

1 A bill to be entitled
2 An act relating to abuse of alcohol and illicit drugs;
3 amending s. 562.11, F.S.; clarifying the prohibition
4 against allowing a person younger than 21 years of age to
5 consume alcoholic beverages at premises licensed to sell
6 alcohol; authorizing a licensee to seize the driver's
7 license or identification card of a person who uses such
8 license or card to misrepresent or misstate his or her age
9 or the age of another person; providing procedures for
10 such seizure; providing that seizing or failing to seize a
11 license or card does not create liability on the part of
12 the licensee; amending s. 562.111, F.S.; prohibiting a
13 person younger than 21 years of age from consuming
14 alcoholic beverages or being intoxicated; providing
15 penalties; specifying standards, including blood-alcohol
16 and breath-alcohol levels, for determining whether such a
17 person has consumed alcoholic beverages or is intoxicated;
18 amending s. 322.056, F.S.; revising provisions relating to
19 the mandatory revocation or suspension of, or delay of
20 eligibility for, driver's license for persons found guilty
21 of certain alcohol, drug, or tobacco offenses; amending s.
22 1001.02, F.S.; requiring the State Board of Education to
23 annually report the occurrences of alcohol and illicit
24 drug abuse on college and university campuses; providing
25 requirements for the report; requiring that the report be
26 submitted to the Governor and the Legislature; amending
27 ss. 1001.64 and 1001.74, F.S.; requiring that the board of
28 trustees at each community college and university

HB 1541

2007

29 | establish a plan for reducing and eliminating alcohol and
 30 | illicit drug abuse at the community college or university;
 31 | providing an effective date.

32 |

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

34 |

35 | Section 1. Section 562.11, Florida Statutes, is amended to
 36 | read:

37 | 562.11 Selling, giving, or serving alcoholic beverages to
 38 | person under age 21; providing a proper name; misrepresenting or
 39 | misstating age or age of another to induce licensee to serve
 40 | alcoholic beverages to person under 21; penalties.--

41 | (1)(a)1. It is unlawful for any person to sell, give,
 42 | serve, or permit to be served alcoholic beverages to a person
 43 | under 21 years of age. It is unlawful for any person ~~or~~ to
 44 | permit a person under 21 years of age to consume such beverages
 45 | on the licensed premises. A person who violates this
 46 | subparagraph commits a misdemeanor of the second degree,
 47 | punishable as provided in s. 775.082 or s. 775.083.

48 | 2. In addition to any other penalty imposed for a
 49 | violation of subparagraph 1., the court may order the Department
 50 | of Highway Safety and Motor Vehicles to withhold the issuance
 51 | of, or suspend or revoke, the driver's license or driving
 52 | privilege, as provided in s. 322.057, of any person who violates
 53 | subparagraph 1. This subparagraph does not apply to a licensee,
 54 | as defined in s. 561.01, who violates subparagraph 1. while
 55 | acting within the scope of his or her license or an employee or
 56 | agent of a licensee, as defined in s. 561.01, who violates

HB 1541

2007

57 | subparagraph 1. while engaged within the scope of his or her
58 | employment or agency.

59 | (b) A licensee, or his or her or its agents, officers,
60 | servants, or employees, may not provide alcoholic beverages to a
61 | person younger than 21 years of age who is employed by the
62 | licensee except as authorized pursuant to s. 562.111 or s.
63 | 562.13, and may not permit a person younger than 21 years of age
64 | who is employed by the licensee to consume alcoholic beverages
65 | on the licensed premises or elsewhere while in the scope of
66 | employment. A licensee, or his or her or its agents, officers,
67 | servants, or employees, who violates this paragraph commits a
68 | misdemeanor of the first degree, punishable as provided in s.
69 | 775.082 or s. 775.083. This paragraph may be cited as "the
70 | Christopher Fugate Act."

