

Underage Drinking and Alcohol Abuse on University and College Campuses

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Background

A. Introduction

During the 2006 Regular Session, Senator Hill requested that the committee staff conduct an interim study on the use of alcohol on public universities and college campuses. Senator King requested that committee staff review the issue of underage drinking.

According to Senator Hill, an overwhelming number of young men and women are being lost due to alcohol abuse while attending institutions of higher learning. Alcohol abuse on college campuses has also been attributed as contributing to accidents. Some of these accidents have resulted in the deaths of college students.

Senator Hill has presented several questions that he would like to see addressed in the study, including the number of alcohol-related incidents on college campuses, and the number of hospitalizations, arrests, incarcerations, and law enforcement responses. The senator is also interested in whether there are any programs on campuses to deter the use of alcohol, and whether sports venues on campuses are funded by the alcohol industry.

Senator King indicated that he was interested in receiving input from interested parties on what measures may be necessary to strengthen the current laws relating to access to alcohol by minors.

This report examines the extent of alcohol use by persons under the age of 21, and the extent of alcohol abuse on university and college campuses in Florida, including alcohol related deaths, accidents, incidents, and arrests. This report reviews the law enforcement and administrative responses that the state's universities have taken to address these concerns. The report reviews the current laws regarding prohibiting access to alcohol by minors, and explores the solutions offered by interested persons and being pursued in other states.

B. Prohibitions against underage access to alcohol

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.

Section 562.11(1)(b), F.S., prohibits a licensee or her or his agents from providing alcoholic beverages to an employee younger than 21 years of age except as provided in ss. 562.111 and 562. 13, F.S., or allowing an underage employee to

consume alcoholic beverages on the premises while in the scope of employment. A licensee or his or her agent convicted of violating this provision is guilty of a misdemeanor of the first degree punishable by a term of imprisonment not exceeding one year and a fine not to exceed \$1,000.

The prohibition in s. 562.11, F.S., is limited to violations that occur on alcoholic beverage licensed locations, and does not apply to instances in which a person furnishes an alcoholic beverage to a person under legal age at locations that are not licensed to serve alcoholic beverages.¹

Section 562.111(1), F.S., prohibits a person under 21 years of age from having an alcoholic beverage in his or her possession. Section 562.111, F.S., exempts persons employed under the provisions of s. 562.13, F.S., and acting in the scope of her or his employment. Any person under the age of 21 years convicted of violating this section is guilty of a misdemeanor of the second degree. A subsequent conviction is a misdemeanor of the first degree.

Persons 18 years of age or older may be employed by alcoholic beverage licensees. Section 562.13, F.S, prohibits alcoholic beverage vendors from employing 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;²
- 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 17 years of age or older with written permission of his or her 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 the student's 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;

¹ See *United Services Automobile Association v. Butler*, 359 So.2d 498 (Fla. 4th DCA 1978). See also discussion below regarding a location-neutral prohibition.

² See ss. 450.095 and 450.132, F.S.

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- 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; or
- 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.

A minor subject to s. 562.13, F.S., may not be employed if the employment involves nudity on the part of the minor and the nudity is intended as adult entertainment.

Section 562.111(2), F.S., also permits a student who is at least 18 years of age to possess alcoholic beverages in the tasting of alcoholic beverages as part of the student's required curriculum at a postsecondary educational institution. The student may only taste, but not consume or imbibe, the alcoholic beverages. The alcoholic beverages must at all times remain in the possession and control of authorized instructional personnel of the college who are 21 years of age or older.

Section 562.11(2), F.S., prohibits a person from misrepresenting or misstating his or her age or the age of another person for the purpose of inducing any alcoholic beverage 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. It also prohibits any person under 21 years of age to purchase or attempt to purchase alcoholic beverages. Any person convicted of violating this subsection is guilty of a misdemeanor of the second degree. Any person under the age of 17 years is within the jurisdiction of the circuit court and is treated as a juvenile delinquent.

