

Committee Substitute for
Committee Substitute for Senate Bill No. 2520

An act relating to the Beverage Law; amending s. 561.19, F.S.; providing procedures for issuance of a license that becomes available because of a revocation; amending s. 561.422, F.S.; revising requirements for issuance of a temporary permit to certain civic organizations; requiring presentation of building and zoning permit; requiring net profits to be retained by the civic organization; amending s. 561.65, F.S.; providing procedures for enforcement of a perfected security interest in a quota license prior to reissuance of the quota license; amending s. 562.11, F.S.; providing a popular name; prohibiting the service of alcoholic beverages to any minor employed by a licensed vendor; providing a penalty; reenacting s. 561.706, F.S., for the purpose of incorporating the amendment to s. 562.11, F.S., in reference thereto; providing an effective date.

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

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

561.19 License issuance upon approval of division.—

(2)(a) When beverage licenses become available by reason of an increase in the population of a county, ~~or~~ by reason of a county permitting the sale of intoxicating beverages when such sale had been prohibited, or by reason of the revocation of a quota beverage license, the division, if there are more applicants than the number of available licenses, shall provide a method of double random selection by public drawing to determine which applicants shall be considered for issuance of licenses. The double random selection drawing method shall allow each applicant whose application is complete and does not disclose on its face any matter rendering the applicant ineligible an equal opportunity of obtaining an available license. After all applications are filed with the director, the director shall then determine by random selection drawing the order in which each applicant's name shall be matched with a number selected by random drawing, and that number shall determine the order in which the applicant will be considered for a license. This paragraph does not prohibit a person holding a perfected lien or security interest in a quota alcoholic beverage license, in accordance with s. 561.65, from enforcing the lien or security interest against the license within 180 days after a final order of revocation or suspension. A revoked quota alcoholic beverage license encumbered by a lien or security interest, perfected pursuant to s. 561.65, may not be issued under this subsection until the 180-day period has elapsed or until such enforcement proceeding is final.

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

561.422 Nonprofit civic organizations; temporary permits.—Upon the filing of an application, presentation of a local building and zoning permit, and

payment of a fee of \$25 per permit, the director of the division may issue a permit authorizing a bona fide nonprofit civic organization to sell alcoholic beverages for consumption on the premises only, for a period not to exceed 3 days, subject to any state law or municipal or county ordinance regulating the time for selling such beverages. All net profits from sales of alcoholic beverages collected during the permit period must be retained by the nonprofit civic organization. Any such civic organization may be issued only three such permits per calendar year. Notwithstanding other provisions of the Beverage Law, any civic organization licensed under this section may purchase alcoholic beverages from a distributor or vendor licensed under the Beverage Law.

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

561.65 Mortgagee's interest in license.—

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

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

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

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

(1)(a) It is unlawful for any person 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 such beverages on the licensed

premises. Anyone convicted of violation of the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A licensee or his or her or its agents, officers, servants, or employees, may not provide alcoholic beverages to a person younger than 21 years of age who is employed by the licensee except as authorized pursuant to s. 562.111 or s. 562.13, and may not permit a person younger than 21 years of age who is employed by the licensee to consume alcoholic beverages on the licensed premises or elsewhere while in the scope of employment. A licensee, or his or her or its agents, officers, servants, or employees, who violates this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. This paragraph may be cited as “the Christopher Fugate Act.”

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

(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.

(3) Any person under the age of 21 years testifying in any criminal prosecution or in any hearing before the division involving the violation by any other person of the provisions of this section may, at the discretion of the prosecuting officer, be given full and complete immunity from prosecution for any violation of law revealed in such testimony that may be or may tend to be self-incriminating, and any such person under 21 years of age so testifying, whether under subpoena or otherwise, shall be compelled to give any such testimony in such prosecution or hearing for which immunity from prosecution therefor is given.

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

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

561.706 Exemption from license suspension or revocation; mitigation for certain beverage law violations; records of arrests.—

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

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

Approved by the Governor May 21, 2003.

Filed in Office Secretary of State May 21, 2003.