

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 234

SPONSOR: Regulated Industries Committee and Senator Silver

SUBJECT: Alcoholic Beverages/Underage Students

DATE: January 19, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wimsett</u>	<u>Guthrie</u>	<u>RI</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill allows certain postsecondary educational institutions to offer persons at least 18 years of age, a required curriculum course that requires the tasting of alcoholic beverages for instructional purposes. The alcoholic beverages must remain in the possession and control of an authorized person who must 21 years of age or older. The student must execute a waiver and consent to hold harmless and indemnify the state.

This bill amends sections 562.11 and 562.111 of the Florida Statutes.

II. Present Situation:

Section 562.11, F.S., provides that it is unlawful to sell, give, or serve alcoholic beverages to a person under 21 years of age. A person convicted of these provisions is guilty of a misdemeanor of the second degree.

Section 562.111, F.S., provides that it is unlawful for a person under the age of 21 to possess alcoholic beverages, unless the person is employed by a licensee and is acting within the scope of his or her employment. Any person under the age of 21 who is convicted of a violation of this section is guilty of a misdemeanor of the second degree, except that a subsequent conviction for this same type of offense results in a misdemeanor of the first degree.

Currently, at least two of Florida's public postsecondary institutions, Florida State University and Florida International University, offer courses involving alcoholic beverage tasting as part of their hospitality management programs. Other licensed and accredited independent colleges and universities, such as Johnson and Wales in North Miami, offer culinary arts or hospitality programs in which wine or other alcoholic beverage tasting is recommended as part of the curriculum. However, there are no exceptions in Florida law to permit students under age 21 to participate in wine or alcoholic beverage tasting.

III. Effect of Proposed Changes:

The bill amends s. 562.11, F.S., to provide that a person may give or serve alcoholic beverages to a student at least 18 years of age under certain circumstances. The alcoholic beverage must be delivered as part of a student's required curriculum during classes and must at all times remain in the possession and control of the instructional personnel, who must be 21 years of age or older. The alcoholic beverages must be provided for instructional purposes only and may not be offered for consumption or imbibed by the student.

The institution must meet specified accreditation requirements. Presently, there are approximately 100 accredited institutions holding licenses or certificates of exemption from the State Board of Independent Colleges and Universities. Licensure means that a college meets the Board's standards, which includes educational program, qualified administrators and faculty, financial stability, and other indicators of strength and quality. Certificates of exemption are given to those institutions that are chartered in Florida and accredited by: (1) the Commission on Colleges of the Southern Association of Colleges and Schools; (2) the Accrediting Council for Independent Colleges and Schools; (3) the Accrediting Association of Bible Colleges; (4) the Transnational Association of Christian Colleges and Schools; or (5) an agency recognized by the Department of Education to accredit professional degree programs above the baccalaureate level under certain statutory guidelines. Section 246.085, Florida Statutes.

There are 10 public universities, and 28 community colleges that meet the criteria.

The student must execute a waiver and consent that indemnifies the state.

The bill also amends s. 562.111, F.S., to create an exemption from the prohibition on possession of alcoholic beverages by persons under age 21. Specifically, the prohibition does not apply if the person in possession of the alcoholic beverage is at least 18 years of age and the above conditions are met.

The bill takes effect on July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The prohibition against consumption will be difficult to enforce.

VII. Related Issues:

Federal law directs the United States Secretary of Transportation to withhold 10% of certain federal transportation funds from a state in which the purchase or public possession of any alcoholic beverage by a person who is less than 21 years of age is lawful. Federal law does not specifically state whether or not a state jeopardizes these federal transportation funds under the circumstances proposed in this bill. However, Committee staff contacted the Federal Department of Transportation and was informed by Heidi Coleman, Assistant Chief Counsel for General Law of the National Highway Traffic Safety Administration, that the bill would not jeopardize state transportation funding. Ms. Coleman noted that to comply with the National Minimum Drinking Age Act (NMDA), 23 U.S.C. Section 158, a state must make “unlawful the purchase and public possession in such State of any alcoholic beverage by a person who is less than 21 years of age.” Based on the U.S. Department of Transportation’s implementing regulations, the proposed legislation does not cause Florida “to fall out of compliance with the NMDA.” Notably, at least three other states currently have laws that allow students to taste and or consume alcoholic beverages in certain educational settings. These states are New York, Rhode Island and South Carolina.

This bill is a companion to CS/HB 5.

VIII. Amendments:

None.