

By the Committees on Commerce, Economic Opportunities, and Consumer Services; Regulated Industries; and Senator Diaz de la Portilla

310-2476-03

1 A bill to be entitled
 2 An act relating to the Beverage Law; amending
 3 s. 561.19, F.S.; providing procedures for
 4 issuance of a license that becomes available
 5 because of a revocation; amending s. 561.422,
 6 F.S.; revising requirements for issuance of a
 7 temporary permit to certain civic
 8 organizations; requiring presentation of
 9 building and zoning permit; requiring net
 10 profits to be retained by the civic
 11 organization; amending s. 561.65, F.S.;
 12 providing procedures for enforcement of a
 13 perfected security interest in a quota license
 14 prior to reissuance of the quota license;
 15 amending s. 562.11, F.S.; providing a popular
 16 name; prohibiting the service of alcoholic
 17 beverages to any minor employed by a licensed
 18 vendor; providing a penalty; reenacting s.
 19 561.706, F.S., for the purpose of incorporating
 20 the amendment to s. 562.11, F.S., in reference
 21 thereto; providing an effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

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 25 Section 1. Paragraph (a) of subsection (2) of section
 26 561.19, Florida Statutes, is amended to read:

27 561.19 License issuance upon approval of division.--

28 (2)(a) When beverage licenses become available by
 29 reason of an increase in the population of a county, ~~or~~ by
 30 reason of a county permitting the sale of intoxicating
 31 beverages when such sale had been prohibited, or by reason of

1 the revocation of a quota beverage license,the division, if
2 there are more applicants than the number of available
3 licenses, shall provide a method of double random selection by
4 public drawing to determine which applicants shall be
5 considered for issuance of licenses. The double random
6 selection drawing method shall allow each applicant whose
7 application is complete and does not disclose on its face any
8 matter rendering the applicant ineligible an equal opportunity
9 of obtaining an available license. After all applications are
10 filed with the director, the director shall then determine by
11 random selection drawing the order in which each applicant's
12 name shall be matched with a number selected by random
13 drawing, and that number shall determine the order in which
14 the applicant will be considered for a license. This paragraph
15 does not prohibit a person holding a perfected lien or
16 security interest in a quota alcoholic beverage license, in
17 accordance with s. 561.65, from enforcing the lien or security
18 interest against the license within 180 days after a final
19 order of revocation or suspension. A revoked quota alcoholic
20 beverage license encumbered by a lien or security interest,
21 perfected pursuant to s. 561.65, may not be issued under this
22 subsection until the 180-day period has elapsed or until such
23 enforcement proceeding is final.

24 Section 2. Section 561.422, Florida Statutes, is
25 amended to read:

26 561.422 Nonprofit civic organizations; temporary
27 permits.--Upon the filing of an application, presentation of a
28 local building and zoning permit,and payment of a fee of \$25
29 per permit, the director of the division may issue a permit
30 authorizing a bona fide nonprofit civic organization to sell
31 alcoholic beverages for consumption on the premises only, for

1 a period not to exceed 3 days, subject to any state law or
2 municipal or county ordinance regulating the time for selling
3 such beverages. All net profits from sales of alcoholic
4 beverages collected during the permit period must be retained
5 by the nonprofit civic organization. Any such civic
6 organization may be issued only three such permits per
7 calendar year. Notwithstanding other provisions of the
8 Beverage Law, any civic organization licensed under this
9 section may purchase alcoholic beverages from a distributor or
10 vendor licensed under the Beverage Law.

11 Section 3. Subsections (1) and (3) of section 561.65,
12 Florida Statutes, are amended to read:

13 561.65 Mortgagee's interest in license.--

14 (1) Any person holding a bona fide mortgage or lien or
15 security interest in a spirituous alcoholic beverage license
16 in this state shall have the right to enforcement of a lien
17 against that license within 180 ~~12~~ days after any order of
18 revocation or suspension by an administrative officer or
19 department of the government for a cause or causes of which
20 the lienholder did not have knowledge or in which he or she
21 did not participate. The division is required to notify any
22 lienholder properly filing pursuant to subsection (4) of a
23 pending revocation or suspension. No revoked quota beverage
24 license encumbered by a lien or security interest perfected in
25 accordance with this section shall be issued in accordance
26 with s. 561.19(2) until the 180-day period has elapsed or
27 until such enforcement proceeding is final. Liens or security
28 interests in spirituous alcoholic beverage licenses existing
29 prior to July 1, 1981, shall not be affected by the provisions
30 of this section.

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1 (3) If any such bona fide mortgagee or lienholder
2 serves notice in writing on the division of the extension of
3 such lien and accompanies that notice with the payment of the
4 fee set forth in subsection (4) to the division, which money
5 shall be used by the division to defray the costs of providing
6 this service, then such lienholder shall be notified in
7 writing of the filing of an order to show cause as to why the
8 license should not be suspended and revoked; and also the
9 lienholder shall be furnished a copy of any order of
10 suspension or revocation. In this event, the 180 ~~12~~ days
11 within which to file for the enforcement of the lien by the
12 lienholder shall commence running from the date of the mailing
13 of the copy of the order of revocation or suspension.

14 Section 4. Section 562.11, Florida Statutes, is
15 amended to read:

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

21 (1)(a) It is unlawful for any person to sell, give,
22 serve, or permit to be served alcoholic beverages to a person
23 under 21 years of age or to permit a person under 21 years of
24 age to consume such beverages on the licensed premises.
25 Anyone convicted of violation of the provisions hereof is
26 guilty of a misdemeanor of the second degree, punishable as
27 provided in s. 775.082 or s. 775.083.

28 (b) A licensee or his or her or its agents, officers,
29 servants, or employees, may not provide alcoholic beverages to
30 a person younger than 21 years of age who is employed by the
31 licensee except as authorized pursuant to s. 562.111 or s.

