

By the Committee on Regulated Industries and Senator Lee

315-1986A-98

1 A bill to be entitled
2 An act relating to alcohol and tobacco sales;
3 amending s. 562.11, F.S.; authorizing law
4 enforcement officers to use persons under a
5 certain age to test vendor compliance with
6 provisions restricting the sale of alcoholic
7 beverages to certain minors; amending s.
8 562.45, F.S.; providing restrictions on
9 locations for on-premises consumption of
10 alcoholic beverages; amending s. 567.01, F.S.;
11 providing for local-option elections to
12 determine sales of intoxicating liquors, wines,
13 or beer by the drink; amending s. 567.06, F.S.;
14 providing ballot instructions for local-option
15 elections; amending s. 567.07, F.S.; providing
16 for a local option election for sole purpose of
17 determining whether intoxicating liquors,
18 wines, or beer may be sold by the drink for
19 consumption on premises; amending ss. 569.002
20 and 569.101, F.S.; authorizing law enforcement
21 officers to use persons under a certain age to
22 test vendor compliance with provisions
23 restricting the sale of tobacco products to
24 certain minors; amending s. 569.11, F.S.;
25 specifying times within which community service
26 or fines are satisfied; providing effective
27 dates.

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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Subsection (4) is added to section 562.11,
2 Florida Statutes, to read:

3 562.11 Selling, giving, or serving alcoholic beverages
4 to person under age 21; misrepresenting or misstating age or
5 age of another to induce licensee to serve alcoholic beverages
6 to person under 21; penalties.--

7 (4) Any law enforcement officer, as defined in s.
8 943.10(1), may use persons under the age of 21 to assist the
9 officer in enforcement efforts by testing vendor compliance
10 with the prohibitions established in this section.

11 Notwithstanding the prohibitions contained in s. 562.111, such
12 person acting on behalf of the law enforcement officer to test
13 vendor compliance with the prohibitions established in this
14 section shall be immune from civil and criminal liability
15 imposed by s. 562.111 while acting on behalf of the law
16 enforcement officer.

17 Section 2. Effective July 1, 1998, paragraph (a) of
18 subsection (2) of section 562.45, Florida Statutes, is amended
19 to read:

20 562.45 Penalties for violating Beverage Law; local
21 ordinances; prohibiting regulation of certain activities or
22 business transactions; requiring nondiscriminatory treatment;
23 providing exceptions.--

24 (2)(a) Nothing contained in the Beverage Law shall be
25 construed to affect or impair the power or right of any county
26 or incorporated municipality of the state to enact ordinances
27 regulating the hours of business and location of place of
28 business, and prescribing sanitary regulations therefor, of
29 any licensee under the Beverage Law within the county or
30 corporate limits of such municipality. However, except for
31 premises licensed on or before July 1, 1998, a location for

1 on-premises consumption of alcoholic beverages may not be
2 located within 500 feet of the real property that comprises a
3 public or private elementary school, middle school, or
4 secondary school unless the county or municipality approves
5 the location as promoting the public health, safety, and
6 general welfare of the community under proceedings as provided
7 in s. 286.0115. The division may not issue a change in the
8 series of a license or approve a change of a licensee's
9 location unless the licensee provides documentation of proper
10 zoning from the appropriate county or municipal zoning
11 authorities.

12 Section 3. Subsections (2) and (6) of section 567.01,
13 Florida Statutes, are amended to read:

14 567.01 Petition, order, notice of election.--

15 (2) The election so ordered shall be to decide either:

16 (a) Whether the sale of intoxicating liquors, wines,
17 or beer shall be prohibited or permitted in said county, and
18 to decide also whether such sale, if permitted by said
19 election, shall be restricted to sales by the package as
20 hereinafter defined; or-

21 (b) Whether the sale of intoxicating liquors, wines,
22 or beer shall be sold by the drink for consumption on premises
23 as provided in s. 567.07(3).

24 (6) It is the purpose and intent of the Legislature
25 that such election shall obviate the necessity for holding two
26 separate elections, except as provided in s. 567.07(3), by
27 determining in one election:

28 (a) Whether the sale of intoxicating liquors, wines,
29 or beer shall be prohibited or permitted, and

30 (b) If such sales are determined to be permitted, to
31 further determine whether the sales so made shall be limited

1 to sales by the package as herein before defined, or whether
2 sales by the drink on the premises, as well as sales by the
3 package, may be permitted.

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5 A majority of those legally voting at such election must cast
6 their votes for selling intoxicating liquors, wines, or beer
7 in order that the results of the election on the second
8 question shall be effective and binding.

9 Section 4. Subsection (3) is added to section 567.06,
10 Florida Statutes, to read:

11 567.06 Form of ballot; canvassing votes.--

12 (3) However, for a local option election authorized by
13 s. 567.01(2)(b) on the sole question of whether intoxicating
14 liquors, wines, or beer may be sold by the drink for
15 consumption on premises, ballot instructions shall be
16 presented in the following form:

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18 INSTRUCTIONS: Local Option Election on the Following
19 Question:

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21 THE QUESTION BEFORE THE ELECTORATE is to decide
22 whether the sale of intoxicating liquors,
23 wines, or beer, containing more than 6.243
24 percent of alcohol by volume, may be sold by
25 the drink for consumption on premises in
26 () County, Florida.

