

By Senator Hill

1-03037-08

20082420__

1 A bill to be entitled
2 An act relating to alcoholic beverages; amending s.
3 561.703, F.S.; redefining the term "vendor" to remove an
4 exemption provided for certain vendors at grocery or drug
5 stores; amending s. 561.705, F.S.; requiring the
6 completion of a responsible-vendor training program by all
7 employees, all managers, and certain licensees who sell,
8 prepare, dispense, serve, or otherwise deliver alcoholic
9 beverages during the course of employment; providing
10 requirements for a responsible-vendor training program;
11 providing that the program may be conducted by the vendor
12 or an approved and certified responsible-vendor training
13 provider; authorizing the Division of Alcoholic Beverages
14 and Tobacco of the Department of Business and Professional
15 Regulation to refuse to renew a license until the licensee
16 has satisfied all applicable training requirements;
17 requiring that the division adopt rules; repealing s.
18 561.706, F.S., relating to an exemption from license
19 suspension or revocation under certain circumstances and
20 mitigation for certain beverage law violations; creating
21 s. 561.707, F.S.; requiring that the division approve and
22 certify providers of responsible-vendor training;
23 authorizing the division to levy fines against or revoke
24 or suspend the license of any training provider who fails
25 to provide appropriate training programs; limiting the
26 amount of such fine; authorizing the division to charge a
27 fee for persons seeking approval and certification to
28 provide responsible-vendor training; authorizing the
29 division to charge a biennial renewal fee; limiting the

1-03037-08

20082420__

30 amount of such fees; authorizing the division to adopt
31 rules; creating s. 561.708, F.S.; requiring that training
32 providers maintain and make available to the division or
33 department certain information for a specified period;
34 requiring that providers agree in writing to cooperate
35 with the department; authorizing the department to fine,
36 suspend, or revoke approval for providers under certain
37 circumstances; amending s. 562.111, F.S.; prohibiting a
38 person under 21 years of age from consuming alcoholic
39 beverages; amending s. 562.45, F.S.; authorizing local
40 governments to regulate drink specials; amending s.
41 856.015, F.S.; increasing the penalty for certain
42 violations of state law relating to open house parties
43 from a misdemeanor of the second degree to a felony of the
44 third degree; providing that a person who commits such a
45 violation is liable for any injury or damage caused by or
46 resulting from the possession or consumption of alcoholic
47 beverages or drugs at an open house party; providing an
48 effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Subsection (2) of section 561.703, Florida
53 Statutes, is amended to read:

54 561.703 Definitions relating to Florida Responsible Vendor
55 Act.--As used in this act, the term:

56 (2) "Vendor" means a person who is licensed pursuant to
57 this chapter, chapter 563, chapter 564, or chapter 565, to sell
58 or serve alcoholic beverages. ~~However, vendors at grocery or drug~~

1-03037-08

20082420__

59 ~~stores licensed under the provisions of s. 563.02(1)(a) or s.~~
60 ~~564.02(1)(a), whose premises are in excess of 5,000 square feet~~
61 ~~of floor space, shall be exempt from the provisions of this act.~~

62 Section 2. Section 561.705, Florida Statutes, is amended to
63 read:

64 561.705 Responsible-vendor training requirement ~~Responsible~~
65 ~~vendor qualification.--To qualify as a responsible vendor, the~~
66 ~~vendor must:~~

67 (1) Each vendor must demonstrate that all of its employees
68 who as part of their employment responsibilities sell, prepare,
69 dispense, serve, or otherwise deliver alcoholic beverages
70 directly to patrons of the licensed establishment, check the
71 identification of patrons, or manage employees performing such
72 tasks have successfully completed a responsible-vendor training
73 program approved and certified by the division. Each licensee
74 participating directly in the management of a licensed premises
75 must also successfully complete a responsible-vendor training
76 program approved and certified by the division. The required
77 responsible-vendor program shall:

78 (a) ~~(1)~~ Provide a course of instruction for its employees
79 that must include subjects dealing with alcoholic beverages and
80 may also include subjects dealing with controlled substances as
81 follows:

82 1. ~~(a)~~ Laws covering the service of alcoholic beverages and
83 the operation of establishments serving alcoholic beverages.

84 2. ~~(b)~~ Alcohol or controlled substances or both as a drug
85 and its effects on the body and behavior, including its effects
86 on a person operating a motor vehicle.

1-03037-08

20082420__

87 3.~~(e)~~ Effects of alcohol in combination with commonly used
88 drugs, both legal and illegal.

89 4.~~(d)~~ Methods of recognizing and dealing with underaged
90 customers.

91 5.~~(e)~~ Methods for dealing with customers, and for dealing
92 with employees, who use or traffic in illegal drugs.

93 (b)~~(2)~~ Provide an alcohol server management course for
94 managers of establishments that sell alcoholic beverages. The
95 course must include subjects on alcoholic beverages and may
96 include subjects on controlled substances as follows:

97 1.~~(a)~~ Laws governing the service of alcoholic beverages and
98 the operation of establishments serving alcoholic beverages.

