

**The Florida Senate**  
**PROFESSIONAL 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: Commerce Committee

BILL: SB 282

INTRODUCER: Senator Fasano

SUBJECT: Designated Drivers

DATE: March 7, 2007

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	<b>Favorable</b>
2.	Gordon	Cooper	CM	<b>Favorable</b>
3.				
4.				
5.				
6.				

**I. Summary:**

This bill would prohibit licensed retail alcoholic beverage establishments from refusing service to a person who does not purchase alcohol because he or she is the designated driver for one or more persons who are purchasing alcoholic beverages at the establishment.

This bill has an effective date of October 1, 2007.

This bill substantially amends section 562.51, Florida Statutes.

**II. Present Situation:**

In Florida, alcoholic beverages are regulated by the Beverage Law, which is codified in chs. 561, 562, 563, 564, 565, 567, and 568, F.S. The Division of Alcoholic Beverages and Tobacco (division) of the Department of Business and Professional Regulation (department) is the agency authorized to enforce the provisions of that law.

The statutory provisions of the Beverage Law define the types of beverages covered by law, and regulate the manufacture, distribution, and sale of wine, beer, and liquor via manufacturers, distributors, and vendors.<sup>1</sup> Section 561.01(4)(a), F.S., defines the term “alcoholic beverages” to mean “distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume.” Section 563.01, F.S., defines the terms “beer” and “malt beverage” to mean all brewed beverages containing malt. Section 565.01, F.S., defines the terms “liquor,” “distilled spirits,” “spirituous liquors,” “spirituous beverages,” or “distilled spirituous liquors” to mean “that

<sup>1</sup> See, s. 561.14, F.S.

substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.”

Section 564.01(1), F.S., provides that wine and fortified wine are defined as:

“Wine” means all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages, vermouths, and like products. Sugar, flavors, and coloring materials may be added to wine to make it conform to the consumer’s taste, except that the ultimate flavor or the color of the product may not be altered to imitate a beverage other than wine or to change the character of the wine.

Section 564.01(2), F.S., defines “fortified wine” to mean all wines containing more than 17.259 percent of alcohol by volume.

It is unlawful to sell alcoholic beverages without a license issued by the division, or to sell alcoholic beverages in a manner not permitted under the Beverage Law or the license held.<sup>2</sup> Generally, vendors are the only license classification that can sell alcohol beverages at retail directly to the consumer.

### **Retailer’s Right to Refuse Service**

Section 562.51, F.S., provides that licensed retail alcoholic beverage establishments may refuse service to any person who is objectionable or undesirable to the licensee. However, the licensee may not refuse service on the basis of race, creed, color, religion, sex, national origin, marital status, or physical handicap.

### **Highway Fatalities and Designated Drivers**

In 2005, there were 1,471 alcohol related highway fatalities in Florida out of 3,543 total highway fatalities.<sup>3</sup> Accident prevention advocates encourage the use of designated drivers, i.e., persons who have not consumed alcohol and provide safe and sober transportation home for companions who have consumed alcohol, as a means to avoid alcohol-related highway accidents and fatalities.<sup>4</sup>

According to the Department of Highway Safety and Motor Vehicles (DHSMV) final data for 2006 is not available. However, preliminary data from the DHSMV indicates that there were 20,995 alcohol-related crashes in 2006. These crashes resulted in 589 alcohol related fatalities and 14,989 alcohol related injuries.

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<sup>2</sup> See, s. 562.12, F.S.

<sup>3</sup> See, National Highway Traffic Safety Administration’s National Center for Statistics and Analysis, *Alcohol-Related Fatalities and Fatality Rates by State, 2004-2005*. Available at: <http://www-nrd.nhtsa.dot.gov/pdf/nrd-30/NCSA/RNotes/2006/810686.pdf> (Last visited on February 13, 2007).

<sup>4</sup> See, Mothers Against Drunk Driving at [http://www.madd.org/madd\\_programs/4803](http://www.madd.org/madd_programs/4803) (Last visited on February 13, 2007).

### III. Effect of Proposed Changes:

This bill is the result of an incident in Pinellas Park, Florida in the summer of 2006. According to press reports, a man was ejected from a retail alcoholic beverage licensed establishment for not ordering alcoholic beverages. The man explained that he was the designated driver for his wife and her friends, but was still asked to leave the premises.<sup>5</sup>

The bill amends s. 562.51, F.S., to prohibit licensed retail alcoholic beverage establishments from refusing service to a person who does not purchase alcohol because he or she is the designated driver for one or more persons who are purchasing alcoholic beverages at the establishment.

The bill would not prohibit a retail alcoholic beverage licensee from requiring that the designated driver purchase a non-alcoholic beverage as a condition for remaining in the establishment.

The bill has an effective date of October 1, 2007.

### 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:

None.

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<sup>5</sup> Leonora Lapeter, "Fasano acts after bar ejects," *St. Petersburg Times*, 6 Feb. 2007, B1, 2007 WLNR 2297230; Anne Lindberg, "Designated driver says bar tossed him for not drinking," *St. Petersburg Times*, 3 Aug. 2006, B3, 2006 WLNR 13439070.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate Professional 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:**

None.

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