

HB 0567

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A bill to be entitled

An act relating to consumption of alcohol; amending s. 562.111, F.S.; providing that it is a crime for a person under 21 years of age to consume alcohol; providing penalties; providing for the use of certain tests as evidence of a violation; authorizing a law enforcement officer to detain certain persons under certain circumstances; providing for use of certain testing devices for certain purposes; authorizing the use of testing results or a refusal to submit to tests as evidence; reenacting ss. 322.056(1) and 397.951(2)(i), F.S., for the purpose of incorporating the amendment to s. 562.111, F.S., in references thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 562.111, Florida Statutes, is amended to read:

562.111 Possession or consumption of alcoholic beverages by persons under age 21 prohibited.--

(1) It is unlawful for any person under the age of 21 years, except a person employed under the provisions of s. 562.13 acting in the scope of her or his employment, to have in her or his possession alcoholic beverages, except that nothing contained in this subsection shall preclude the employment of any person 18 years of age or older in the sale, preparation, or service of alcoholic beverages in licensed premises in any establishment licensed by the Division of Alcoholic Beverages

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30 and Tobacco or the Division of Hotels and Restaurants.
 31 Notwithstanding the provisions of s. 562.45, any person under
 32 the age of 21 who is convicted of a violation of this subsection
 33 is guilty of a misdemeanor of the second degree, punishable as
 34 provided in s. 775.082 or s. 775.083; however, any person under
 35 the age of 21 who has been convicted of a violation of this
 36 subsection and who is thereafter convicted of a further
 37 violation of this subsection is, upon conviction of the further
 38 offense, guilty of a misdemeanor of the first degree, punishable
 39 as provided in s. 775.082 or s. 775.083.

40 (2) Except as provided in subsection (3), it is unlawful
 41 for any person under the age of 21 years to consume alcoholic
 42 beverages. Any person under the age of 21 who is convicted of a
 43 violation of this subsection is guilty of a misdemeanor of the
 44 second degree, punishable as provided in s. 775.082 or s.
 45 775.083; however, any person under the age of 21 who has been
 46 convicted of a violation of this subsection and who is
 47 thereafter convicted of a further violation of this subsection
 48 is, upon conviction of the further offense, guilty of a
 49 misdemeanor of the first degree, punishable as provided in s.
 50 775.082 or s. 775.083. A test establishing that the person had a
 51 breath-alcohol level of 0.02 grams of alcohol per 210 liters of
 52 breath or higher or a blood-alcohol level of 0.02 grams of
 53 alcohol per 100 milliliters of blood or higher may be used as
 54 evidence of consumption.

55 (a) A law enforcement officer who has probable cause to
 56 believe that a person under the age of 21 is under the influence
 57 of alcoholic beverages or has any blood-alcohol or breath-
 58 alcohol level may lawfully detain such a person and may request

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59 that person to submit to a test to determine her or his blood-
60 alcohol or breath-alcohol level.

61 (b) A breath test to determine breath-alcohol level
62 pursuant to this subsection may be conducted by a breath-alcohol
63 test device listed in the United States Department of
64 Transportation's conforming product list of evidential breath-
65 measurement devices. The reading from such a device is presumed
66 accurate and is admissible in evidence.

67 (c) The refusal to submit to a chemical or physical breath
68 test upon the request of a law enforcement officer as provided
69 in this subsection is admissible in evidence in any criminal
70 proceeding.

71 (3)(2) The prohibition in this section against the
72 possession or consumption of alcoholic beverages does not apply
73 to the tasting of alcoholic beverages by a student who is at
74 least 18 years of age, who is tasting the alcoholic beverages as
75 part of the student's required curriculum at a postsecondary
76 educational institution that is institutionally accredited by an
77 agency recognized by the United States Department of Education
78 and that is licensed or exempt from licensure pursuant to the
79 provisions of chapter 1005 or is a public postsecondary
80 education institution; if the student is enrolled in the college
81 and is tasting the alcoholic beverages only for instructional
82 purposes during classes that are part of such a curriculum; if
83 the student is allowed only to taste, but not consume or imbibe,
84 the alcoholic beverages; and if the alcoholic beverages at all
85 times remain in the possession and control of authorized
86 instructional personnel of the college who are 21 years of age
87 or older.