Section 856.015, F.S., prohibits allowing an open house party to take place at a residence if any alcoholic beverage or controlled substance is possessed or consumed by any minor and the person in control of the residence knows that an alcoholic beverage or drug is in the possession of or being consumed by a minor at said residence. The person in control of the residence must take reasonable steps to prevent the possession or consumption of the alcoholic beverage or drug. Anyone convicted of a violation of this provision is guilty of a misdemeanor of the second degree.

The open house party prohibition in s. 856.015, F.S., requires that the person in control of the residence have actual knowledge of the possession by the underage person. It is not sufficient proof that the person should have known of the possession or failed to take reasonable steps to prevent the illegal possession. The provision also requires that the person in control of the residence take reasonable steps to prevent the possession. However, this condition has been interpreted as

requiring that the person in control take reasonable steps to prevent the *continued* possession of the alcohol beverage or drug by the underage person *after attaining actual knowledge* of the illegal possession.³

C. Additional penalties

Section 562.11(2)(c), F.S., authorizes the courts to impose the following additional penalties if a person uses a driver's license or identification card issued by the Department of Highway Safety and Motor Vehicles (DHSMV) in violation of s. 562.11, F.S.:

- The court may order the person to participate in public service or a community work project for a period not to exceed 40 hours; and
- The court shall direct the DHSMV to withhold issuance of, or suspend or revoke, the person's driver's license or driving privilege, as provided in s. 322.056, F.S.

Chapter 2006-203, L.O.F., amended s. 562.11, F.S., to require the courts to order the DHSMV to withhold the issuance of, or suspend or revoke, the driver's license or driving privilege pursuant to s. 322.057, F.S.,⁴ of any person who violates the sale to persons under 21 years of age prohibition in s. 562.11(1), F.S. It 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.

Chapter 2006-203, L.O.F., provides that the court may order the department to issue a driver's license restricted to business or employment purposes. It provides a time frame for the delay of issuance of a license or the suspension or revocation of a license of not less than three months or more than six months for a first violation and one year for any subsequent violation. Chapter 2006-203, L.O.F., took effect October 1, 2006.

D. Division of Alcoholic Beverage and Tobacco

The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation (department) is the agency

³ See *State v. Manfredonia*, 649 So.2d 1388 (Fla. 1995).

⁴ Section 322.057, F.S., provides the procedures for revocation or suspension of the driver's license for persons found guilty of violating s. 562.11(1)(a), F.S. It authorizes a suspension of not less than six months and not more than one year for a first violation and of two years for a subsequent violation. See discussion regarding driver's license revocation for 18 to 20 year-old violators.

authorized to enforce the provisions of the Beverage Law in chs. 561, 562, 563, 564, 565, 567, and 568, F.S.⁵

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.”

Chapter 563, F.S., relates to the regulation of beer and malt beverages.⁶ Chapter 564, F.S., relates to the regulation of wine and fortified wine.⁷ Chapter 565, F.S., relates to the regulation of liquor.⁸ According to the division, it has 167 sworn law enforcement agents and approximately 70,000 licensees.

E. Dram Shop and Habitual Drunkards

Section 768.125, F.S., commonly known as the Dram Shop Act,⁹ provides civil liability for an injury or damage resulting from intoxication. The civil liability applies to a person who willfully and unlawfully sells or furnishes alcoholic beverages to a “person who is not of lawful drinking age or who knowingly serves a person habitually addicted to the use of any or all alcoholic beverages.” Florida does not provide criminal penalties for knowingly serving alcohol to intoxicated persons of legal age. A vendor is not liable if he or she sells alcoholic beverages to a habitual drunkard in a closed container for off-premises consumption.¹⁰

⁵ Section 561.01(6), F.S., defines these sections as the Beverage Law.

⁶ Section 563.01, F.S., defines the terms “beer” and “malt beverage” to mean all brewed beverages containing malt.

⁷ Section 564.01, F.S., defines the term “wine” to mean:

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.

It also defines the term “fortified wine” to mean “all wines containing more than 17.259 percent of alcohol by volume.”

⁸ Section 565.01, F.S., defines the terms “liquor,” “distilled spirits,” “spirituous liquors,” “spirituous beverages,” or “distilled spirituous liquors” to mean “that 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.”

