

By the Committee on Criminal Justice; and Senators Altman and Fasano

591-04392-10

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1 A bill to be entitled
2 An act relating to selling, giving, or serving
3 alcoholic beverages to persons under 21 years of age;
4 amending s. 562.11, F.S.; providing a potential
5 increase in the penalty imposed for a second or
6 subsequent offense of selling, giving, or serving
7 alcoholic beverages to a person under 21 years of age
8 within a specified period following the prior offense;
9 providing a defense; providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Paragraph (a) of subsection (1) of section
14 562.11, Florida Statutes, is amended, and paragraph (d) is added
15 to that subsection, to read:

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

20 (1)(a)1. It is unlawful for any person to sell, give,
21 serve, or permit to be served alcoholic beverages to a person
22 under 21 years of age or to permit a person under 21 years of
23 age to consume such beverages on the licensed premises. A person
24 who violates this subparagraph commits a misdemeanor of the
25 second degree, punishable as provided in s. 775.082 or s.
26 775.083. A person who violates this subparagraph a second or
27 subsequent time within 1 year after a prior conviction may be
28 charged with a misdemeanor of the first degree, punishable as
29 provided in s. 775.082 or s. 775.083.

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30 2. In addition to any other penalty imposed for a violation
31 of subparagraph 1., the court may order the Department of
32 Highway Safety and Motor Vehicles to withhold the issuance of,
33 or suspend or revoke, the driver's license or driving privilege,
34 as provided in s. 322.057, of any person who violates
35 subparagraph 1. This subparagraph does not apply to a licensee,
36 as defined in s. 561.01, who violates subparagraph 1. while
37 acting within the scope of his or her license or an employee or
38 agent of a licensee, as defined in s. 561.01, who violates
39 subparagraph 1. while engaged within the scope of his or her
40 employment or agency.

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

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

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

49 3. Such person carefully checked a driver's license or an
50 identification card issued by this state or another state of the
51 United States, a passport, or a United States Uniformed Services
52 identification card presented by the buyer or recipient and
53 acted in good faith and in reliance upon the representation and
54 appearance of the buyer or recipient in the belief that the
55 buyer or recipient was 21 years of age or older.

56 Section 2. This act shall take effect July 1, 2010.