71 | (c) A licensee who violates paragraph (a) shall have a
72 | complete defense to any civil action therefor, except for any
73 | administrative action by the division under the Beverage Law,
74 | if, at the time the alcoholic beverage was sold, given, served,
75 | or permitted to be served, the person falsely evidenced that he
76 | or she was of legal age to purchase or consume the alcoholic
77 | beverage and the appearance of the person was such that an
78 | ordinarily prudent person would believe him or her to be of
79 | legal age to purchase or consume the alcoholic beverage and if
80 | the licensee carefully checked one of the following forms of
81 | identification with respect to the person: a driver's license,
82 | an identification card issued under the provisions of s. 322.051
83 | or, if the person is physically handicapped as defined in s.
84 | 553.45(1), a comparable identification card issued by another

HB 1541

2007

85 state which indicates the person's age, a passport, or a United
86 States Uniformed Services identification card, and acted in good
87 faith and in reliance upon the representation and appearance of
88 the person in the belief that he or she was of legal age to
89 purchase or consume the alcoholic beverage. Nothing herein shall
90 negate any cause of action which arose prior to June 2, 1978.

91 (d) A licensee, or his or her agent or employee, may seize
92 any driver's license or identification card that is presented by
93 a person for the purpose of misrepresenting or misstating that
94 person's age or the age of any other person in violation of this
95 subsection. A receipt must be provided to any person from whom a
96 driver's license or identification card is seized and, within 72
97 hours, the seized identification must be provided to the
98 division, the Department of Highway Safety and Motor Vehicles,
99 or a local law enforcement agency having jurisdiction over the
100 licensed premises. The receipt must identify the agency to which
101 the driver's license or identification card will be given and
102 from which it can be reclaimed and the location of that agency.
103 The decision by a licensee, or his or her agent or employee, to
104 seize or not to seize a driver's license or identification card
105 pursuant to the provisions of this paragraph does not create any
106 civil or criminal liability on the part of the licensee or his
107 or her agent or employee.

108 (2) It is unlawful for any person to misrepresent or
109 misstate his or her age or the age of any other person for the
110 purpose of inducing any licensee or his or her agents or
111 employees to sell, give, serve, or deliver any alcoholic
112 beverages to a person under 21 years of age, or for any person

113 | under 21 years of age to purchase or attempt to purchase
 114 | alcoholic beverages.

115 | (a) Anyone convicted of violating the provisions of this
 116 | subsection is guilty of a misdemeanor of the second degree,
 117 | punishable as provided in s. 775.082 or s. 775.083.

118 | (b) Any person under the age of 17 years who violates such
 119 | provisions shall be within the jurisdiction of the judge of the
 120 | circuit court and shall be dealt with as a juvenile delinquent
 121 | according to law.

122 | (c) In addition to any other penalty imposed for a
 123 | violation of this subsection, if a person uses a driver's
 124 | license or identification card issued by the Department of
 125 | Highway Safety and Motor Vehicles in violation of this
 126 | subsection, the court:

127 | 1. May order the person to participate in public service
 128 | or a community work project for a period not to exceed 40 hours;
 129 | and

130 | 2. Shall direct the Department of Highway Safety and Motor
 131 | Vehicles to withhold issuance of, or suspend or revoke, the
 132 | person's driver's license or driving privilege, as provided in
 133 | s. 322.056.

134 | (3) Any person under the age of 21 years testifying in any
 135 | criminal prosecution or in any hearing before the division
 136 | involving the violation by any other person of the provisions of
 137 | this section may, at the discretion of the prosecuting officer,
 138 | be given full and complete immunity from prosecution for any
 139 | violation of law revealed in such testimony that may be or may
 140 | tend to be self-incriminating, and any such person under 21

HB 1541

2007

141 | years of age so testifying, whether under subpoena or otherwise,
142 | shall be compelled to give any such testimony in such
143 | prosecution or hearing for which immunity from prosecution
144 | therefor is given.