⁹ The term “dram” is a small unit of liquid, and the term “dram shop” refers to a bar, tavern or other location where alcoholic beverages, typically spirits, were traditionally sold by the dram.

¹⁰ *Persen v. Southland Corp.*, 656 So.2d 453 (Fla. 1995).

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Section 562.50, F.S., prohibits the sale and service of alcoholic beverages to habitual drunkards after being given written notice by that person's wife, husband, father, mother, sister, brother, child, or nearest relative. A violation is a misdemeanor of the second degree.

Methodology

Committee staff reviewed relevant statutory provisions, including the legal duties and responsibilities of the state's universities regarding on-campus alcohol use. Staff reviewed the current statutory provisions concerning the prohibition of underage drinking. Staff reviewed the current programs and resources that are available to the state's universities and colleges to address the issue of alcohol abuse on campus. Staff conducted surveys of the state's universities and colleges, and consulted with the staffs of the Department of Education, the Board of Governors, the Florida Drug Control Office, the Department of Children and Families, the Department of Juvenile Justice, and the Division of Alcoholic Beverages and Tobacco in the Department of Business and Professional Regulation. Staff participated in a "ride along" with Tallahassee Police Department officers on "party patrol" to witness law enforcement efforts and the security and safety practices of retail vendors frequented by college students. Staff also met with alcoholic beverage industry representatives and other interested parties.

Findings

I. The Extent of the Problem

A. Grades Six through Twelve

The Florida Youth Substance Abuse Survey (FYSAS or survey) is conducted each year by the Florida Department of Children and Families, the Department of Health, and the Department of Education to assess the extent of substance abuse, including alcohol, among sixth through twelfth grade students.

The 2005 survey found that alcohol is the most commonly used drug among Florida students.¹¹ It found that, across all seven surveyed grades, 56.5 percent of students reported lifetime use and 30.8 percent reported that they used alcohol within the past 30 days, which represents a decline of 10.2 percent between 2000 and 2005. The survey also found that one in five (20.7 percent) of Florida high school students reported one or more occasions of binge drinking (defined as the consumption of five or more drinks in a row) during the previous two weeks, and 12.2 percent reported getting drunk or high in school.

According to experts in the use of alcohol by youth, the consequences of underage drinking are extensive. For example:

- Almost 20 percent of traffic accidents in the under 21 years of age group involve alcohol;¹²
- 9.1 percent of hospital admitted youth suicide acts are alcohol related;¹³
- Convicted youth in custody reported being under the influence in 41.3 percent of homicides, 43.4 percent of sexual assaults, 37.3 percent of other assaults, and 24.4 percent of robberies and other crimes.¹⁴

B. College Students

It is difficult to find reliable data on the extent of alcohol use among Florida college students under 21 years of age. The FYSAS does not assess the use of alcohol or other controlled substances among college or university students.

¹¹ Copies of the FYSAS reports can be found at: <http://www.dcf.state.fl.us/mentalhealth/publications/fysas/> (Last visited on October 3, 2006.)

¹² Miller, et al., *Societal Costs of Underage Drinking*, Journal of Studies on Alcohol, July 2006.

¹³ *Id.*

¹⁴ *Id.*

Experts in the field that were interviewed for this report advise that results of several national studies are representative of alcohol use rates for Florida college-age students. A recent national study found that 43.4 percent of college freshmen drink beer occasionally. This finding was 10 percent lower in 2005 than in 2000 (48.3 percent) and 41 percent lower than in 1982 (73.7 percent).¹⁵

The Core Alcohol and Drug Survey (Core Survey) is an annual, national survey that assesses the nature, scope, and consequences of alcohol and other drug use on college campuses. The 2005 survey was drawn from a sample of 33,379 undergraduate students from approximately 53 colleges in the United States.¹⁶ The 2005 Core Survey found that 60.5 percent of college students were between 16 to 20 years of age. It found that 72.8 percent of college students had used alcohol within the past 30 days.

