

STORAGE NAME: h0857s1.rs

DATE: April 15, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
REGULATED SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 857

RELATING TO: Minors; prohibition of employment involving nudity

SPONSOR(S): Committee on Regulated Services and Representative Rodriguez-Chomat

STATUTE(S) AFFECTED: Section 562.13, Florida Statutes

COMPANION BILL(S): SB 180 (identical)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) REGULATED SERVICES YEAS 10 NAYS 0

(2)

(3)

(4)

(5)

I. SUMMARY:

This bill would prohibit the employment of persons under 18 years of age in an establishment licensed to sell alcoholic beverages, if the employment involves nudity on the part of the minor and the nudity is intended to be a form of adult entertainment.

The bill has no economic impact on state revenue.

The bill would take effect July 1, 1997.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Florida's alcoholic beverage law consists of chapter 561 relating to administration; chapter 562 relating to enforcement; chapters 563, 564 and 565 relating to beer, wine and liquor respectively; and chapters 567 and 568 relating to wet and dry county elections. Section 561.02, F.S., authorizes the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to carry out the provisions of the Beverage Law.

As a privileged industry, all segments of alcoholic beverage commerce are subject to stringent controls. Alcoholic beverage licensees are required to meet certain eligibility standards and statutory limitations are placed on persons eligible for employment in an establishment which sells alcoholic beverages.

Section 562.13, F.S., provides that it is unlawful for an alcoholic beverage vendor to employ a person under 18 years of age or to employ a bartender or manager who has been convicted of certain offenses. Subsection (2) of that statute goes on to provide exceptions to those prohibitions, including:

- Professional entertainers 17 years of age who are not in school;
- Minors employed in the entertainment industry, in theme parks and bona fide dinner theaters;
- Persons under the age of 18 who are employed in drugstores, grocery stores, service stations, etc., where the sale of beer and wine is made for consumption off the licensed premises;
- Persons 17 or older employed in restaurants and bowling alleys who do not participate in the sale, preparation or service of alcoholic beverages; and
- Persons under the age of 18 employed in hotels as bellhops, etc.

Florida's Child Labor Law is found in Part I of Chapter 450. This chapter defines a "child" or "minor" to mean any person 17 years of age or younger and provides exceptions to the definition. Section 450.012(5), F.S., provides a definition for "entertainment industry" for purposes of child labor and s. 450.132, F.S., sets forth standards for employment therein. The Division of Jobs and Benefits of the Department of Labor and Employment Security is granted regulatory authority over the employment of minors by the entertainment industry and is charged with ensuring the employment is not hazardous or injurious to the health, morals, education, or welfare of the minor and that the minor not be placed in dangerous conditions. Section 450.095, F.S., grants the division authority to waive the Child Labor Law restrictions when it appears to be in the best interest of the child.

Section 847.001, F.S., provides a statutory definition for nudity.

B. EFFECT OF PROPOSED CHANGES:

The bill prohibits the employment of a minor in an establishment which sells alcoholic beverages if the employment involves nudity on the part of the minor and the nudity is intended to be a form of adult entertainment.

Further, the bill amends the list of establishments where persons under the age of 18 may be employed to include resorts and campgrounds. Minors employed in resorts or campgrounds are prohibited from participating directly in the sale, preparation, or service of alcoholic beverages.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

NA

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

NA

(3) any entitlement to a government service or benefit?

NA

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

NA

(2) what is the cost of such responsibility at the new level/agency?

NA

(3) how is the new agency accountable to the people governed?

NA

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

NA

- b. Does the bill require or authorize an increase in any fees?

NA

- c. Does the bill reduce total taxes, both rates and revenues?

NA

- d. Does the bill reduce total fees, both rates and revenues?

NA

- e. Does the bill authorize any fee or tax increase by any local government?

NA

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

NA

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

NA

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes. The bill prohibits a minor's employment in an establishment which sells alcoholic beverages, if the employment involves nudity on the part of the minor as a form of adult entertainment.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

NA

(1) Who evaluates the family's needs?

NA

(2) Who makes the decisions?

NA

(3) Are private alternatives permitted?

NA

(4) Are families required to participate in a program?

NA

(5) Are families penalized for not participating in a program?

NA

b. Does the bill directly affect the legal rights and obligations between family members?

NA

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

NA

(1) parents and guardians?

NA

(2) service providers?

NA

(3) government employees/agencies?

NA

D. SECTION-BY-SECTION RESEARCH:

Section 1. Amends s. 562.13, F.S., to add resorts and campgrounds to the list of licensed alcoholic beverages establishments which may employ persons under the age of 18. A minor employed in any such establishment is prohibited from participating directly in the sale, service or preparation of alcoholic beverages.

This section is further amended to prohibit the employment of a person under the age of 18 in an establishment where alcoholic beverages are sold if the minor's employment involves nudity on the part of the minor and the nudity is intended as a form of adult entertainment.

Section 2. Provides an effective date of July 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

NA

2. Recurring Effects:

NA

3. Long Run Effects Other Than Normal Growth:

NA

4. Total Revenues and Expenditures:

NA

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

NA

2. Recurring Effects:

NA

3. Long Run Effects Other Than Normal Growth:

NA

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

Removes eligibility of persons under the age of 18 from employment in an establishment which sells alcoholic beverages if the employment involves nudity as a form of adult entertainment.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

STORAGE NAME: h0857s1.rs

DATE: April 15, 1997

PAGE 8

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Two amendments to HB 857 were adopted by the Regulated Services Committee and the bill was reported favorably as a committee substitute. The amendments:

- Specified that a minor's employment in a licensed alcoholic beverage establishment involving nudity was prohibited if the nudity was intended to be a form of adult entertainment; and
- Added resorts and campgrounds to the list of alcoholic beverage establishments at which minors may be employed provided the minor does not participate directly in the sale, preparation, or service of alcoholic beverages.

The amendments to s. 562.13, F.S., which were adopted by the committee substitute, will allow employment which involves nudity on the part of a minor in specified alcoholic beverage establishments, provided the employment does not involve a form of adult entertainment and provided the minor does not directly participate in the sale, preparation, or service of alcoholic beverages. For instance, a minor could be employed in a restaurant which is located in a nudist resort.

VII. SIGNATURES:

COMMITTEE ON REGULATED SERVICES:

Prepared by:

Legislative Research Director:

Janet Clark Morris

Paul Liepshutz