

By the Committee on Regulated Industries

580-757C-07

1 A bill to be entitled
2 An act relating to alcoholic beverages;
3 amending s. 562.11, F.S.; clarifying the
4 prohibition against allowing a person younger
5 than 21 years of age to consume alcoholic
6 beverages at premises licensed to sell alcohol;
7 authorizing a licensee to seize the driver's
8 license or identification card of a person who
9 uses such license or card to misrepresent or
10 misstate his or her age or the age of another
11 person; providing procedures for such seizure;
12 providing that seizing or failing to seize a
13 license or card does not create liability on
14 the part of the licensee; amending s. 562.111,
15 F.S.; prohibiting a person younger than 21
16 years of age from consuming alcoholic beverages
17 or being intoxicated; specifying standards,
18 including blood-alcohol and breath-alcohol
19 levels, for determining whether such a person
20 has consumed alcoholic beverages or is
21 intoxicated; amending s. 322.056, F.S.;
22 providing that the penalty of suspending or
23 revoking a driver's license or privilege for
24 the offense of unlawfully serving alcoholic
25 beverages to a person younger than 21 years of
26 age applies to persons older than 18 years of
27 age; amending s. 1001.02, F.S.; requiring the
28 State Board of Education to annually report the
29 occurrence of alcohol and illicit drug abuse on
30 college and university campuses; providing
31 requirements for the report; requiring that the

1 report be submitted to the Governor and the
2 Legislature; amending ss. 1001.64 and 1001.74,
3 F.S.; requiring that the board of trustees at
4 each community college and university establish
5 a plan for reducing and eliminating alcohol and
6 illicit drug abuse at the community college or
7 university; providing an effective date.
8

9 Be It Enacted by the Legislature of the State of Florida:
10

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

13 562.11 Selling, giving, or serving alcoholic beverages
14 to person under age 21; providing a proper name;
15 misrepresenting or misstating age or age of another to induce
16 licensee to serve alcoholic beverages to person under 21;
17 penalties.--

18 (1)(a)1. It is unlawful for any person to sell, give,
19 serve, or permit to be served alcoholic beverages to a person
20 under 21 years of age. It is unlawful for any person ~~or~~ to
21 permit a person under 21 years of age to consume such
22 beverages on the licensed premises. A person who violates this
23 subparagraph commits a misdemeanor of the second degree,
24 punishable as provided in s. 775.082 or s. 775.083.

25 2. In addition to any other penalty imposed for a
26 violation of subparagraph 1., the court may order the
27 Department of Highway Safety and Motor Vehicles to withhold
28 the issuance of, or suspend or revoke, the driver's license or
29 driving privilege, as provided in s. 322.057, of any person
30 who violates subparagraph 1. This subparagraph does not apply
31 to a licensee, as defined in s. 561.01, who violates

1 subparagraph 1. while acting within the scope of his or her
2 license or an employee or agent of a licensee, as defined in
3 s. 561.01, who violates subparagraph 1. while engaged within
4 the scope of his or her employment or agency.

5 (b) A licensee, or his or her or its agents, officers,
6 servants, or employees, may not provide alcoholic beverages to
7 a person younger than 21 years of age who is employed by the
8 licensee except as authorized pursuant to s. 562.111 or s.
9 562.13, and may not permit a person younger than 21 years of
10 age who is employed by the licensee to consume alcoholic
11 beverages on the licensed premises or elsewhere while in the
12 scope of employment. A licensee, or his or her or its agents,
13 officers, servants, or employees, who violates this paragraph
14 commits a misdemeanor of the first degree, punishable as
15 provided in s. 775.082 or s. 775.083. This paragraph may be
16 cited as "the Christopher Fugate Act."

17 (c) A licensee who violates paragraph (a) shall have a
18 complete defense to any civil action therefor, except for any
19 administrative action by the division under the Beverage Law,
20 if, at the time the alcoholic beverage was sold, given,
21 served, or permitted to be served, the person falsely
22 evidenced that he or she was of legal age to purchase or
23 consume the alcoholic beverage and the appearance of the
24 person was such that an ordinarily prudent person would
25 believe him or her to be of legal age to purchase or consume
26 the alcoholic beverage and if the licensee carefully checked
27 one of the following forms of identification with respect to
28 the person: a driver's license, an identification card issued
29 under the provisions of s. 322.051 or, if the person is
30 physically handicapped as defined in s. 553.45(1), a
31 comparable identification card issued by another state which

1 indicates the person's age, a passport, or a United States
2 Uniformed Services identification card, and acted in good
3 faith and in reliance upon the representation and appearance
4 of the person in the belief that he or she was of legal age to
5 purchase or consume the alcoholic beverage. Nothing herein
6 shall negate any cause of action which arose prior to June 2,
7 1978.