For 2003, the University of Michigan's *Monitoring the Future* study¹⁷ found that 33.6 percent of 19 to 20 year olds reported drinking five or more drinks in a row in the last two weeks. This study included college students, but was not specific to that category.

Several studies have examined the consequences of alcohol abuse by college students. The following is a summary of the consequences of alcoholic abuse by college students:¹⁸

¹⁵ Data derived from the American Freshman Survey, a national survey sponsored by the University of California, Los Angeles (UCLA) and the American Council on Education and conducted by UCLA's Graduate School of Education & Information Studies. "Frequently or occasionally" is self-reported as drinking one or more times in the past year. A copy of the survey may be ordered at: http://www.gseis.ucla.edu/heri/cirp_services.html. (Last visited August 23, 2006.)

¹⁶ The Core Alcohol and Drug Survey is conducted by the Core Institute at Southern Illinois University. Survey results, sample survey forms, and other information about the survey is available at: http://www.siu.edu/departments/coreinst/public_html/. (Last visited August 24, 2006.)

¹⁷ The University of Michigan's *Monitoring the Future* study is an ongoing annual study of the behaviors, attitudes, and values of American secondary school students, college students, and young adults. The study is sponsored by the National Institute on Drug Abuse, U.S. Department of Health & Human Services. Copies of tables and news releases from the study are available at: <http://www.monitoringthefuture.org>. (Last visited August 24, 2006.)

¹⁸ Quoted from *A Snapshot of Annual High-Risk College Drinking Consequence*, Task Force on College Drinking within the National Advisory Council on Alcohol Abuse and Alcoholism of the National Institutes of Health, September 2005. (References omitted.) A copy of this data compilation, with accompanying source references, and information about this task force is available at: <http://www.collegedrinkingprevention.gov/StatsSummaries/snapshot.aspx>. (Last visited October 17, 2006.)

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- **Death:** 1,700 college students between the ages of 18 and 24 die each year from alcohol-related unintentional injuries, including motor vehicle crashes.
- **Injury:** 599,000 students between the ages of 18 and 24 are unintentionally injured under the influence of alcohol.
- **Assault:** More than 696,000 students between the ages of 18 and 24 are assaulted by another student who has been drinking.
- **Sexual Abuse:** More than 97,000 students between the ages of 18 and 24 are victims of alcohol-related sexual assault or date rape.
- **Unsafe Sex:** 400,000 students between the ages of 18 and 24 had unprotected sex and more than 100,000 students between the ages of 18 and 24 report having been too intoxicated to know if they consented to having sex.
- **Academic Problems:** About 25 percent of college students report academic consequences of their drinking including missing class, falling behind, doing poorly on exams or papers, and receiving lower grades overall.
- **Health Problems:** More than 150,000 students develop an alcohol-related health problem.
- **Suicide Attempts:** Between 1.2 and 1.5 percent of students indicate that they tried to commit suicide within the past year due to drinking or drug use.
- **Drunk Driving:** 2.1 million students between the ages of 18 and 24 drove under the influence of alcohol last year.
- **Vandalism:** About 11 percent of college student drinkers report that they have damaged property while under the influence of alcohol.
- **Property Damage:** More than 25 percent of administrators from schools with relatively low drinking levels and over 50 percent from schools with high drinking levels say their campuses have a "moderate" or "major" problem with alcohol-related property damage.
- **Police Involvement:** About five percent of four-year college students are involved with the police or campus security as a result of their drinking and an estimated 110,000 students between the ages of 18 and 24 are arrested for an alcohol-related violation such as public drunkenness or driving under the influence.
- **Alcohol Abuse and Dependence:** 31 percent of college students met criteria for a diagnosis of alcohol abuse and 6 percent for a diagnosis of alcohol dependence in the past 12 months, according to questionnaire-based self-reports about their drinking.

