

By the Committee on Regulated Industries

580-2112-07

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 amending s. 322.056, F.S.; providing that the
8 penalty of suspending or revoking a driver's
9 license or privilege for the offense of
10 unlawfully serving alcoholic beverages to a
11 person younger than 21 years of age applies to
12 persons older than 18 years of age; amending s.
13 1001.02, F.S.; requiring the State Board of
14 Education to annually report the occurrence of
15 alcohol abuse on college and university
16 campuses; providing requirements for the
17 report; requiring that the report be submitted
18 to the Governor and the Legislature; amending
19 ss. 1001.64 and 1001.74, F.S.; requiring that
20 the board of trustees at each community college
21 and university establish a plan for reducing
22 and eliminating alcohol abuse at the community
23 college or university; providing an effective
24 date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 562.11, Florida Statutes, is
29 amended to read:

30 562.11 Selling, giving, or serving alcoholic beverages
31 to person under age 21; providing a proper name;

1 | misrepresenting or misstating age or age of another to induce
2 | licensee to serve alcoholic beverages to person under 21;
3 | penalties.--

4 | (1)(a)1. It is unlawful for any person to sell, give,
5 | serve, or permit to be served alcoholic beverages to a person
6 | under 21 years of age. It is unlawful for any licensee, or his
7 | or her agents, officers, servants, or employees ~~or~~ to permit a
8 | person under 21 years of age to possess or consume such
9 | beverages on the licensed premises. A person who violates this
10 | subparagraph commits a misdemeanor of the second degree,
11 | punishable as provided in s. 775.082 or s. 775.083.

12 | 2. In addition to any other penalty imposed for a
13 | violation of subparagraph 1., the court may order the
14 | Department of Highway Safety and Motor Vehicles to withhold
15 | the issuance of, or suspend or revoke, the driver's license or
16 | driving privilege, as provided in s. 322.057, of any person
17 | who violates subparagraph 1. This subparagraph does not apply
18 | to a licensee, as defined in s. 561.01, who violates
19 | subparagraph 1. while acting within the scope of his or her
20 | license or an employee or agent of a licensee, as defined in
21 | s. 561.01, who violates subparagraph 1. while engaged within
22 | the scope of his or her employment or agency.

23 | (b) A licensee, or his or her or its agents, officers,
24 | servants, or employees, may not provide alcoholic beverages to
25 | a person younger than 21 years of age who is employed by the
26 | licensee except as authorized pursuant to s. 562.111 or s.
27 | 562.13, and may not permit a person younger than 21 years of
28 | age who is employed by the licensee to consume alcoholic
29 | beverages on the licensed premises or elsewhere while in the
30 | scope of employment. A licensee, or his or her or its agents,
31 | officers, servants, or employees, who violates this paragraph

1 | commits a misdemeanor of the first degree, punishable as
2 | provided in s. 775.082 or s. 775.083. This paragraph may be
3 | cited as "the Christopher Fugate Act."

4 | (c) A licensee who violates paragraph (a) shall have a
5 | complete defense to any civil action therefor, except for any
6 | administrative action by the division under the Beverage Law,
7 | if, at the time the alcoholic beverage was sold, given,
8 | served, or permitted to be served, the person falsely
9 | evidenced that he or she was of legal age to purchase or
10 | consume the alcoholic beverage and the appearance of the
11 | person was such that an ordinarily prudent person would
12 | believe him or her to be of legal age to purchase or consume
13 | the alcoholic beverage and if the licensee carefully checked
14 | one of the following forms of identification with respect to
15 | the person: a driver's license, an identification card issued
16 | under the provisions of s. 322.051 or, if the person is
17 | physically handicapped as defined in s. 553.45(1), a
18 | comparable identification card issued by another state which
19 | indicates the person's age, a passport, or a United States
20 | Uniformed Services identification card, and acted in good
21 | faith and in reliance upon the representation and appearance
22 | of the person in the belief that he or she was of legal age to
23 | purchase or consume the alcoholic beverage. Nothing herein
24 | shall negate any cause of action which arose prior to June 2,
25 | 1978.

26 | (2) It is unlawful for any person to misrepresent or
27 | misstate his or her age or the age of any other person for the
28 | purpose of inducing any licensee or his or her agents or
29 | employees to sell, give, serve, or deliver any alcoholic
30 | beverages to a person under 21 years of age, or for any person
31 |

1 | under 21 years of age to purchase or attempt to purchase
2 | alcoholic beverages.

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

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

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

15 | 1. May order the person to participate in public
16 | service or a community work project for a period not to exceed
17 | 40 hours; and

18 | 2. Shall direct the Department of Highway Safety and
19 | Motor Vehicles to withhold issuance of, or suspend or revoke,
20 | the person's driver's license or driving privilege, as
21 | provided in s. 322.056.

