

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Regulated Industries Committee

BILL: CS/SB 1322

SPONSOR: Regulated Industries Committee and Senator King

SUBJECT: Driver's License Penalties/Alcohol

DATE: February 14, 2006

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|-----------|---------------|
| 1. | <u>Oxamendi</u> | <u>Imhof</u> | <u>RI</u> | <u>Fav/CS</u> |
| 2. | _____ | _____ | <u>TR</u> | _____ |
| 3. | _____ | _____ | <u>CJ</u> | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

The CS requires courts to order the Department of Highway Safety and Motor Vehicles (DHSMV or department) to withhold the issuance of, or suspend or revoke, the driver's license or driving privilege of any person who violates the sale to persons under 21 years of age prohibition in s. 562.11(1), F.S. The CS exempts alcoholic beverage licensees and employees or agent of a licensee who violate s. 562.11(1), F.S., while engaged within the scope of his or her license, employment, or agency.

The CS provides that, notwithstanding the driver's license suspension and revocation provisions in s. 322.28, F.S., court must order the department to withhold the issuance of, or suspend or revokes, the driver's license or driving privilege of any person who violates the sale to underage persons prohibition in s. 562.11(1), F.S. The CS provides that the court may order the department to issue a driver's license restricted to business or employment purposes.

The CS provides a time frame for the delay of issuance of a license or the suspension or revocation of a license of not less than 3 months or more than 6 months for a violation and one year for any subsequent violation.

The CS would take effect October 1, 2006.

This CS substantially amends section 562.11, Florida Statutes. This CS creates section 322.057, Florida Statutes.

II. Present Situation:

Section 562.11(1)(a), F.S., provides that it is unlawful to sell, give, serve or permit to be served alcoholic beverages to a person under 21 years of age or to permit a person under 21 years of age to consume alcoholic beverages on the licensed premises. Anyone convicted of a violation of these provisions is guilty of a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days and a fine not to exceed \$500.

Pursuant to s. 561.01, F.S., a “licensee” under the Beverage Law (defined as chs. 562, 563, 564, 565, 567, and 568, F.S.), means a “legal or business entity, person, or persons that hold a license issued by the [Division of Alcoholic Beverages and Tobacco] and meet the qualifications set forth in s. 561.15, F.S.”

Chapter 322, F.S., relates to the administration of driver’s licenses by the Department of Highway Safety and Motor Vehicles (DHSMV or department). Section 322.01(16), F.S., defines the term “driver’s license” to mean “a certificate which, subject to all other requirements of law, authorizes an individual to drive a motor vehicle.”

Persons under the age of 21 may be employed by alcoholic beverage licensees. Section 562.13, F.S, prohibits alcoholic beverage vendors to employ any person less than 18 years of age, but this prohibition does not apply to:

- Professional entertainers 17 years of age who are not in school;
- Minors employed in the entertainment industry and who are employed under the procedures established for such employment or who have been granted a waiver from the Child Labor Law;
- Persons under the age of 18 years employed in drugstores, grocery stores, department stores, florists, specialty gift shops, or automobile service stations which have licenses to sell beer and wine for consumption off the premises;
- Any senior high school student with written permission of their principal or any high school graduate employed by a bona fide food service establishment where alcoholic beverages are sold if they do not participate in the sale, preparation, or service of alcoholic beverages and their duties provide training that may lead to advancement in the food service establishments;
- Persons under the age of 18 years employed as bellhops, elevator operators, and other duties in hotels that do not work in the portion of the hotel where alcoholic beverages are sold for consumption on the premises;
- Persons under the age of 18 years employed in bowling alleys if they do not participate in the sale, preparation, or service of alcoholic beverages;
- Persons under the age of 18 years employed by a bona fide dinner theater whose employment is limited to being an actor, actress, or musician;
- Persons under the age of 18 years who are employed by a theme park as provided in s. 562.02(6), F.S., if they do not participate in the sale, preparation or service of alcoholic beverages; or
- A minor subject to this section, may not be employed if the employment involves nudity on the part of the minor and the nudity is intended as adult entertainment.

Driver's License Suspension or Revocations

Section 322.28, F.S., sets forth the provisions related to suspension or revocation of driver's licenses. Section 322.28(1), F.S., provides that the department shall not suspend a license for a period of more than one year. It provides an exception to this limit for violations related to driving under the influence of alcoholic beverages, chemical substances, as set forth in s. 877.111, F.S., or controlled substances. For these violations the department is prohibited from granting a new license until the expiration of one year after such revocation.

Section 322.271, F.S., provides that the court may direct the department to issue a driver's license that is restricted to business or employment purposes only to a person who is otherwise qualified for a license.

III. Effect of Proposed Changes:

Section 1. The CS amends s. 562.11, F.S., to require courts to order the DHSMV to withhold the issuance of, or suspend or revoke, the driver's license or driving privilege of any person who violates the sale to minors prohibition in s. 562.11(1), F.S. The CS exempts alcoholic beverage licensees, and employees or agent of a licensee who violate s. 562.11(1), F.S., while engaged within the scope of his or her license, employment, or agency.

Section 2. The CS creates s. 322.057, F.S., to provide that, notwithstanding s. 322.28, F.S., courts must order the DHSMV to withhold the issuance of, or suspend or revoke, the driver's license or driving privilege of any person who violates the sale to underage persons prohibition in s. 562.11(1), F.S.

The CS also exempts persons who are licensees and employees or agents of a licensee, who violate the prohibition in s. 562.11(1), F.S., while engaged within the scope of his or her license, employment, or agency. However, in the context of ch. 322, F.S., the term "licensee" is not defined.

This section provides a time frame for the delay in issuance of a license or the suspension or revocation of a license of not less than 3 months or more than 6 months for a violation and one year for any subsequent violation.

Section 3. The CS would take effect October 1, 2006.

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:

According to the Department of Highway Safety and Motor Vehicles, this CS may generate additional revenue as a result of reinstating driving privileges of persons that are suspended or revoked pursuant to this CS. However, the number of individuals that will be suspended and the amount of revenue that will be collected is indeterminate. The department also believes that this CS will require programming modifications to the department's driver's license software systems that will be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
