

CHAPTER 99-156

Committee Substitute for Senate Bill No. 156

An act relating to the prevention of the sale of alcohol and tobacco products to minors; amending s. 562.11, F.S., relating to the purchase of alcohol by minors; amending s. 562.45, F.S.; providing restrictions on locations for on-premises consumption of alcoholic beverages; providing an exception for certain temporary permits; amending s. 569.11, F.S., relating to the purchase of tobacco products by minors; providing an effective date.

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

Section 1. Subsection (2) of section 562.11, Florida Statutes, is amended to read:

562.11 Selling, giving, or serving alcoholic beverages to person under age 21; misrepresenting or misstating age or age of another to induce licensee to serve alcoholic beverages to person under 21; penalties.—

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

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

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

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

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

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

Section 2. Paragraph (a) of subsection (2) of section 562.45, Florida Statutes, is amended to read:

562.45 Penalties for violating Beverage Law; local ordinances; prohibiting regulation of certain activities or business transactions; requiring non-discriminatory treatment; providing exceptions.—

(2)(a) Nothing contained in the Beverage Law shall be construed to affect or impair the power or right of any county or incorporated municipality of the state to enact ordinances regulating the hours of business and location of place of business, and prescribing sanitary regulations therefor, of any licensee under the Beverage Law within the county or corporate limits of such municipality. However, except for premises licensed on or before July 1, 1999, and except for locations that are licensed as restaurants, which derive at least 51 percent of their gross revenues from the sale of food and nonalcoholic beverages, pursuant to chapter 509, a location for on-premises consumption of alcoholic beverages may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location as promoting the public health, safety, and general welfare of the community under proceedings as provided in s. 125.66(4), for counties, and s. 166.041(3)(c), for municipalities. This restriction shall not, however, be construed to prohibit the issuance of temporary permits to certain nonprofit organizations as provided for in s. 561.422. The division may not issue a change in the series of a license or approve a change of a licensee's location unless the licensee provides documentation of proper zoning from the appropriate county or municipal zoning authorities.

Section 3. Subsection (2) of section 569.11, Florida Statutes, is amended to read:

569.11 Possession, misrepresenting age or military service to purchase, and purchase of tobacco products by persons under 18 years of age prohibited; penalties; jurisdiction; disposition of fines.—

(2) It is unlawful for any person under 18 years of age to misrepresent his or her age or military service for the purpose of inducing a dealer or an agent or employee of the dealer to sell, give, barter, furnish, or deliver any tobacco product, or to purchase, or attempt to purchase, any tobacco product from a person or a vending machine. Any person under 18 years of age who violates a provision of this subsection commits a noncriminal violation as provided in s. 775.08(3), punishable by:

(a) For a first violation, 16 hours of community service or, instead of community service, a \$25 fine and, in addition, the person must attend a school-approved anti-tobacco program, if available;

(b) For a second violation within 12 weeks of the first violation, a \$25 fine; or

(c) For a third or subsequent violation within 12 weeks of the first violation, the court must direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend or revoke the person's driver's license or driving privilege, as provided in s. 322.056.

Any second or subsequent violation not within the 12-week time period after the first violation is punishable as provided for a first violation.

Section 4. This act shall take effect July 1, 1999.

Approved by the Governor May 13, 1999.

Filed in Office Secretary of State May 13, 1999.