1 562.13, and may not permit a person younger than 21 years of
2 age who is employed by the licensee to consume alcoholic
3 beverages on the licensed premises or elsewhere while in the
4 scope of employment. A licensee, or his or her or its agents,
5 officers, servants, or employees, who violates this paragraph
6 commits a misdemeanor of the first degree, punishable as
7 provided in s. 775.082 or s. 775.083. This paragraph may be
8 cited as "the Christopher Fugate Act."

9 (c)~~(b)~~ A licensee who violates paragraph (a) shall
10 have a complete defense to any civil action therefor, except
11 for any administrative action by the division under the
12 Beverage Law, if, at the time the alcoholic beverage was sold,
13 given, served, or permitted to be served, the person falsely
14 evidenced that he or she was of legal age to purchase or
15 consume the alcoholic beverage and the appearance of the
16 person was such that an ordinarily prudent person would
17 believe him or her to be of legal age to purchase or consume
18 the alcoholic beverage and if the licensee carefully checked
19 one of the following forms of identification with respect to
20 the person: a driver's license, an identification card issued
21 under the provisions of s. 322.051 or, if the person is
22 physically handicapped as defined in s. 553.45(1), a
23 comparable identification card issued by another state which
24 indicates the person's age, a passport, or a United States
25 Uniformed Services identification card, and acted in good
26 faith and in reliance upon the representation and appearance
27 of the person in the belief that he or she was of legal age to
28 purchase or consume the alcoholic beverage. Nothing herein
29 shall negate any cause of action which arose prior to June 2,
30 1978.

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1 (2) It is unlawful for any person to misrepresent or
2 misstate his or her age or the age of any other person for the
3 purpose of inducing any licensee or his or her agents or
4 employees to sell, give, serve, or deliver any alcoholic
5 beverages to a person under 21 years of age, or for any person
6 under 21 years of age to purchase or attempt to purchase
7 alcoholic beverages.

8 (a) Anyone convicted of violating the provisions of
9 this subsection is guilty of a misdemeanor of the second
10 degree, punishable as provided in s. 775.082 or s. 775.083.

11 (b) Any person under the age of 17 years who violates
12 such provisions shall be within the jurisdiction of the judge
13 of the circuit court and shall be dealt with as a juvenile
14 delinquent according to law.

15 (c) In addition to any other penalty imposed for a
16 violation of this subsection, if a person uses a driver's
17 license or identification card issued by the Department of
18 Highway Safety and Motor Vehicles in violation of this
19 subsection, the court:

20 1. May order the person to participate in public
21 service or a community work project for a period not to exceed
22 40 hours; and

23 2. Shall direct the Department of Highway Safety and
24 Motor Vehicles to withhold issuance of, or suspend or revoke,
25 the person's driver's license or driving privilege, as
26 provided in s. 322.056.

27 (3) Any person under the age of 21 years testifying in
28 any criminal prosecution or in any hearing before the division
29 involving the violation by any other person of the provisions
30 of this section may, at the discretion of the prosecuting
31 officer, be given full and complete immunity from prosecution

1 for any violation of law revealed in such testimony that may
2 be or may tend to be self-incriminating, and any such person
3 under 21 years of age so testifying, whether under subpoena or
4 otherwise, shall be compelled to give any such testimony in
5 such prosecution or hearing for which immunity from
6 prosecution therefor is given.

7 (4) This section does not apply to a person who gives,
8 serves, or permits to be served an alcoholic beverage to a
9 student who is at least 18 years of age, if the alcoholic
10 beverage is delivered as part of the student's required
11 curriculum at a postsecondary educational institution that is
12 institutionally accredited by an agency recognized by the
13 United States Department of Education and is licensed or
14 exempt from licensure pursuant to the provisions of chapter
15 1005 or that is a public postsecondary education institution;
16 if the student is enrolled in the college and is required to
17 taste alcoholic beverages that are provided only for
18 instructional purposes during classes conducted under the
19 supervision of authorized instructional personnel pursuant to
20 such a curriculum; if the alcoholic beverages are never
21 offered for consumption or imbibed by such a student and at
22 all times remain in the possession and control of such
23 instructional personnel, who must be 21 years of age or older;
24 and if each participating student executes a waiver and
25 consent in favor of the state and indemnifies the state and
26 holds it harmless.

27 Section 5. For purposes of incorporating the amendment
28 to section 562.11, Florida Statutes, in a reference thereto,
29 subsection (3) of section 561.706, Florida Statutes, is
30 reenacted to read:

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1 561.706 Exemption from license suspension or
2 revocation; mitigation for certain beverage law violations;
3 records of arrests.--

4 (3) The division shall maintain a record of each
5 arrest of a vendor or an employee for a violation of s.
6 562.11, and shall ascertain at the time of the arrest whether
7 the vendor has provided training for its employees as provided
8 in s. 561.705 or pursuant to any other program instituted by
9 the vendor. In compiling the record of arrests, the division
10 shall determine if the vendor trained its employees as
11 provided in s. 561.705, pursuant to any other training
12 program, or did not train its employees in a manner similar to
13 the provisions of s. 561.705. The records may be examined by
14 any interested person.

15 Section 6. This act shall take effect July 1, 2003.

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17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 CS/SB 2520

20 The committee substitute clarifies that the extension in CS/SB
21 2520 of the period for a lienholder to enforce a lien or
22 security interest in an alcoholic beverage license from 12
23 days to 180 days after an order of suspension or revocation is
24 filed commences on the date the Division of Alcoholic
25 Beverages and Tobacco of the Department of Business and
26 Professional Regulation mails notice to the lienholder of the
27 order suspending or revoking the license.
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