

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 595  
SPONSOR(S): Fitzgerald

Open House Parties

TIED BILLS:

IDEN./SIM. BILLS: SB 1066

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Public Safety & Domestic Security Policy Committee	12 Y, 0 N	Krol	Cunningham
2)	Policy Council			
3)	Criminal & Civil Justice Policy Council			
4)				
5)				

SUMMARY ANALYSIS

Section 856.015, F.S., states that a person in control of an open house party commits a second degree misdemeanor if they know a minor has possession of or consumed any alcoholic beverage or drug at their residence and the person had failed to take responsible steps to prevent the possession or consumption of the alcoholic beverage or drug by the minor.

This bill amends present law to make a second or subsequent violation of s. 856.015(2), F.S., a first degree misdemeanor.

This bill also provides that any violation of s. 856.015(2), F.S., which results in serious bodily injury or death, will be punishable by a first degree misdemeanor.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

In Florida, it is unlawful for any person younger than 21 years of age to possess alcoholic beverages.<sup>1</sup>

Section 856.015, F.S., states that a person<sup>2</sup> in control of an open house party<sup>3</sup> commits a second degree misdemeanor<sup>4</sup> if they know a minor<sup>5</sup> has possession of or consumed any alcoholic beverage<sup>6</sup> or drug<sup>7</sup> at their residence and the person had failed to take responsible steps to prevent the possession or consumption of the alcoholic beverage or drug by the minor.

This statute exempts the use of alcoholic beverages at legally protected religious observances or activities.<sup>8</sup>

##### **Proposed Changes**

This bill amends present law to make a second or subsequent violation of s. 856.015(2), F.S., a first degree misdemeanor, which is punishable by a fine not to exceed \$1000 and/or up to 1 year in jail.<sup>9</sup>

This bill also provides that any violation of s. 856.015(2), F.S., which results in serious bodily injury, as defined in s. 316.1933,<sup>10</sup> or death, will be punishable by a first degree misdemeanor.

---

<sup>1</sup> Section 562.111, F.S.

<sup>2</sup> Section 856.015(1)(f), F.S., defines "person" as "an individual 18 years of age or older."

<sup>3</sup> Section 856.015(1)(e), F.S., defines "open house party" as "a social gathering at a residence."

<sup>4</sup> Sections 775.082 and 775.083, F.S., state that a second degree misdemeanor is punishable by potential incarceration up to 60 days in jail and/or a fine not exceeding \$500.

<sup>5</sup> Section 856.015(1)(d), F.S., defines "minor" as "an individual not legally permitted by reason of age to possess alcoholic beverages pursuant to chapter 562."

<sup>6</sup> Section 856.015(1)(a), F.S., defines "alcoholic beverage" as "distilled spirits and any beverage containing 0.5 percent or more alcohol by volume. The percentage of alcohol by volume shall be determined in accordance with the provisions of s. 561.01(4)(b)."

<sup>7</sup> Section 856.015(1)(c), F.S., defines "drug" as "a controlled substance, as that term is defined in ss. 893.02(4) and 893.03, F.S."

<sup>8</sup> Section 856.015(3), F.S.

<sup>9</sup> Sections 775.082 and 775.083, F.S., respectively.

<sup>10</sup> Section 316.1933(b), F.S., defines the term "serious bodily injury" as "an injury to any person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ."

**B. SECTION DIRECTORY:**

Section 1. Amends s. 856.015, F.S., relating to open house parties.

Section 2. Provides an effective date of July 1, 2010.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

See "Fiscal Comments."

2. Expenditures:

See "Fiscal Comments."

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

See "Fiscal Comments."

2. Expenditures:

See "Fiscal Comments."

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

See "Fiscal Comments."

**D. FISCAL COMMENTS:**

The bill creates the penalty of a first degree misdemeanor for a second or subsequent violation of s. 856.015(2). The change in penalty for a second or subsequent violation would increase the potential fine from \$500 to \$1000 and the potential jail time from 60 days to 1 year.

The bill also creates a penalty of a first degree misdemeanor if a violation of 856.015(2), F.S., results in seriously bodily injury or death.

This bill could have an impact on local jails.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**