99 2.~~(b)~~ Development of standard operating procedures for
100 dealing with underaged customers.

101 3.~~(e)~~ Development of standard operating procedures for
102 dealing with customers, and for dealing with employees, who use
103 or traffic in illegal drugs.

104 4.~~(d)~~ Methods of assisting employees in dealing with
105 underaged customers and in maintaining records that relate to
106 such incidents.

107 (c)~~(3)~~ Require each nonmanagerial employee who is employed
108 to serve alcoholic beverages to complete the employee training
109 course specified in paragraph (a) subsection (1) within 30 days
110 after commencing employment. The vendor must provide for the
111 supervision of such an employee in the service of alcoholic
112 beverages until the employee has received such training.

113 (d)~~(4)~~ Require each managerial employee to complete the
114 managerial training course specified in paragraph (b) subsection
115 ~~(2)~~ within 15 days after commencing employment.

1-03037-08

20082420__

116 (e)~~(5)~~ Require all employees to attend one meeting every 4
117 months. Each meeting must include the dissemination of
118 information covering the applicable subjects specified in this
119 section and an explanation of the vendor's policies and
120 procedures relating to those subjects.

121 (f)~~(6)~~ Require each employee, as a condition of her or his
122 initial employment, to complete a written questionnaire providing
123 the vendor the same information as is required by the division
124 from persons who apply for alcoholic beverage licenses and to
125 determine therefrom whether the employee is precluded by law from
126 serving or selling alcoholic beverages; however, employees of
127 vendors licensed under s. 563.02(1)(a) or s. 564.02(1)(a) shall
128 not be subject to the requirements of this subsection.

129 (g)~~(7)~~ Establish a written policy under which any employee
130 who engages in the illegal use of controlled substances on the
131 licensed premises will be immediately dismissed from employment
132 and require each employee to acknowledge the policy in writing.

133 (h)~~(8)~~ Maintain employment records of the applications,
134 acknowledgments, and training of its employees required by this
135 section and records of the vendor's enforcement of the policies
136 requiring dismissal specified in paragraph (g) ~~subsection (7)~~.

137 (i)~~(9)~~ Post signs on the vendor's premises informing
138 customers of the vendor's policy against serving alcoholic
139 beverages to underaged persons and informing customers that the
140 purchase of alcoholic beverages by an underaged person or the
141 illegal use of or trafficking in controlled substances will
142 result in ejection from the premises and prosecution.

143 (2) A vendor may conduct a responsible-vendor training
144 program for the purpose of compliance with the provisions of this

1-03037-08

20082420__

145 section or engage the services of an approved and certified
146 responsible-vendor training provider.

147 (3) The division shall establish a system to monitor
148 compliance by licensees with applicable responsible-vendor
149 training requirements and to determine each licensee's
150 responsible-vendor training status. The division shall determine
151 whether each licensee, manager, or employee of the licensee is in
152 full compliance with applicable training requirements at the time
153 of the licensee's license renewal.

154 (4) The division may refuse renewal of a licensee's license
155 until the licensee has satisfied all applicable training
156 requirements.

157 (5) The division may adopt rules pursuant to ss. 120.536(1)
158 and 120.54 to administer the requirements of this section.

159 Section 3. Section 561.706, Florida Statutes, is repealed.

160 Section 4. Section 561.707, Florida Statutes, is created to
161 read:

162 561.707 Responsible-vendor training provider and program
163 approval.--

164 (1) The division shall approve and certify providers of
165 responsible-vendor training for a period not to exceed 4 years.

166 (2) The division shall issue an order requiring a person or
167 entity to cease and desist from offering any responsible-vendor
168 training for licensees and fining, suspending, or revoking any
169 approval of a provider previously granted by the division if the
170 division finds that such person or entity has failed to provide
171 appropriate responsible-vendor training programs conforming to
172 approved training requirements. Such fine may not exceed \$250 per
173 violation.

1-03037-08

20082420__

174 (3) The division may establish by rule a fee not to exceed
175 \$250 for any person seeking approval and certification as a
176 provider of responsible-vendor training. The division may
177 establish by rule a biennial fee not to exceed \$250 for the
178 renewal of such certification.

179 (4) The division may adopt rules pursuant to ss. 120.536(1)
180 and 120.54 to administer the requirements of this section.

181 Section 5. Section 561.708, Florida Statutes, is created to
182 read:

183 561.708 Responsible-vendor training providers.--

184 (1) Upon request by the division, each responsible-vendor
185 training provider shall maintain and make available to the
186 division, in an electronic format determined by the division,
187 such information regarding the training status of licensees,
188 their managers, and their employees as the division determines is
189 necessary to ensure compliance with training requirements.