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88 (4)~~(3)~~ In addition to any other penalty imposed for a
 89 violation of subsection (1), the court shall direct the
 90 Department of Highway Safety and Motor Vehicles to withhold
 91 issuance of, or suspend or revoke, the violator's driver's
 92 license or driving privilege, as provided in s. 322.056.

93 Section 2. For the purpose of incorporating the amendment
 94 to section 562.111, Florida Statutes, in a reference thereto,
 95 subsection (1) of section 322.056, Florida Statutes, is
 96 reenacted to read:

97 322.056 Mandatory revocation or suspension of, or delay of
 98 eligibility for, driver's license for persons under age 18 found
 99 guilty of certain alcohol, drug, or tobacco offenses;
 100 prohibition.--

101 (1) Notwithstanding the provisions of s. 322.055, if a
 102 person under 18 years of age is found guilty of or delinquent
 103 for a violation of s. 562.11(2), s. 562.111, or chapter 893,
 104 and:

105 (a) The person is eligible by reason of age for a driver's
 106 license or driving privilege, the court shall direct the
 107 department to revoke or to withhold issuance of his or her
 108 driver's license or driving privilege for a period of:

109 1. Not less than 6 months and not more than 1 year for the
 110 first violation.

111 2. Two years, for a subsequent violation.

112 (b) The person's driver's license or driving privilege is
 113 under suspension or revocation for any reason, the court shall
 114 direct the department to extend the period of suspension or
 115 revocation by an additional period of:

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116 1. Not less than 6 months and not more than 1 year for the
117 first violation.

118 2. Two years, for a subsequent violation.

119 (c) The person is ineligible by reason of age for a
120 driver's license or driving privilege, the court shall direct
121 the department to withhold issuance of his or her driver's
122 license or driving privilege for a period of:

123 1. Not less than 6 months and not more than 1 year after
124 the date on which he or she would otherwise have become
125 eligible, for the first violation.

126 2. Two years after the date on which he or she would
127 otherwise have become eligible, for a subsequent violation.

128
129 However, the court may, in its sound discretion, direct the
130 department to issue a license for driving privileges restricted
131 to business or employment purposes only, as defined in s.
132 322.271, if the person is otherwise qualified for such a
133 license.

134 Section 3. For the purpose of incorporating the amendment
135 to section 562.111, Florida Statutes, in a reference thereto,
136 paragraph (i) of subsection (2) of section 397.951, Florida
137 Statutes, is reenacted to read:

138 397.951 Treatment and sanctions.--The Legislature
139 recognizes that the integration of treatment and sanctions
140 greatly increases the effectiveness of substance abuse
141 treatment. It is the responsibility of the department and the
142 substance abuse treatment provider to employ the full measure of
143 sanctions available to require participation and completion of

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144 treatment to ensure successful outcomes for children in
145 substance abuse treatment.

146 (2) The department shall ensure that substance abuse
147 treatment providers employ any and all appropriate available
148 sanctions necessary to engage, motivate, and maintain a child in
149 treatment, including, but not limited to, provisions in law
150 that:

151 (i) Provide that, pursuant to s. 322.056, for any person
152 under 18 years of age who is found guilty of or delinquent for a
153 violation of s. 562.11(2), s. 562.111, or chapter 893, and is
154 eligible by reason of age for a driver's license or driving
155 privilege, the court shall direct the Department of Highway
156 Safety and Motor Vehicles to revoke or to withhold issuance of
157 his or her driver's license or driving privilege for a period
158 of:

159 1. Not less than 6 months and not more than 1 year for the
160 first violation.

161 2. Two years, for a subsequent violation.

162 Section 4. This act shall take effect July 1, 2004.