

By Senator Altman

24-01350A-09

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1 A bill to be entitled
2 An act relating to selling, giving, or serving
3 alcoholic beverages or drugs to persons under 21 years
4 of age; amending s. 562.11, F.S.; increasing the
5 penalty imposed for a second or subsequent offense of
6 selling, giving, or serving alcoholic beverages to a
7 person under 21 years of age within a specified period
8 following the prior offense; providing a defense;
9 amending s. 856.015, F.S.; providing that if a person
10 violates the restrictions relating to open house
11 parties where alcoholic beverages or drugs are
12 possessed or consumed by a minor, he or she commits a
13 misdemeanor of the first degree rather than a
14 misdemeanor of the second degree; reenacting s.
15 322.057(1), F.S., relating to the revocation or
16 suspension of a driver's license, to incorporate the
17 amendments made to s. 562.11, F.S., in a reference
18 thereto; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Paragraph (a) of subsection (1) of section
23 562.11, Florida Statutes, is amended, and paragraph (d) is added
24 to that subsection, to read:

25 562.11 Selling, giving, or serving alcoholic beverages to
26 person under age 21; providing a proper name; misrepresenting or
27 misstating age or age of another to induce licensee to serve
28 alcoholic beverages to person under 21; penalties.—

29 (1)(a)1. It is unlawful for any person to sell, give,

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30 serve, or permit to be served alcoholic beverages to a person
31 under 21 years of age or to permit a person under 21 years of
32 age to consume such beverages on the licensed premises. A person
33 who violates this subparagraph commits a misdemeanor of the
34 second degree, punishable as provided in s. 775.082 or s.
35 775.083. A person who violates this subparagraph a second or
36 subsequent time within 1 year after the first violation commits
37 a misdemeanor of the first degree, punishable as provided in s.
38 775.082 or s. 775.083.

39 2. In addition to any other penalty imposed for a violation
40 of subparagraph 1., the court may order the Department of
41 Highway Safety and Motor Vehicles to withhold the issuance of,
42 or suspend or revoke, the driver's license or driving privilege,
43 as provided in s. 322.057, of any person who violates
44 subparagraph 1. This subparagraph does not apply to a licensee,
45 as defined in s. 561.01, who violates subparagraph 1. while
46 acting within the scope of his or her license or an employee or
47 agent of a licensee, as defined in s. 561.01, who violates
48 subparagraph 1. while engaged within the scope of his or her
49 employment or agency.

50 (d) Any person charged with a violation of paragraph (a)
51 has a complete defense if, at the time the alcoholic beverage
52 was sold, given, served, or permitted to be served:

53 1. The buyer or recipient falsely evidenced that he or she
54 was 21 years of age or older;

55 2. The appearance of the buyer or recipient was such that a
56 prudent person would believe the buyer or recipient to be 21
57 years of age or older; and

58 3. Such person carefully checked a driver's license or an

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59 identification card issued by this state or another state of the
60 United States, a passport, or a United States Uniformed Services
61 identification card presented by the buyer or recipient and
62 acted in good faith and in reliance upon the representation and
63 appearance of the buyer or recipient in the belief that the
64 buyer or recipient was 21 years of age or older.

65 Section 2. Section 856.015, Florida Statutes, is amended to
66 read:

67 856.015 Open house parties.—

68 (1) Definitions.—As used in this section:

69 (a) "Alcoholic beverage" means distilled spirits and any
70 beverage containing 0.5 percent or more alcohol by volume. The
71 percentage of alcohol by volume shall be determined in
72 accordance with the provisions of s. 561.01(4)(b).

73 (b) "Control" means the authority or ability to regulate,
74 direct, or dominate.

75 (c) "Drug" means a controlled substance, as that term is
76 defined in ss. 893.02(4) and 893.03.

77 (d) "Minor" means an individual not legally permitted by
78 reason of age to possess alcoholic beverages pursuant to chapter
79 562.

80 (e) "Open house party" means a social gathering at a
81 residence.

82 (f) "Person" means an individual 18 years of age or older.

83 (g) "Residence" means a home, apartment, condominium, or
84 other dwelling unit.

85 (2) No person having control of any residence shall allow
86 an open house party to take place at said residence if any
87 alcoholic beverage or drug is possessed or consumed at said

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88 residence by any minor where the person knows that an alcoholic
89 beverage or drug is in the possession of or being consumed by a
90 minor at said residence and where the person fails to take
91 reasonable steps to prevent the possession or consumption of the
92 alcoholic beverage or drug.

93 (3) The provisions of this section shall not apply to the
94 use of alcoholic beverages at legally protected religious
95 observances or activities.

96 (4) Any person who violates ~~any of the provisions of~~
97 subsection (2) commits a misdemeanor of the first ~~second~~ degree,
98 punishable as provided in s. 775.082 or s. 775.083.

99 Section 3. For the purpose of incorporating the amendment
100 made by this act to section 562.11, Florida Statutes, in a
101 reference thereto, subsection (1) of section 322.057, Florida
102 Statutes, is reenacted to read:

103 322.057 Discretionary revocation or suspension of driver's
104 license for certain persons who provide alcohol to persons under
105 21 years of age.—

106 (1) Notwithstanding s. 322.28, the court may order the
107 department to withhold the issuance of, or suspend or revoke,
108 the driver's license of a person who is found guilty of a
109 violation of s. 562.11(1)(a) for not less than 3 months or more
110 than 6 months for a first violation and for 1 year for any
111 subsequent violation. This subsection does not apply to a
112 licensee who violates s. 562.11(1)(a) while acting within the
113 scope of his or her license or an employee or agent of a
114 licensee who violates s. 562.11(1)(a) while engaged within the
115 scope of his or her employment or agency.

116 Section 4. This act shall take effect July 1, 2009.