190 (2) Each responsible-vendor training provider shall retain
191 all records relating to the completion of responsible-vendor
192 training by all parties to whom the provider has provided
193 training for at least 3 years after the date on which a vendor or
194 licensee completes such training program.

195 (3) A responsible-vendor training provider may not be
196 approved, and the approval may not be renewed, unless the
197 provider agrees in writing to provide such cooperation to the
198 department as the department deems necessary or appropriate.

199 (4) The department may fine, suspend, or revoke the
200 approval of any responsible-vendor training provider that fails
201 to comply with its responsibilities under this section. Such fine
202 may not exceed \$250 per violation.

1-03037-08

20082420__

203 (5) The department may adopt rules pursuant to ss.
204 120.536(1) and 120.54 to administer the requirements of this
205 section.

206 Section 6. Subsection (1) of section 562.111, Florida
207 Statutes, is amended to read:

208 562.111 Possession of alcoholic beverages by persons under
209 age 21 prohibited.--

210 (1) It is unlawful for any person under the age of 21
211 years, except a person employed under the provisions of s. 562.13
212 acting in the scope of her or his employment, to have in her or
213 his possession alcoholic beverages, or to consume alcoholic
214 beverages. ~~except that nothing contained in~~ This subsection does
215 not shall preclude the employment of any person 18 years of age
216 or older in the sale, preparation, or service of alcoholic
217 beverages in licensed premises in any establishment licensed by
218 the Division of Alcoholic Beverages and Tobacco or the Division
219 of Hotels and Restaurants. Notwithstanding the provisions of s.
220 562.45, any person under the age of 21 who is convicted of a
221 violation of this subsection is guilty of a misdemeanor of the
222 second degree, punishable as provided in s. 775.082 or s.

223 775.083; however, any person under the age of 21 who has been
224 convicted of a violation of this subsection and who is thereafter
225 convicted of a further violation of this subsection is, upon
226 conviction of the further offense, guilty of a misdemeanor of the
227 first degree, punishable as provided in s. 775.082 or s. 775.083.

228 Section 7. Paragraph (a) of subsection (2) of section
229 562.45, Florida Statutes, is amended to read:

230 562.45 Penalties for violating Beverage Law; local
231 ordinances; prohibiting regulation of certain activities or

1-03037-08

20082420__

232 business transactions; requiring nondiscriminatory treatment;
233 providing exceptions.--

234 (2) (a) ~~Nothing contained in~~ The Beverage Law does not shall
235 ~~be construed to~~ affect or impair the power or right of any county
236 or incorporated municipality of the state to enact ordinances
237 regulating the hours of business, types and hours of drink
238 specials, and location of place of business, or ~~and~~ prescribing
239 sanitary regulations for ~~therefor, of~~ any licensee under the
240 Beverage Law within the county or corporate limits of such
241 municipality. However, except for premises licensed on or before
242 July 1, 1999, and except for locations that are licensed as
243 restaurants, which derive at least 51 percent of their gross
244 revenues from the sale of food and nonalcoholic beverages,
245 pursuant to chapter 509, a location for on-premises consumption
246 of alcoholic beverages may not be located within 500 feet of the
247 real property that comprises a public or private elementary
248 school, middle school, or secondary school unless the county or
249 municipality approves the location as promoting the public
250 health, safety, and general welfare of the community under
251 proceedings as provided in s. 125.66(4), for counties, and s.
252 166.041(3)(c), for municipalities. This restriction shall not,
253 however, be construed to prohibit the issuance of temporary
254 permits to certain nonprofit organizations as provided for in s.
255 561.422. The division may not issue a change in the series of a
256 license or approve a change of a licensee's location unless the
257 licensee provides documentation of proper zoning from the
258 appropriate county or municipal zoning authorities.

1-03037-08

20082420__

259 Section 8. Subsections (2), (3), and (4) of section
260 856.015, Florida Statutes, are amended, and subsection (5) is
261 added to that section, to read:

262 856.015 Open house parties.--

263 (2) A ~~No~~ person having control of any residence may not
264 ~~shall~~ allow an open house party to take place at that said
265 residence if any alcoholic beverage or drug is possessed or
266 consumed at the said residence by any minor when ~~where~~ the person
267 knows that an alcoholic beverage or drug is in the possession of
268 or being consumed by a minor at the said residence and when ~~where~~
269 the person fails to take reasonable steps to prevent the
270 possession or consumption of the alcoholic beverage or drug.

271 (3) ~~The provisions of~~ This section does ~~shall~~ not apply to
272 the use of alcoholic beverages at legally protected religious
273 observances or activities.

274 (4) Any person who violates any of the provisions of
275 subsection (2) commits a felony ~~misdemeanor~~ of the third ~~second~~
276 degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or
277 s. 775.084.

278 (5) A person who violates subsection (2) is liable for any
279 injury or damage caused by or resulting from the possession or
280 consumption or alcoholic beverages or drugs at an open house
281 party.

282 Section 9. This act shall take effect July 1, 2008.