8 (d) A licensee, or his or her agent or employee, may
9 seize any driver's license or identification card that is
10 presented by a person for the purpose of misrepresenting or
11 misstating that person's age or the age of any other person in
12 violation of this subsection. A receipt must be provided to
13 any person from whom a driver's license or identification card
14 is seized and, within a reasonable period that may not exceed
15 72 hours, the seized identification must be provided to the
16 division, the Department of Highway Safety and Motor Vehicles,
17 or a local law enforcement agency having jurisdiction over the
18 licensed premises. The receipt must identify the agency to
19 which the driver's license or identification card will be
20 given and from which it can be reclaimed and the location of
21 that agency. The decision by a licensee, or his or her agent
22 or employee, to seize or not to seize a driver's license or
23 identification card pursuant to the provisions of this
24 paragraph does not create any civil or criminal liability on
25 the part of the licensee or his or her agent or employee. If
26 the person from whom the driver's license or identification
27 card is seized asserts that the identification is valid, the
28 licensee, or his or her agent, servant, or employee, shall
29 request the assistance of a law enforcement officer to
30 determine the validity of the seized identification or return
31 the identification to the person.

1 (2) It is unlawful for any person to misrepresent or
2 misstate his or her age or the age of any other person for the
3 purpose of inducing any licensee or his or her agents or
4 employees to sell, give, serve, or deliver any alcoholic
5 beverages to a person under 21 years of age, or for any person
6 under 21 years of age to purchase or attempt to purchase
7 alcoholic beverages.

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

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

15 (c) In addition to any other penalty imposed for a
16 violation of this subsection, if a person uses a driver's
17 license or identification card issued by the Department of
18 Highway Safety and Motor Vehicles in violation of this
19 subsection, the court:

20 1. May order the person to participate in public
21 service or a community work project for a period not to exceed
22 40 hours; and

23 2. Shall direct the Department of Highway Safety and
24 Motor Vehicles to withhold issuance of, or suspend or revoke,
25 the person's driver's license or driving privilege, as
26 provided in s. 322.056.

27 (3) Any person under the age of 21 years testifying in
28 any criminal prosecution or in any hearing before the division
29 involving the violation by any other person of the provisions
30 of this section may, at the discretion of the prosecuting
31 officer, be given full and complete immunity from prosecution

1 | for any violation of law revealed in such testimony that may
2 | be or may tend to be self-incriminating, and any such person
3 | under 21 years of age so testifying, whether under subpoena or
4 | otherwise, shall be compelled to give any such testimony in
5 | such prosecution or hearing for which immunity from
6 | prosecution therefor is given.

7 | (4) This section does not apply to a person who gives,
8 | serves, or permits to be served an alcoholic beverage to a
9 | student who is at least 18 years of age, if the alcoholic
10 | beverage is delivered as part of the student's required
11 | curriculum at a postsecondary educational institution that is
12 | institutionally accredited by an agency recognized by the
13 | United States Department of Education and is licensed or
14 | exempt from licensure pursuant to the provisions of chapter
15 | 1005 or that is a public postsecondary education institution;
16 | if the student is enrolled in the college and is required to
17 | taste alcoholic beverages that are provided only for
18 | instructional purposes during classes conducted under the
19 | supervision of authorized instructional personnel pursuant to
20 | such a curriculum; if the alcoholic beverages are never
21 | offered for consumption or imbibed by such a student and at
22 | all times remain in the possession and control of such
23 | instructional personnel, who must be 21 years of age or older;
24 | and if each participating student executes a waiver and
25 | consent in favor of the state and indemnifies the state and
26 | holds it harmless.

27 | Section 2. Section 562.111, Florida Statutes, is
28 | amended to read:

29 | 562.111 Possession of alcoholic beverages by persons
30 | under age 21 prohibited.--
31 |

1 (1) It is unlawful for any person under the age of 21
2 years, except a person employed under the provisions of s.
3 562.13 acting in the scope of her or his employment, to have
4 in her or his possession alcoholic beverages. It is unlawful
5 for any person under 21 years of age to consume alcoholic
6 beverages or to be intoxicated by consumption of an alcoholic
7 beverage., ~~except that nothing contained in~~ This subsection
8 does not shall preclude the employment of any person 18 years
9 of age or older in the sale, preparation, or service of
10 alcoholic beverages in licensed premises in any establishment
11 licensed by the Division of Alcoholic Beverages and Tobacco or
12 the Division of Hotels and Restaurants. Notwithstanding the
13 provisions of s. 562.45, any person under the age of 21 who is
14 convicted of a violation of this subsection is guilty of a
15 misdemeanor of the second degree, punishable as provided in s.
16 775.082 or s. 775.083; however, any person under the age of 21
17 who has been convicted of a violation of this subsection and
18 who is thereafter convicted of a further violation of this
19 subsection is, upon conviction of the further offense, guilty
20 of a misdemeanor of the first degree, punishable as provided
21 in s. 775.082 or s. 775.083. The possession or consumption by,
22 or the service to, a person under 21 years of age of wine in
23 the performance of a religious service, ritual, or ceremony is
24 not prohibited by the Beverage Law.