145 | (4) This section does not apply to a person who gives,
146 | serves, or permits to be served an alcoholic beverage to a
147 | student who is at least 18 years of age, if the alcoholic
148 | beverage is delivered as part of the student's required
149 | curriculum at a postsecondary educational institution that is
150 | institutionally accredited by an agency recognized by the United
151 | States Department of Education and is licensed or exempt from
152 | licensure pursuant to the provisions of chapter 1005 or that is
153 | a public postsecondary education institution; if the student is
154 | enrolled in the college and is required to taste alcoholic
155 | beverages that are provided only for instructional purposes
156 | during classes conducted under the supervision of authorized
157 | instructional personnel pursuant to such a curriculum; if the
158 | alcoholic beverages are never offered for consumption or imbibed
159 | by such a student and at all times remain in the possession and
160 | control of such instructional personnel, who must be 21 years of
161 | age or older; and if each participating student executes a
162 | waiver and consent in favor of the state and indemnifies the
163 | state and holds it harmless.

164 | Section 2. Section 562.111, Florida Statutes, is amended
165 | to read:

166 | 562.111 Possession or consumption of alcoholic beverages
167 | by persons under age 21 prohibited.--

168 | (1) It is unlawful for any person under the age of 21

169 | years, except a person employed under the provisions of s.
 170 | 562.13 acting in the scope of her or his employment, to have in
 171 | her or his possession alcoholic beverages, to consume alcoholic
 172 | beverages, or to be intoxicated by consumption of an alcoholic
 173 | beverage. ~~except that nothing contained in~~ This subsection does
 174 | not shall preclude the employment of any person 18 years of age
 175 | or older in the sale, preparation, or service of alcoholic
 176 | beverages in licensed premises in any establishment licensed by
 177 | the Division of Alcoholic Beverages and Tobacco or the Division
 178 | of Hotels and Restaurants. Notwithstanding the provisions of s.
 179 | 562.45, any person under the age of 21 who is convicted of a
 180 | violation of this subsection is guilty of a misdemeanor of the
 181 | second degree, punishable as provided in s. 775.082 or s.
 182 | 775.083; however, any person under the age of 21 who has been
 183 | convicted of a violation of this subsection and who is
 184 | thereafter convicted of a further violation of this subsection
 185 | is, upon conviction of the further offense, guilty of a
 186 | misdemeanor of the first degree, punishable as provided in s.
 187 | 775.082 or s. 775.083.

188 | (2) The prohibition in this section against the possession
 189 | of alcoholic beverages does not apply to the tasting of
 190 | alcoholic beverages by a student who is at least 18 years of
 191 | age, who is tasting the alcoholic beverages as part of the
 192 | student's required curriculum at a postsecondary educational
 193 | institution that is institutionally accredited by an agency
 194 | recognized by the United States Department of Education and that
 195 | is licensed or exempt from licensure pursuant to the provisions
 196 | of chapter 1005 or is a public postsecondary education

HB 1541

2007

197 institution; if the student is enrolled in the college and is
 198 tasting the alcoholic beverages only for instructional purposes
 199 during classes that are part of such a curriculum; if the
 200 student is allowed only to taste, but not consume or imbibe, the
 201 alcoholic beverages; and if the alcoholic beverages at all times
 202 remain in the possession and control of authorized instructional
 203 personnel of the college who are 21 years of age or older.

204 (3) In addition to any other penalty imposed for a
 205 violation of subsection (1), the court shall direct the
 206 Department of Highway Safety and Motor Vehicles to withhold
 207 issuance of, or suspend or revoke, the violator's driver's
 208 license or driving privilege, as provided in s. 322.056.

209 (4) For purposes of this section, it is prima facie
 210 evidence that a person under the age of 21 years has consumed an
 211 alcoholic beverage or is intoxicated by the consumption of an
 212 alcoholic beverage if the person is affected to the extent that
 213 the person's normal faculties are impaired, if the person has a
 214 blood-alcohol level of 0.02 or more grams of alcohol per 100
 215 milliliters of blood, or if the person has a breath-alcohol
 216 level of 0.02 or more grams of alcohol per 210 liters of breath.

