~

a temporary or permanent special restaurant license by the Division of Alcoholic Beverages and Tobacco.

~~(d) Food service must be available at all times when the food service establishment is serving alcoholic beverages. Alcoholic beverage service may continue until food service is completed to the final seating of patrons, provided that the time of sale is permitted under Section 562.14, F.S.~~

~~(3) Records of each purchase and each sale of food, alcoholic beverages, and non-alcoholic beverages shall be maintained for a period of 3 years. The required records shall be legible and itemized and shall be made available upon request by the Division. A qualifying food service establishment receiving a special restaurant license after April 18, 1972, must maintain the required revenue percentage and the required records, as set forth in paragraph (a) below. Administrative action will be initiated by the division when audit findings determine that a special restaurant license failed to meet the required revenue percentage applicable to the license during the audit period.~~

~~(a) For the first 60 day operating period and for each 12 month operating period thereafter, at least 51 percent of gross food and beverage revenue must be derived from the retail sale of food and non alcoholic beverages on the licensed premises.~~

~~1. Separate records of all purchases and all retail sales shall be maintained on the licensed premises, or other designated place approved in writing by the division, for a period of 3 years. The required records shall be legible and clear and shall be made available within 14 days upon request of the division.~~

~~2. The required revenue percentage shall be computed as the sum of gross food and non alcoholic beverage revenue divided by the sum of gross food and beverage revenue. Proceeds of catering sales shall not be included in the calculation of gross food and beverage revenue. Catering sales include any sale of food or non alcoholic beverages prepared by the licensee on the licensed premises for service by the licensee outside the licensed premises. For purposes of determining food and beverage revenue, an alcoholic beverage means the retail price of a serving of beer, wine, straight distilled spirits, or a mixed drink.~~

~~(4) The required revenue percentage shall be computed as the sum of gross food and non-alcoholic beverage revenue divided by the sum of gross food, alcoholic beverage, and non-alcoholic beverage revenue. For purposes of computing alcoholic beverage revenue, an alcoholic beverage shall be attributed the price of the product as offered for individual sale by the licensee. When a special restaurant license is issued or governed by special act or general law that differs from the Beverage Law, the standards and methodology herein shall be used to determine compliance with the requirements of the special act or general law. Any license issued under or governed by a local or special act shall be subject to all requirements and restrictions contained in the Beverage Law.~~

*Rulemaking Authority 561.11 FS. Law Implemented 20-165, 561.01(11), 561.17, 561.18, 561.19, 561.20(2)(a)4, 561.20(4), 561.29, 561.55 FS. History—New 8-23-90, Amended 5-19-91, 10-22-91, \_\_\_\_\_, 7-1-2016, Formerly 7A-3.014.*