

Bill No. SB 1954

Barcode 931190

CHAMBER ACTION

Senate

House

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The Committee on Regulated Industries (Hill) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

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

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

(1)(a)1. It is unlawful for any person to sell, give, serve, or permit to be served alcoholic beverages to a person under 21 years of age. It is unlawful for any licensee or his or her or its agents, officers, servants, or employees or to permit a person under 21 years of age to consume or possess such beverages on the licensed premises. A person who violates this subparagraph commits a misdemeanor of the second degree,

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1 punishable as provided in s. 775.082 or s. 775.083.

2           2. In addition to any other penalty imposed for a  
3 violation of subparagraph 1., the court may order the  
4 Department of Highway Safety and Motor Vehicles to withhold  
5 the issuance of, or suspend or revoke, the driver's license or  
6 driving privilege, as provided in s. 322.057, of any person  
7 who violates subparagraph 1. This subparagraph does not apply  
8 to a licensee, as defined in s. 561.01, who violates  
9 subparagraph 1. while acting within the scope of his or her  
10 license or an employee or agent of a licensee, as defined in  
11 s. 561.01, who violates subparagraph 1. while engaged within  
12 the scope of his or her employment or agency.

13           (b) A licensee, or his or her or its agents, officers,  
14 servants, or employees, may not provide alcoholic beverages to  
15 a person younger than 21 years of age who is employed by the  
16 licensee except as authorized pursuant to s. 562.111 or s.  
17 562.13, and may not permit a person younger than 21 years of  
18 age who is employed by the licensee to consume alcoholic  
19 beverages on the licensed premises or elsewhere while in the  
20 scope of employment. A licensee, or his or her or its agents,  
21 officers, servants, or employees, who violates this paragraph  
22 commits a misdemeanor of the first degree, punishable as  
23 provided in s. 775.082 or s. 775.083. This paragraph may be  
24 cited as "the Christopher Fugate Act."

25           (c) A licensee who violates paragraph (a) shall have a  
26 complete defense to any civil action therefor, except for any  
27 administrative action by the division under the Beverage Law,  
28 if, at the time the alcoholic beverage was sold, given,  
29 served, or permitted to be served, the person falsely  
30 evidenced that he or she was of legal age to purchase or  
31 consume the alcoholic beverage and the appearance of the

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1 person was such that an ordinarily prudent person would  
 2 believe him or her to be of legal age to purchase or consume  
 3 the alcoholic beverage and if the licensee carefully checked  
 4 one of the following forms of identification with respect to  
 5 the person: a driver's license, an identification card issued  
 6 under the provisions of s. 322.051 or, if the person is  
 7 physically handicapped as defined in s. 553.45(1), a  
 8 comparable identification card issued by another state which  
 9 indicates the person's age, a passport, or a United States  
 10 Uniformed Services identification card, and acted in good  
 11 faith and in reliance upon the representation and appearance  
 12 of the person in the belief that he or she was of legal age to  
 13 purchase or consume the alcoholic beverage. Nothing herein  
 14 shall negate any cause of action which arose prior to June 2,  
 15 1978.

16 (2) It is unlawful for any person to misrepresent or  
 17 misstate his or her age or the age of any other person for the  
 18 purpose of inducing any licensee or his or her agents or  
 19 employees to sell, give, serve, or deliver any alcoholic  
 20 beverages to a person under 21 years of age, or for any person  
 21 under 21 years of age to purchase or attempt to purchase  
 22 alcoholic beverages.

23 (a) Anyone convicted of violating the provisions of  
 24 this subsection is guilty of a misdemeanor of the second  
 25 degree, punishable as provided in s. 775.082 or s. 775.083.

26 (b) Any person under the age of 17 years who violates  
 27 such provisions shall be within the jurisdiction of the judge  
 28 of the circuit court and shall be dealt with as a juvenile  
 29 delinquent according to law.

30 (c) In addition to any other penalty imposed for a  
 31 violation of this subsection, if a person uses a driver's

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1 license or identification card issued by the Department of  
2 Highway Safety and Motor Vehicles in violation of this  
3 subsection, the court:

4       1. May order the person to participate in public  
5 service or a community work project for a period not to exceed  
6 40 hours; and

7       2. Shall direct the Department of Highway Safety and  
8 Motor Vehicles to withhold issuance of, or suspend or revoke,  
9 the person's driver's license or driving privilege, as  
10 provided in s. 322.056.