22 | (3) Any person under the age of 21 years testifying in
23 | any criminal prosecution or in any hearing before the division
24 | involving the violation by any other person of the provisions
25 | of this section may, at the discretion of the prosecuting
26 | officer, be given full and complete immunity from prosecution
27 | for any violation of law revealed in such testimony that may
28 | be or may tend to be self-incriminating, and any such person
29 | under 21 years of age so testifying, whether under subpoena or
30 | otherwise, shall be compelled to give any such testimony in
31 |

1 such prosecution or hearing for which immunity from
2 prosecution therefor is given.

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

23 Section 2. Section 322.056, Florida Statutes, is
24 amended to read:

25 322.056 Mandatory revocation or suspension of, or
26 delay of eligibility for, driver's license for persons ~~under~~
27 ~~age 18~~ found guilty of certain alcohol, drug, or tobacco
28 offenses; prohibition.--

29 (1) Notwithstanding the provisions of s. 322.055, if a
30 person ~~under 18 years of age~~ is found guilty of or delinquent
31

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

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

7 1. Not less than 6 months and not more than 1 year for
8 the first violation.

9 2. Two years, for a subsequent violation.

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

14 1. Not less than 6 months and not more than 1 year for
15 the first violation.

16 2. Two years, for a subsequent violation.

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

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

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

26
27 However, the court may, in its sound discretion, direct the
28 department to issue a license for driving privileges
29 restricted to business or employment purposes only, as defined
30 in s. 322.271, if the person is otherwise qualified for such a
31 license.

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

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

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

13 2. For the second violation within 12 weeks of the
14 first violation, for 45 days.

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

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

20 2. For the second violation within 12 weeks of the
21 first violation, for 45 days.

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

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

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

29
30 Any second violation of s. 569.11 not within the 12-week
31 period after the first violation will be treated as a first

1 violation and in the same manner as provided in this
2 subsection.

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

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

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

20 Section 3. Subsection (10) is added to section
21 1001.02, Florida Statutes, to read:

22 1001.02 General powers of State Board of Education.--

23 (10) The State Board of Education, in conjunction with
24 the Board of Governors, shall develop an annual report
25 regarding the extent of alcoholic beverage abuse and alcoholic
26 beverage possession and consumption by students under 21 years
27 of age at the state universities. The report must review the
28 education, prevention, intervention, and enforcement policies
29 and practices of the state universities. The report must
30 provide and delineate its findings for each state university.
31 At a minimum, the report must:

- 1 (a) Detail the policies and practices concerning:
- 2 1. The extent to which alcoholic beverage consumption
- 3 and possession is permitted on campus and during
- 4 university-sponsored on-campus and off-campus events;
- 5 2. Notification of the parent or legal guardian of a
- 6 student under 21 years of age regarding a first or subsequent
- 7 violation by the student of the university's policies
- 8 governing the use or possession of alcoholic beverages;
- 9 3. Cooperation with community coalitions, nonprofit
- 10 organizations, law enforcement agencies, and the alcoholic
- 11 beverage industry in implementing and developing education,
- 12 prevention, intervention, and enforcement policies and
- 13 practices;
- 14 4. The implementation of training regarding
- 15 responsible alcoholic beverage service at on-campus facilities
- 16 that sell or serve, or permit the sale or service of,
- 17 alcoholic beverages; and
- 18 5. The advertisement of alcoholic beverages.
- 19 (b) Identify the education, prevention, intervention,
- 20 and enforcement efforts designed and implemented to promote
- 21 responsible student behaviors and personal responsibility and
- 22 to reduce the extent of alcoholic beverage abuse and alcoholic
- 23 beverage possession and consumption by students under 21 years
- 24 of age, including:
- 25 1. The on-campus and off-campus programs that are used
- 26 to foster and encourage abstinence from the use of alcoholic
- 27 beverages and the responsible use of alcoholic beverages and
- 28 to deter the possession and consumption of alcoholic beverages
- 29 by students under 21 years of age;
- 30 2. The efforts to enforce universities' alcohol
- 31 policies;

1 3. The efforts to assist students suffering from
2 alcohol abuse and dependency; and

3 4. The efforts of student organizations to promote
4 responsible student behaviors and personal responsibility and
5 to reduce the extent of alcoholic beverage abuse and underage
6 alcoholic beverage possession and consumption.