25 (2) The prohibition in this section against the
26 possession of alcoholic beverages does not apply to the
27 tasting of alcoholic beverages by a student who is at least 18
28 years of age, who is tasting the alcoholic beverages as part
29 of the student's required curriculum at a postsecondary
30 educational institution that is institutionally accredited by
31 an agency recognized by the United States Department of

1 Education and that is licensed or exempt from licensure
2 pursuant to the provisions of chapter 1005 or is a public
3 postsecondary education institution; if the student is
4 enrolled in the college and is tasting the alcoholic beverages
5 only for instructional purposes during classes that are part
6 of such a curriculum; if the student is allowed only to taste,
7 but not consume or imbibe, the alcoholic beverages; and if the
8 alcoholic beverages at all times remain in the possession and
9 control of authorized instructional personnel of the college
10 who are 21 years of age or older.

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

16 (4) For purposes of this section, it is prima facie
17 evidence that a person under the age of 21 years has consumed
18 an alcoholic beverage or is intoxicated by the consumption of
19 an alcoholic beverage if the person is affected to the extent
20 that the person's normal faculties are impaired, if the person
21 has a blood-alcohol level of 0.02 or more grams of alcohol per
22 100 milliliters of blood, or if the person has a
23 breath-alcohol level of 0.02 or more grams of alcohol per 210
24 liters of breath.

25 Section 3. Section 322.056, Florida Statutes, is
26 amended to read:

27 322.056 Mandatory revocation or suspension of, or
28 delay of eligibility for, driver's license for persons ~~under~~
29 ~~age 18~~ found guilty of certain alcohol, drug, or tobacco
30 offenses; prohibition.--
31

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

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

9 1. Not less than 6 months and not more than 1 year for
10 the first violation.

11 2. Two years, for a subsequent violation.

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

16 1. Not less than 6 months and not more than 1 year for
17 the first violation.

18 2. Two years, for a subsequent violation.

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

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

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

28
29 However, the court may, in its sound discretion, direct the
30 department to issue a license for driving privileges
31 restricted to business or employment purposes only, as defined

1 | in s. 322.271, if the person is otherwise qualified for such a
2 | license.

3 | (2) If a person under 18 years of age is found by the
4 | court to have committed a noncriminal violation under s.
5 | 569.11 and that person has failed to comply with the
6 | procedures established in that section by failing to fulfill
7 | community service requirements, failing to pay the applicable
8 | fine, or failing to attend a locally available school-approved
9 | anti-tobacco program, and:

10 | (a) The person is eligible by reason of age for a
11 | driver's license or driving privilege, the court shall direct
12 | the department to revoke or to withhold issuance of his or her
13 | driver's license or driving privilege as follows:

- 14 | 1. For the first violation, for 30 days.
15 | 2. For the second violation within 12 weeks of the
16 | first violation, for 45 days.

17 | (b) The person's driver's license or driving privilege
18 | is under suspension or revocation for any reason, the court
19 | shall direct the department to extend the period of suspension
20 | or revocation by an additional period as follows:

- 21 | 1. For the first violation, for 30 days.
22 | 2. For the second violation within 12 weeks of the
23 | first violation, for 45 days.

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

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

31 |

1 Any second violation of s. 569.11 not within the 12-week
2 period after the first violation will be treated as a first
3 violation and in the same manner as provided in this
4 subsection.

5 (3) If a person under 18 years of age is found by the
6 court to have committed a third violation of s. 569.11 within
7 12 weeks of the first violation, the court must direct the
8 Department of Highway Safety and Motor Vehicles to suspend or
9 withhold issuance of his or her driver's license or driving
10 privilege for 60 consecutive days. Any third violation of s.
11 569.11 not within the 12-week period after the first violation
12 will be treated as a first violation and in the same manner as
13 provided in subsection (2).

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

16 (5) The suspension or revocation of a person's
17 driver's license imposed pursuant to subsection (2) or
18 subsection (3), shall not result in or be cause for an
19 increase of the convicted person's, or his or her parent's or
20 legal guardian's, automobile insurance rate or premium or
21 result in points assessed against the person's driving record.