11       (3) Any person under the age of 21 years testifying in  
12 any criminal prosecution or in any hearing before the division  
13 involving the violation by any other person of the provisions  
14 of this section may, at the discretion of the prosecuting  
15 officer, be given full and complete immunity from prosecution  
16 for any violation of law revealed in such testimony that may  
17 be or may tend to be self-incriminating, and any such person  
18 under 21 years of age so testifying, whether under subpoena or  
19 otherwise, shall be compelled to give any such testimony in  
20 such prosecution or hearing for which immunity from  
21 prosecution therefor is given.

22       (4) This section does not apply to a person who gives,  
23 serves, or permits to be served an alcoholic beverage to a  
24 student who is at least 18 years of age, if the alcoholic  
25 beverage is delivered as part of the student's required  
26 curriculum at a postsecondary educational institution that is  
27 institutionally accredited by an agency recognized by the  
28 United States Department of Education and is licensed or  
29 exempt from licensure pursuant to the provisions of chapter  
30 1005 or that is a public postsecondary education institution;  
31 if the student is enrolled in the college and is required to

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1 taste alcoholic beverages that are provided only for  
 2 instructional purposes during classes conducted under the  
 3 supervision of authorized instructional personnel pursuant to  
 4 such a curriculum; if the alcoholic beverages are never  
 5 offered for consumption or imbibed by such a student and at  
 6 all times remain in the possession and control of such  
 7 instructional personnel, who must be 21 years of age or older;  
 8 and if each participating student executes a waiver and  
 9 consent in favor of the state and indemnifies the state and  
 10 holds it harmless.

11 Section 2. Section 562.111, Florida Statutes, is  
 12 amended to read:

13 562.111 Possession of alcoholic beverages by persons  
 14 under age 21 prohibited.--

15 (1) It is unlawful for any person under the age of 21  
 16 years, except a person employed under the provisions of s.  
 17 562.13 acting in the scope of her or his employment, to have  
 18 in her or his possession alcoholic beverages. It is unlawful  
 19 for any person under 21 years of age to consume alcoholic  
 20 beverages or to be intoxicated by consumption of an alcoholic  
 21 beverage. ~~except that nothing contained in This subsection~~  
 22 does not shall preclude the employment of any person 18 years  
 23 of age or older in the sale, preparation, or service of  
 24 alcoholic beverages in licensed premises in any establishment  
 25 licensed by the Division of Alcoholic Beverages and Tobacco or  
 26 the Division of Hotels and Restaurants. Notwithstanding the  
 27 provisions of s. 562.45, any person under the age of 21 who is  
 28 convicted of a violation of this subsection is guilty of a  
 29 misdemeanor of the second degree, punishable as provided in s.  
 30 775.082 or s. 775.083; however, any person under the age of 21  
 31 who has been convicted of a violation of this subsection and

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1 who is thereafter convicted of a further violation of this  
2 subsection is, upon conviction of the further offense, guilty  
3 of a misdemeanor of the first degree, punishable as provided  
4 in s. 775.082 or s. 775.083. The possession or consumption by,  
5 or the service to, a person under 21 years of age of wine in  
6 the performance of a religious service, ritual, or ceremony is  
7 not prohibited by law.

8 (2) The prohibition in this section against the  
9 possession of alcoholic beverages does not apply to the  
10 tasting of alcoholic beverages by a student who is at least 18  
11 years of age, who is tasting the alcoholic beverages as part  
12 of the student's required curriculum at a postsecondary  
13 educational institution that is institutionally accredited by  
14 an agency recognized by the United States Department of  
15 Education and that is licensed or exempt from licensure  
16 pursuant to the provisions of chapter 1005 or is a public  
17 postsecondary education institution; if the student is  
18 enrolled in the college and is tasting the alcoholic beverages  
19 only for instructional purposes during classes that are part  
20 of such a curriculum; if the student is allowed only to taste,  
21 but not consume or imbibe, the alcoholic beverages; and if the  
22 alcoholic beverages at all times remain in the possession and  
23 control of authorized instructional personnel of the college  
24 who are 21 years of age or older.

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

30 (4) For purposes of this section, it is prima facie  
31 evidence that a person under the age of 21 years has consumed

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1 an alcoholic beverage or is intoxicated by the consumption of  
 2 an alcoholic beverage if the person is affected to the extent  
 3 that the person's normal faculties are impaired, if the person  
 4 has a blood-alcohol level of 0.02 or more grams of alcohol per  
 5 100 milliliters of blood, or if the person has a  
 6 breath-alcohol level of 0.02 or more grams of alcohol per 210  
 7 liters of breath.