7 (c) Collect data that reflects the universities'
8 experience with students, including:

9 1. The number of alcohol-related deaths of students
10 that are known to the university. The report must delineate
11 whether a death occurs on campus. If the death does not occur
12 on campus, the report shall identify the municipality and
13 state in which the death occurred, if known. The term

14 "alcohol-related deaths" includes deaths in which the use of
15 alcoholic beverages by the student was a contributing factor;

16 2. The number of on-campus violations of state or
17 local laws related to the possession or consumption of
18 alcoholic beverages which resulted in arrests delineated by
19 students and nonstudents and by specifying the number of
20 persons involved;

21 3. The number of alcohol-related violations of the
22 university's alcohol policies and delineated by students and
23 nonstudents and by the number of persons involved;

24 4. The number of fully adjudicated violations of the
25 student code of conduct pertaining to the possession or
26 consumption of alcoholic beverages and the penalties imposed;
27 and

28 5. The results of any surveys conducted by a
29 university which demonstrates the extent of alcohol use by
30 underage students and irresponsible alcohol use at that
31 university or among college students statewide, if available.

1 (d) In order to provide a context for useful
2 comparative analysis between universities, specify in relation
3 to the university's total student population, the number and
4 percentage of full-time students, the number and percentage of
5 part-time students, the number and percentage of students who
6 reside on campus, and the number and percentage of students
7 under and over 21 years of age.

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

10 1. Whether existing university resources are
11 sufficient to implement the university's education,
12 prevention, intervention, and enforcement efforts, and
13 indicate the need, if any, for additional resources; and

14 2. Whether progress has been made in reducing the
15 incidence of alcoholic beverage abuse by students and the
16 possession or consumption of alcoholic beverages by students
17 under 21 years of age and whether specific practices or
18 polices need improvement, if any.

19 (f) Assess whether the minimum reporting required by
20 this subsection provides information that is beneficial to
21 determining the effectiveness of the universities' education,
22 prevention, intervention, and enforcement efforts and whether
23 there is a need for this annual report.

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

27
28 The report shall reflect the period of July 1 through June 30
29 of each year. The annual report shall be submitted by November
30 15, 2008, and by November 15 of each successive year, to the
31 Governor, the President of the Senate, and the Speaker of the

1 House of Representatives. The State Board of Education shall
2 encourage nonpublic universities and colleges to contribute to
3 the findings of the annual report and to participate in its
4 preparation.

5 Section 4. Paragraph (h) is added to subsection (8) of
6 section 1001.64, Florida Statutes, to read:

7 1001.64 Community college boards of trustees; powers
8 and duties.--

9 (8) Each board of trustees has authority for policies
10 related to students, enrollment of students, student records,
11 student activities, financial assistance, and other student
12 services.

13 (h) Each board of trustees shall establish a plan to
14 reduce and eliminate the irresponsible consumption of
15 alcoholic beverages and the possession and consumption of
16 alcoholic beverages by students under 21 years of age. The
17 board shall conduct an annual evaluation of the effectiveness
18 of this plan.

19 Section 5. Paragraph (j) is added to subsection (10)
20 of section 1001.74, Florida Statutes, to read:

21 1001.74 Powers and duties of university boards of
22 trustees.--

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

27 (j) To the extent delegated by the Board of Governors,
28 each board of trustees shall establish a plan to reduce and
29 eliminate the irresponsible consumption of alcoholic beverages
30 and the possession and consumption of alcoholic beverages by
31

1 students under 21 years of age. The board shall conduct an
2 annual evaluation of the effectiveness of that plan.

3 Section 6. This act shall take effect July 1, 2007.

4
5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 Senate Bill 1954

8 The committee substitute (CS) amends s. 562.11, to clarify
9 that it is unlawful for any licensee or his or her or its
10 agents, officers, servants, or employees to permit a person
under 21 years of age to consume or possess alcoholic
beverages on the licensed premises.

11 The CS does not provide for the confiscation of fraudulent
12 driver's licenses and identification cards.

13 The CS does not prohibit the consumption of alcoholic
14 beverage, and the intoxication by consumption of an alcoholic
beverage, by persons under 21 years of age.

15 The CS amends s. 1001.02(10), F.S., to specify the issues that
16 the report must address. The CS requires that the report
must:

- 17 - Detail schools' policies and practices regarding the use
and possession of alcohol;
- 18 - Collect data that reflects the universities' experience
with students;
- 19 - Provide information to provide a context for useful
20 comparative analysis between universities; and
- 21 - Assess the effectiveness of the education, prevention,
22 intervention, and enforcement efforts.

23 It also deletes all references to illicit drugs and limits the
reporting requirement to the state universities by deleting
24 the references to the community colleges. The CS also does
not require that the report include the number of
25 alcohol-related hospitalizations.

26 The CS provides that the report must reflect the period of
July 1, through June 30 of each year. It also changes the due
27 date for the first report to November 15, 2008, and for
November 15 of each successive year.