

FINAL BILL ANALYSIS

BILL #: CS/HB 105

FINAL HOUSE FLOOR ACTION:

116 Y's 0 N's

SPONSOR: Rep. Goodson

GOVERNOR'S ACTION: Approved

COMPANION BILLS: CS/SB 746

SUMMARY ANALYSIS

CS/HB 105 passed the House on April 29, 2011, and subsequently passed the Senate on May 3, 2011. The bill was approved by the Governor on June 17, 2011, chapter 2011-161, Laws of Florida, and becomes effective July 1, 2011.

Section 856.015, F.S., states that a person in control of a residence who allows an open house party to take place commits a second degree misdemeanor if they know a minor has possession of or consumed any alcoholic beverage or drug at their residence and the person fails to take responsible steps to prevent the possession or consumption of the alcoholic beverage or drug by the minor.

The bill amends present law to make a second or subsequent violation of s. 856.015, F.S., a first degree misdemeanor.

The bill provides that any violation of s. 856.015, F.S., which results in serious bodily injury or death to the minor, will be punishable by a first degree misdemeanor. The bill also provides a first degree misdemeanor penalty for a violation of s. 856.015, F.S., if a minor causes or contributes to causing serious bodily injury or death to another as a result of the minor's consumption of alcohol or drugs at the open house party.

The bill does not appear to have a fiscal impact on state government; however, the bill could have a fiscal impact on county jails.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

In Florida, it is unlawful for any person younger than 21 years of age to possess alcoholic beverages.¹

Section 856.015, F.S., states that a person² in control of a residence who allows an open house party³ to take place commits a second degree misdemeanor if they know a minor⁴ has possession of or consumed any alcoholic beverage⁵ or drug⁶ at their residence and the person had failed to take responsible steps to prevent the possession or consumption of the alcoholic beverage or drug by the minor.⁷ A second degree misdemeanor is punishable by up to 60 days in jail and/or a fine not exceeding \$500.⁸

The Florida Department of Law Enforcement reported the following arrests for a violation of s. 856.015, F.S.: 157 in 2008, 230 in 2009 and 174 for 2010.⁹

Proposed Changes

The bill amends present law to make a second or subsequent violation of s. 856.015, F.S., a first degree misdemeanor, which is punishable by up to 1 year in jail and/or a fine not to exceed \$1000.¹⁰

This bill provides that any violation of s. 856.015, F.S., which results in serious bodily injury, as defined in s. 316.1933, F.S.,¹¹ or death to the minor, is a first degree misdemeanor. The bill also provides a first degree misdemeanor penalty for a violation of s. 856.015, F.S., if the minor causes or contributes to causing serious bodily injury or death to another as a result of the minor's consumption of alcohol or drugs at the open house party.

¹ Section 562.111, F.S.

² Section 856.015(1)(f), F.S., defines "person" as "an individual 18 years of age or older."

³ Section 856.015(1)(e), F.S., defines "open house party" as "a social gathering at a residence."

⁴ Section 856.015(1)(d), F.S., defines "minor" as "an individual not legally permitted by reason of age to possess alcoholic beverages pursuant to chapter 562."

⁵ Section 856.015(1)(a), F.S., defines "alcoholic beverage" as "distilled spirits and any beverage containing 0.5 percent or more alcohol by volume. The percentage of alcohol by volume shall be determined in accordance with the provisions of s. 561.01(4)(b)."

⁶ Section 856.015(1)(c), F.S., defines "drug" as "a controlled substance, as that term is defined in ss. 893.02(4) and 893.03, F.S."

⁷ Section 856.015(3), F.S., provides an exemption for the use of alcoholic beverages at legally protected religious observances or activities.

⁸ Sections 775.082 and 775.083, F.S., respectively.

⁹ Florida Department of Law Enforcement's Statistical Analysis Center, extracted January 1, 2011.

¹⁰ Sections 775.082 and 775.083, F.S., respectively.

¹¹ Section 316.1933(b), F.S., defines the term "serious bodily injury" as "an injury to any person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ."

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill creates the penalty of a first degree misdemeanor for a second or subsequent violation of s. 856.015, F.S. The change in penalty for a second or subsequent violation would increase the potential fine from \$500 to \$1000 and the potential jail time from 60 days to 1 year.

The bill also creates a penalty of a first degree misdemeanor for a violation of s. 856.015, F.S., that causes or contributes to causing serious bodily injury to the minor or if the minor causes or contributes to causing serious bodily injury or death to another as a result of the minor's consumption of alcohol or drugs at the open house party.

The Florida Department of Law Enforcement reported the following arrests for a violation of s. 856.015, F.S.: 157 in 2008, 230 in 2009 and 174 for 2010.

This bill could have an impact on local jails.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.