8 Section 3. Section 322.056, Florida Statutes, is  
 9 amended to read:

10 322.056 Mandatory revocation or suspension of, or  
 11 delay of eligibility for, driver's license for persons ~~under~~  
 12 ~~age 18~~ found guilty of certain alcohol, drug, or tobacco  
 13 offenses; prohibition.--

14 (1) Notwithstanding the provisions of s. 322.055, if a  
 15 person ~~under 18 years of age~~ is found guilty of or delinquent  
 16 for a violation of s. 562.11(2), s. 562.111, or chapter 893,  
 17 and:

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

22 1. Not less than 6 months and not more than 1 year for  
 23 the first violation.

24 2. Two years, for a subsequent violation.

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

29 1. Not less than 6 months and not more than 1 year for  
 30 the first violation.

31 2. Two years, for a subsequent violation.

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

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

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

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11 However, the court may, in its sound discretion, direct the  
 12 department to issue a license for driving privileges  
 13 restricted to business or employment purposes only, as defined  
 14 in s. 322.271, if the person is otherwise qualified for such a  
 15 license.

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

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

27 1. For the first violation, for 30 days.  
 28 2. For the second violation within 12 weeks of the  
 29 first violation, for 45 days.

30 (b) The person's driver's license or driving privilege  
 31 is under suspension or revocation for any reason, the court



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1 shall direct the department to extend the period of suspension  
2 or revocation by an additional period as follows:

- 3           1. For the first violation, for 30 days.
- 4           2. For the second violation within 12 weeks of the
- 5 first violation, for 45 days.

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

- 10           1. For the first violation, for 30 days.
- 11           2. For the second violation within 12 weeks of the
- 12 first violation, for 45 days.

13  
14 Any second violation of s. 569.11 not within the 12-week  
15 period after the first violation will be treated as a first  
16 violation and in the same manner as provided in this  
17 subsection.

18           (3) If a person under 18 years of age is found by the  
19 court to have committed a third violation of s. 569.11 within  
20 12 weeks of the first violation, the court must direct the  
21 Department of Highway Safety and Motor Vehicles to suspend or  
22 withhold issuance of his or her driver's license or driving  
23 privilege for 60 consecutive days. Any third violation of s.  
24 569.11 not within the 12-week period after the first violation  
25 will be treated as a first violation and in the same manner as  
26 provided in subsection (2).

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

29           (5) The suspension or revocation of a person's  
30 driver's license imposed pursuant to subsection (2) or  
31 subsection (3), shall not result in or be cause for an

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1 increase of the convicted person's, or his or her parent's or  
2 legal guardian's, automobile insurance rate or premium or  
3 result in points assessed against the person's driving record.

4 Section 4. Subsection (10) is added to section  
5 1001.02, Florida Statutes, to read:

6 1001.02 General powers of State Board of Education.--

7 The State Board of Education, in conjunction with the  
8 Board of Governors, shall develop an annual report regarding  
9 the extent of student alcoholic beverage abuse and alcoholic  
10 beverage possession and consumption by students under 21 years  
11 of age at the state universities. The report must review the  
12 education, prevention, intervention, and enforcement policies  
13 and practices of the state universities. The report must  
14 provide and delineate its findings for each state university.  
15 At a minimum, the report must:

16 (1) Detail the policies and practices concerning:

17 1. The extent to which alcoholic beverage consumption  
18 and possession is permitted on campus and during  
19 university-sponsored on and off campus events;

20 2. Notification of the parent or legal guardian of a  
21 student under 21 years of age regarding a first or subsequent  
22 violation by the student of the university's policies  
23 governing the use or possession of alcoholic beverages;

24 3. Cooperation with community coalitions, non-profit  
25 organizations, law enforcement, and the alcoholic beverage  
26 industry in implementing and developing education, prevention,  
27 intervention, and enforcement policies and practices;

28 4. The implementation of responsible alcoholic  
29 beverage service training at on-campus facilities that sell or  
30 serve, or permit the sale or service, of alcoholic beverages;

31 and



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1 alcoholic beverages which resulted in arrests delineated by  
2 students and nonstudents and by specifying the number of  
3 persons involved;

4 3. The number of alcohol-related violations of the  
5 university's alcohol policies and delineated by students and  
6 nonstudents and by specifying the number of persons involved;

7 4. The number of fully adjudicated violations of the  
8 student code of conduct pertaining to the possession or  
9 consumption of alcoholic beverages and specify the penalties  
10 imposed; and

11 5. The results of any surveys conducted by a  
12 university that demonstrates the extent of alcohol use by  
13 underage students and of irresponsible alcohol use at that  
14 university or among college students state-wide, if available.