217 Section 3. Section 322.056, Florida Statutes, is amended
 218 to read:

219 322.056 Mandatory revocation or suspension of, or delay of
 220 eligibility for, driver's license for persons ~~under age 18~~ found
 221 guilty of certain alcohol, drug, or tobacco offenses;
 222 prohibition.--

223 (1) Notwithstanding the provisions of s. 322.055, if a
 224 person ~~under 18 years of age~~ is found guilty of or delinquent

HB 1541

2007

225 for a violation of s. 562.11(2), s. 562.111, or chapter 893,
 226 and:

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

231 1. Not less than 6 months and not more than 1 year for the
 232 first violation.

233 2. Two years, for a subsequent violation.

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

238 1. Not less than 6 months and not more than 1 year for the
 239 first violation.

240 2. Two years, for a subsequent violation.

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

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

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

250

251 However, the court may, in its sound discretion, direct the
 252 department to issue a license for driving privileges restricted

HB 1541

2007

253 to business or employment purposes only, as defined in s.
254 322.271, if the person is otherwise qualified for such a
255 license.

256 (2) If a person under 18 years of age is found by the
257 court to have committed a noncriminal violation under s. 569.11
258 and that person has failed to comply with the procedures
259 established in that section by failing to fulfill community
260 service requirements, failing to pay the applicable fine, or
261 failing to attend a locally available school-approved anti-
262 tobacco program, and:

263 (a) The person is eligible by reason of age for a driver's
264 license or driving privilege, the court shall direct the
265 department to revoke or to withhold issuance of his or her
266 driver's license or driving privilege as follows:

- 267 1. For the first violation, for 30 days.
- 268 2. For the second violation within 12 weeks of the first
269 violation, for 45 days.

270 (b) The person's driver's license or driving privilege is
271 under suspension or revocation for any reason, the court shall
272 direct the department to extend the period of suspension or
273 revocation by an additional period as follows:

- 274 1. For the first violation, for 30 days.
- 275 2. For the second violation within 12 weeks of the first
276 violation, for 45 days.

277 (c) The person is ineligible by reason of age for a
278 driver's license or driving privilege, the court shall direct
279 the department to withhold issuance of his or her driver's
280 license or driving privilege as follows:

HB 1541

2007

281 1. For the first violation, for 30 days.

282 2. For the second violation within 12 weeks of the first
283 violation, for 45 days.

284
285 Any second violation of s. 569.11 not within the 12-week period
286 after the first violation will be treated as a first violation
287 and in the same manner as provided in this subsection.

288 (3) If a person under 18 years of age is found by the
289 court to have committed a third violation of s. 569.11 within 12
290 weeks of the first violation, the court must direct the
291 Department of Highway Safety and Motor Vehicles to suspend or
292 withhold issuance of his or her driver's license or driving
293 privilege for 60 consecutive days. Any third violation of s.
294 569.11 not within the 12-week period after the first violation
295 will be treated as a first violation and in the same manner as
296 provided in subsection (2).

297 (4) A penalty imposed under this section shall be in
298 addition to any other penalty imposed by law.

299 (5) The suspension or revocation of a person's driver's
300 license imposed pursuant to subsection (2) or subsection (3),
301 shall not result in or be cause for an increase of the convicted
302 person's, or his or her parent's or legal guardian's, automobile
303 insurance rate or premium or result in points assessed against
304 the person's driving record.