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28 For Sales by the Drink:

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30 followed by the word "yes" and also by the word "no," and
31 shall be styled in such a manner that a "yes" vote will

1 indicate approval of the question and a "no" vote will
2 indicate rejection.

3 Section 5. Present subsection (3) of section 567.07,
4 Florida Statutes, is renumbered as subsection (4), and a new
5 subsection (3) is added to that section, to read:

6 567.07 Results of election.--

7 (3) In the event a majority of those legally voting at
8 any such election cast their vote "For Selling Intoxicating
9 Liquors, Wines, or Beer" on question number 1 and a majority
10 of the votes legally cast on question number 2 be "For Sales
11 by the Package Only" then, after the expiration of 2 years an
12 election pursuant to s. 567.01(2)(b) may be held to determine
13 the sole question of whether intoxicating liquors, wines, or
14 beer may be sold by the drink for consumption on premises. If
15 a majority of those legally voting cast their votes for
16 selling intoxicating liquors, wines, or beer by the drink for
17 consumption on premises, then such alcoholic beverages may be
18 sold as otherwise provided by law in that county until
19 otherwise determined in an election, which shall not be held
20 oftener than once every 2 years. If a majority of those
21 legally voting cast their vote against the sale of
22 intoxicating liquors, wines, or beer by the drink for
23 consumption on premises, then sales by the package only shall
24 continue.

25 Section 6. Subsection (7) of section 569.002, Florida
26 Statutes, is amended to read:

27 569.002 Definitions.--As used in this chapter, the
28 term:

29 (7) "Any person under the age of 18" does not include
30 any person under the age of 18 who:

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1 (a) Has had his or her disability of nonage removed
2 under chapter 743;

3 (b) Is in the military reserve or on active duty in
4 the Armed Forces of the United States;

5 (c) Is otherwise emancipated by a court of competent
6 jurisdiction and released from parental care and
7 responsibility; or

8 (d) Is acting in his or her scope of lawful employment
9 with an entity licensed under the provisions of chapter 210 or
10 this chapter. ~~or~~

11 ~~(e) Is working in conjunction with a law enforcement~~
12 ~~agency to test the compliance of dealers with this chapter.~~

13 Section 7. Subsection (4) is added to section 569.101,
14 Florida Statutes, to read:

15 569.101 Selling, delivering, bartering, furnishing, or
16 giving tobacco products to persons under 18 years of age;
17 criminal penalties; defense.--

18 (4) Any law enforcement officer, as defined in s.
19 943.10(1), may use persons under the age of 18 to assist the
20 officer in enforcement efforts by testing vendor compliance
21 with the prohibitions established in this section.
22 Notwithstanding the prohibitions contained in s. 569.11, such
23 person acting on behalf of a law enforcement officer to test
24 vendor compliance with the prohibitions established in this
25 section shall be immune from civil liability imposed by s.
26 569.11 while acting on behalf of the law enforcement officer.

27 Section 8. Subsection (5) of section 569.11, Florida
28 Statutes, is amended to read:

29 569.11 Possession, misrepresenting age or military
30 service to purchase, and purchase of tobacco products by
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1 persons under 18 years of age prohibited; penalties;
2 jurisdiction; disposition of fines.--

3 (5)(a) If a person under 18 years of age is found by
4 the court to have committed a noncriminal violation under this
5 section and that person has failed to complete community
6 service within 60 days, pay the fine as required by paragraph
7 (1)(a) or paragraph (2)(a) within 30 days, or attend a
8 school-approved anti-tobacco program, if locally available,
9 the court must direct the Department of Highway Safety and
10 Motor Vehicles to withhold issuance of or suspend the driver's
11 license or driving privilege of that person for a period of 30
12 consecutive days.

13 (b) If a person under 18 years of age is found by the
14 court to have committed a noncriminal violation under this
15 section and that person has failed to pay the applicable fine
16 as required by paragraph (1)(b) or paragraph (2)(b) within 30
17 days, the court must direct the Department of Highway Safety
18 and Motor Vehicles to withhold issuance of or suspend the
19 driver's license or driving privilege of that person for a
20 period of 45 consecutive days.

21 Section 9. Except as otherwise expressly provided in
22 this act, this act shall take effect upon becoming a law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 1680

Provides that a new location for on-premises consumption of alcoholic beverages not be located within 500 feet of a school unless the county or municipal government approves the location under quasi-judicial procedures used for other zoning decisions.

Allows a county that already has voted to allow the package sales of alcoholic beverages to hold a local option election on the sole question of also allowing sales for consumption on premises.

Provides that community service requirements and fines imposed on minors for possession of tobacco products be satisfied within a specific time.