15 (d) In order to provide a context for useful  
16 comparative analysis between universities, specify in relation  
17 to the university's total student population, the number and  
18 percentage of full-time students, the number and percentage of  
19 part-time students, the number and percentage of students who  
20 reside on-campus, and the number and percentage of students  
21 under and over 21 years of age.

22 (e) Assess the effectiveness of the education,  
23 prevention, intervention, and enforcement efforts, including:

24 1. Whether existing university resources are  
25 sufficient to implement the university's education,  
26 prevention, intervention, and enforcement efforts, and  
27 indicate the need, if any, for additional resources; and

28 2. Whether progress has been made in reducing the  
29 incidence of alcoholic beverage abuse by students and the  
30 possession or consumption of alcoholic beverages by students  
31 under 21 years of age and whether specific practices or

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1 polices need improvement, if any.

2 (f) Assess whether the minimum reporting required by  
3 this subsection provides information that is beneficial to  
4 determining the effectiveness of the universities' education,  
5 prevention, intervention, and enforcement efforts and whether  
6 there is a need for this annual report.

7 (g) Assess whether there is a need for uniformity in  
8 the reporting, data collection, and recordkeeping efforts of  
9 the state universities.

10

11 The report shall reflect the period of July 1 through June 30  
12 of each year. The annual report shall be submitted by  
13 November 15, 2008, and by November 15 of each successive year,  
14 to the Governor, the President of the Senate, and the Speaker  
15 of the House of Representatives. The State Board of Education  
16 shall encourage the nonpublic universities and colleges to  
17 contribute to the finds of the annual report and to  
18 participate in its preparation.

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

21 1001.64 Community college boards of trustees; powers  
22 and duties.--

23 (8) Each board of trustees has authority for policies  
24 related to students, enrollment of students, student records,  
25 student activities, financial assistance, and other student  
26 services.

27 (h) Each board of trustees shall establish a plan to  
28 reduce and eliminate the irresponsible consumption of  
29 alcoholic beverages and the possession and consumption of  
30 alcoholic beverages by students under 21 years of age. The  
31 Board shall conduct an annual evaluation of the effectiveness

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1 of that plan.

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

4 1001.74 Powers and duties of university boards of  
5 trustees.--

6 (10) Each board of trustees has responsibility for  
7 policies related to students, enrollment of students, student  
8 activities and organizations, financial assistance, and other  
9 student services.

10 (j) To the extent delegated by the Board of Governors  
11 pursuant to s. 1001.706, each board of trustees shall  
12 establish a plan to reduce and eliminate the irresponsible  
13 consumption of alcoholic beverages and the possession and  
14 consumption of alcoholic beverages by students under 21 years  
15 of age. The Board shall conduct an annual evaluation of the  
16 effectiveness of that plan.

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

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19

20 ===== T I T L E A M E N D M E N T =====

21 And the title is amended as follows:

22 Delete everything before the enacting clause

23

24 and insert:

25 A bill to be entitled  
26 An act relating to alcoholic beverages;  
27 amending s. 562.11, F.S.; clarifying the  
28 prohibition against allowing a person younger  
29 than 21 years of age to consume alcoholic  
30 beverages at premises licensed to sell alcohol;  
31 amending s. 562.111, F.S.; prohibiting a person

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1 younger than 21 years of age from consuming  
2 alcoholic beverages or being intoxicated;  
3 specifying standards, including blood-alcohol  
4 and breath-alcohol levels, for determining  
5 whether such a person has consumed alcoholic  
6 beverages or is intoxicated; providing an  
7 exception for religious activities; amending s.  
8 322.056, F.S.; providing that the penalty of  
9 suspending or revoking a driver's license or  
10 privilege for the offense of unlawfully serving  
11 alcoholic beverages to a person younger than 21  
12 years of age applies to persons older than 18  
13 years of age; amending s. 1001.02, F.S.;  
14 requiring the State Board of Education to  
15 annually report the occurrence of alcohol abuse  
16 on university campuses; providing requirements  
17 for the report; requiring that the report be  
18 submitted to the Governor and the Legislature;  
19 amending ss. 1001.64 and 1001.74, F.S.;  
20 requiring that the board of trustees at each  
21 community college and university establish a  
22 plan for reducing and eliminating alcohol abuse  
23 at the community college or university;  
24 providing an effective date.

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