305 Section 4. Subsection (10) is added to section 1001.02,
306 Florida Statutes, to read:

307 1001.02 General powers of State Board of Education.--

308 (10) The State Board of Education, in conjunction with the

HB 1541

2007

309 Board of Governors, shall develop an annual report regarding the
310 extent of alcohol and illicit drug abuse, including underage
311 alcohol use, at the state universities and community colleges
312 and by college and university students. The report must review
313 the enforcement, prevention, and intervention policies and
314 practices of the state universities and community colleges. The
315 report shall address the need for uniform reporting, data
316 collection, and recordkeeping by the state universities and
317 community colleges. The report must provide and delineate its
318 findings for each state university and community college.

319 (a) At a minimum, the report must:

320 1. Detail the policies and practices of each university
321 and community college regarding the use and possession of
322 alcohol, including the extent to which alcohol use and
323 possession is permitted in campus housing, dining, and meeting
324 facilities and during university-sponsored events, including on-
325 campus and off-campus athletic events.

326 2. Specify which universities and community colleges
327 notify the parent or legal guardian of a student under 21 years
328 of age regarding a violation by the student of the institution's
329 policies governing the use or possession of alcohol or illicit
330 drugs.

331 3. Identify the number of alcohol-related deaths of
332 students, including deaths occurring during school term breaks
333 and occurring off-campus. The term "alcohol-related deaths"
334 includes deaths in which the use of alcohol or illicit drug use
335 was a contributing factor.

336 4. Identify the number of alcohol-related and illicit

337 drug-related incidents on the campuses of the state
338 universities, including incidents involving students and
339 nonstudents, and specify the number of persons involved. The
340 term "incidents" includes violations of the alcohol and illicit
341 drug policies of the colleges and universities and violations of
342 state law in which alcohol or illicit drug use was a
343 contributing factor.

344 5. Identify the number of alcohol-related hospitalizations
345 of students. The term "alcohol-related hospitalizations" means
346 incidents in which a student requires medical treatment for
347 injuries or other medical conditions related to the abuse or
348 excessive consumption of illicit drugs or alcohol.

349 6. Identify the on-campus and off-campus programs that are
350 designed to deter and prevent the use of alcohol, the abuse of
351 alcohol and illicit drugs, and the consumption of alcohol by
352 underage persons.

353 7. Identify the number of alcohol and illicit drug
354 violations of each institution's student code of conduct,
355 including an accounting of the penalties imposed.

356 (b) The annual report must include an assessment of
357 progress made in reducing alcohol and illicit drug abuse,
358 including alcohol use by students and underage persons, at the
359 state universities and community colleges, and must specify the
360 practices and policies that need improvement. The annual report
361 shall be submitted by July 1, 2008, and by July 1 in each
362 successive year, to the Governor, the President of the Senate,
363 and the Speaker of the House of Representatives.

364 (c) The State Board of Education shall encourage the

HB 1541

2007

365 nonpublic universities and colleges to contribute to the
 366 findings of the annual report and to participate in its
 367 preparation.

368 Section 5. Paragraph (h) is added to subsection (8) of
 369 section 1001.64, Florida Statutes, to read:

370 1001.64 Community college boards of trustees; powers and
 371 duties.--

372 (8) Each board of trustees has authority for policies
 373 related to students, enrollment of students, student records,
 374 student activities, financial assistance, and other student
 375 services.

376 (h) Each board of trustees shall establish a plan to
 377 reduce and eliminate alcohol and illicit drug abuse, including
 378 underage alcohol use, and conduct an annual evaluation of the
 379 effectiveness of that plan.

380 Section 6. Paragraph (j) is added to subsection (10) of
 381 section 1001.74, Florida Statutes, to read:

382 1001.74 Powers and duties of university boards of
 383 trustees.--

384 (10) Each board of trustees has responsibility for
 385 policies related to students, enrollment of students, student
 386 activities and organizations, financial assistance, and other
 387 student services.

388 (j) Each board of trustees shall establish a plan to
 389 reduce and eliminate alcohol and illicit drug abuse, including
 390 underage alcohol use, and conduct an annual evaluation of the
 391 effectiveness of that plan.

392 Section 7. This act shall take effect July 1, 2007.