

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Transportation Committee

BILL: CS/SB 1322

INTRODUCER: Regulated Industries Committee and Senator King

SUBJECT: Driver's License Penalties/ Alcohol

DATE: March 1, 2006

REVISED: 3/8/06

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Oxamendi	Imhof	RI	<b>Fav/CS</b>
2. Eichin	Meyer	TR	<b>Fav/1 amendment</b>
3.		CJ	
4.			
5.			
6.			

## Please see last section for Summary of Amendments

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Technical amendments were recommended

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Amendments were recommended

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Significant amendments were recommended

### I. Summary:

The Committee Substitute (CS) requires courts to order the Department of Highway Safety and Motor Vehicles (DHSMV or department) to withhold the issuance of, or suspend or revoke the driver's license or driving privilege of any person who violates the sale to persons under 21 years of age prohibition in s. 562.11(1), F.S. The CS exempts alcoholic beverage licensees and employees or agents of a licensee who violate s. 562.11(1), F.S., while engaged within the scope of his or her license, employment, or agency.

The CS provides, notwithstanding the driver's license suspension and revocation provisions in s. 322.28, F.S., the court must order the department to withhold the issuance of, or suspend or revoke, the driver's license or driving privilege of any person who violates the sale to underage persons prohibition in s. 562.11(1), F.S. The CS provides the court may order the department to issue a driver's license restricted to business or employment purposes.

The CS provides a time frame for the delay of issuance of a license or the suspension or revocation of a license of not less than 3 months or more than 6 months for a violation and one year for any subsequent violation.

The CS would take effect October 1, 2006.

This CS substantially amends section 562.11 of the Florida Statutes. This CS creates section 322.057 of the Florida Statutes.

## **II. Present Situation:**

Section 562.11(1)(a), F.S., provides that it is unlawful to sell, give, serve or permit to be served alcoholic beverages to a person under 21 years of age or to permit a person under 21 years of age to consume alcoholic beverages on the licensed premises. Anyone convicted of a violation of these provisions is guilty of a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days and a fine not to exceed \$500.

Pursuant to s. 561.01, F.S., a “licensee” under the Beverage Law (defined as chs. 562, 563, 564, 565, 567, and 568, F.S.), means a “legal or business entity, person, or persons that hold a license issued by the [Division of Alcoholic Beverages and Tobacco] and meet the qualifications set forth in s. 561.15, F.S.”

Chapter 322, F.S., relates to the administration of driver’s licenses by the department. Section 322.01(16), F.S., defines the term “driver’s license” to mean “a certificate which, subject to all other requirements of law, authorizes an individual to drive a motor vehicle.”

Persons under the age of 21 may be employed by alcoholic beverage licensees. Section 562.13, F.S., prohibits alcoholic beverage vendors to employ any person less than 18 years of age, but this prohibition does not apply to:

- Professional entertainers 17 years of age who are not in school;
- Minors employed in the entertainment industry and who are employed under the procedures established for such employment or who have been granted a waiver from the Child Labor Law;
- Persons under the age of 18 years employed in drugstores, grocery stores, department stores, florists, specialty gift shops, or automobile service stations which have licenses to sell beer and wine for consumption off the premises;
- Any senior high school student with written permission of their principal or any high school graduate employed by a bona fide food service establishment where alcoholic beverages are sold if they do not participate in the sale, preparation, or service of alcoholic beverages and their duties provide training that may lead to advancement in the food service establishments;
- Persons under the age of 18 years employed as bellhops, elevator operators, and other duties in hotels that do not work in the portion of the hotel where alcoholic beverages are sold for consumption on the premises;
- Persons under the age of 18 years employed in bowling alleys if they do not participate in the sale, preparation, or service of alcoholic beverages;
- Persons under the age of 18 years employed by a bona fide dinner theater whose employment is limited to being an actor, actress, or musician;
- Persons under the age of 18 years who are employed by a theme park as provided in s. 562.02(6), F.S., if they do not participate in the sale, preparation or service of alcoholic beverages; or

- A minor subject to this section, may not be employed if the employment involves nudity on the part of the minor and the nudity is intended as adult entertainment.

### **Driver's License Suspension or Revocations**

Section 322.28, F.S., sets forth the provisions related to suspension or revocation of driver's licenses. Section 322.28(1), F.S., provides the department shall not suspend a license for a period of more than one year. The section also provides an exception to this limit for violations related to driving under the influence of alcoholic beverages, chemical substances as set forth in s. 877.111, F.S., or controlled substances. For these violations, the department is prohibited from granting a new license until the expiration of one year after such revocation.

Section 322.271, F.S., provides the court may direct the department to issue a driver's license restricted to business or employment purposes only to a person who is otherwise qualified for a license.

### **III. Effect of Proposed Changes:**

**Section 1.** The CS amends s. 562.11, F.S., to require courts to order the DHSMV to withhold the issuance of, or suspend or revoke, the driver's license or driving privilege of any person who violates the sale to minors prohibition in s. 562.11(1), F.S. The CS exempts alcoholic beverage licensees, and employees or agents of a licensee who violate s. 562.11(1), F.S., while engaged within the scope of their license, employment, or agency thus making the penalty applicable only to third-parties who sell, give, serve, or permit to be served alcoholic beverages to a person under 21 years of age.

**Section 2.** The CS creates s. 322.057, F.S., to provide, notwithstanding s. 322.28, F.S., courts must order the DHSMV to withhold the issuance of, or suspend or revoke, the driver's license or driving privilege of any person who violates the sale to underage persons prohibition in s. 562.11(1), F.S. Alcoholic beverage licensees and employees or agents of a licensee who violate the prohibition in s. 562.11(1), F.S., while engaged within the scope of their license, employment or agency, are exempted.

This section provides a time frame for the delay in issuance of a license or the suspension or revocation of a license of not less than 3 months or more than 6 months for a violation and one year for any subsequent violation.

**Section 3.** The CS would take effect October 1, 2006.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the department, this CS may generate additional revenue as a result of reinstating driving privileges of persons suspended or revoked pursuant to this CS. However, the number of individuals to be suspended and the amount of revenue to be collected is indeterminate. The department also believes this CS will require programming modifications to the department's software systems that will be absorbed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

**Barcode 382382** by Transportation. The word 'licensee' is clarified by reference to the definition found in s. 561.01, F.S.

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