22 Section 4. Subsection (10) is added to section
23 1001.02, Florida Statutes, to read:

24 1001.02 General powers of State Board of Education.--

25 (10) The State Board of Education, in conjunction with
26 the Board of Governors, shall develop an annual report
27 regarding the extent of alcohol and illicit drug abuse,
28 including underage alcohol use, at the state universities and
29 community colleges and by college and university students. The
30 report must review the enforcement, prevention, and
31 intervention policies and practices of the state universities

1 and community colleges. The report shall address the need for
2 uniform reporting, data collection, and recordkeeping by the
3 state universities and community colleges. The report must
4 provide and delineate its findings for each state university
5 and community college.

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

7 1. Detail the policies and practices of each
8 university and community college regarding the use and
9 possession of alcohol, including the extent to which alcohol
10 use and possession is permitted in campus housing, dining, and
11 meeting facilities and during university-sponsored events,
12 including on-campus and off-campus athletic events.

13 2. Specify which universities and community colleges
14 notify the parent or legal guardian of a student under 21
15 years of age regarding a violation by the student of the
16 institution's policies governing the use or possession of
17 alcohol or illicit drugs.

18 3. Identify the number of alcohol-related deaths of
19 students, including deaths occurring during school term breaks
20 and occurring off-campus. The term "alcohol-related deaths"
21 includes deaths in which the use of alcohol or illicit drug
22 use was a contributing factor.

23 4. Identify the number of alcohol-related and illicit
24 drug-related incidents on the campuses of the state
25 universities, including incidents involving students and
26 nonstudents, and specify the number of persons involved. The
27 term "incidents" includes violations of the alcohol and
28 illicit drug policies of the colleges and universities and
29 violations of state law in which alcohol or illicit drug use
30 was a contributing factor.

31

1 5. Identify the number of alcohol-related
2 hospitalizations of students. The term "alcohol-related
3 hospitalizations" means incidents in which a student requires
4 medical treatment for injuries or other medical conditions
5 related to the abuse or excessive consumption of illicit drugs
6 or alcohol.

7 6. Identify the on-campus and off-campus programs that
8 are designed to deter and prevent the use of alcohol, the
9 abuse of alcohol and illicit drugs, and the consumption of
10 alcohol by underage persons.

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

14 (b) The annual report must include an assessment of
15 progress made in reducing the incidence of alcohol and illicit
16 drug abuse, including alcohol use by underage persons, at the
17 state universities and community colleges and by students, and
18 must specify the practices and policies that need improvement.
19 The annual report shall be submitted by July 1, 2008, and by
20 July 1 in each successive year, to the Governor, the President
21 of the Senate, and the Speaker of the House of
22 Representatives.

23 (c) The State Board of Education shall encourage the
24 nonpublic universities and colleges to contribute to the
25 findings of the annual report and to participate in its
26 preparation.

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

29 1001.64 Community college boards of trustees; powers
30 and duties.--
31

1 (8) Each board of trustees has authority for policies
2 related to students, enrollment of students, student records,
3 student activities, financial assistance, and other student
4 services.

5 (h) Each board of trustees shall establish a plan to
6 reduce and eliminate alcohol and illicit drug abuse, including
7 underage alcohol use, and conduct an annual evaluation of the
8 effectiveness of that plan.

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

11 1001.74 Powers and duties of university boards of
12 trustees.--

13 (10) Each board of trustees has responsibility for
14 policies related to students, enrollment of students, student
15 activities and organizations, financial assistance, and other
16 student services.

17 (j) To the extent delegated by the Board of Governors
18 pursuant to s. 1001.706, each board of trustees shall
19 establish a plan to reduce and eliminate alcohol and illicit
20 drug abuse, including underage alcohol use, and conduct an
21 annual evaluation of the effectiveness of that plan.

22 Section 7. This act shall take effect July 1, 2007.
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SENATE SUMMARY

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3 Revises various laws prohibiting a person younger than 21
4 years of age from consuming alcoholic beverages.
5 Authorizes a licensee to seize the driver's license or
6 identification card of a person who uses the license or
7 card to misrepresent or misstate his or her age or the
8 age of another person. Specifies standards, including
9 blood-alcohol and breath-alcohol levels, for determining
10 whether a person younger than 21 years of age has
11 consumed alcoholic beverages or is intoxicated. Provides
12 that the penalty of suspending or revoking a driver's
13 license or privilege for the offense of serving alcoholic
14 beverages to a person younger than 21 years of age
15 applies to persons older than 18 years of age. Requires
16 the State Board of Education to annually report the
17 occurrence of alcohol and illicit drug abuse on college
18 and university campuses. Requires that the report be
19 submitted to the Governor and the Legislature. Requires
20 that the board of trustees at each community college and
21 university establish a plan for reducing and eliminating
22 alcohol and illicit drug abuse at the community college
23 or university.
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