II. Florida Prevention Resources and Efforts

A. Overview of Prevention Strategies

There are numerous scholarly and scientific studies and surveys about underage alcohol use and excessive drinking by college students. These studies define the extent of the problem, the consequences of underage drinking and excessive drinking by college students, and treatment and prevention options. Throughout the course of this interim study many such studies were brought to the attention of committee staff by non-governmental and governmental substance abuse treatment and prevention professionals, and by the alcoholic beverage industry. The number of people and organizations dedicated to addressing these issues and providing studies and reports is extensive; it includes efforts by the governmental agencies, academic organizations, public service organizations, and the alcoholic beverage industry. Some of these studies have been noted in this report, but the number of studies is far too extensive to document here. The following is a brief summary of a study by the National Institute of Alcohol Abuse and Alcoholism Task Force on College Drinking that provides a representative general overview of the various prevention approaches by ranking them in terms of their proven efficacy.

Recommendations of the National Institute of Alcohol Abuse and Alcoholism Task Force on College Drinking

The National Institute of Alcohol Abuse and Alcoholism Task Force on College Drinking (NIAAA Task Force)¹⁹ made several recommendations regarding college students and alcohol abuse prevention approaches. The recommendations in this study are the basis for many prevention efforts. Its recommendations are divided into four tiers or classifications based on the relevance to college student drinking and the degree to which the efficacy of the recommendation is supported by empirical evidence.²⁰

Tier 1 recommendations include strategies that have shown evidence of effectiveness with college students. These include skills training with norms clarification, i.e., advising the student that most students drink responsibly and legally.

Tier 2 includes strategies that research shows have been successful with general populations and could be applied to college settings. These include efforts either

¹⁹ This institute is within the National Institutes of Health.

²⁰ See Saltz, Robert F., Ph.D., *Preventing Alcohol-Related Problems on College Campuses—Summary of the Final Report of the NIAAA Task Force on College Drinking, Focus on Young Adult Drinking*, vol. 28, no. 4, 2004/2005. This report is available at: <http://pubs.niaaa.nih.gov/publications/arh284/toc28-4.htm> (Last visited August 24, 2006.)

to restrict the availability of alcohol or to create an environment supportive of such restrictions. Tier 2 strategies could include:

- Increased enforcement of legal drinking age laws.
- Implementing increased publicity and enforcement of laws to prevent alcohol-impaired driving.
- Restricting alcohol retail outlet density, i.e., limiting the number of alcohol retailers within a certain distance of a university campus.
- Increasing prices and excise taxes on alcoholic beverages.
- Implementing responsible beverage service policies in social and commercial settings.
- Creating campus and community coalitions of all major stakeholders to implement these strategies effectively.

Tier 3 consists of strategies with logical and theoretical promise that require more comprehensive evaluation. Tier 3 strategies include:

- Marketing campaigns to correct student misperceptions of peer alcohol use, sometimes called “social norms marketing” or normative education.
- Consistent enforcement of campus alcohol policies.
- Providing safe rides for students who drink too much.
- Regulation of happy hour promotions.
- Information for new students and their parents about alcohol use and campus policies.
- Other strategies to address high-risk drinking, such as offering alcohol-free residence halls and social activities or scheduling classes on Fridays to reduce Thursday night parties.

Tier 4 strategies are strategies that have demonstrated effectiveness used alone without any other strategies or components. These include educational or awareness programs. The NIAAA Task Force warned against the use of education or awareness programs that use breathalyzers to give students information about their level of impairment. According to the NIAAA Task Force, such programs have produced negative results because students have used the information as a challenge to reach higher levels of intoxication.

B. Division of Alcoholic Beverage and Tobacco

The division routinely investigates complaints of alcoholic beverage licensed vendors for sales to persons under 21 years of age.²¹ According to the division, enforcement of underage drinking laws is a top priority of the division.

²¹ Section 561.08, F.S., requires that the division enforce the provisions of the Beverage Law.

The division also asserts that it has actively pursued a good working relationship with the state's colleges and universities and is working cooperatively with them in law enforcement and prevention efforts, including assisting them during football games and other sporting events. The division is increasing its enforcement efforts at college football games throughout the state. According to the division, it is increasing its presence from two to four law enforcement agents per game to 12 to 15 law enforcement agents per game for the 2006 season. Its involvement includes end-of-year college bowl games as well as regular season games.

According to the division, its law enforcement employees routinely assist local police and sheriffs in law enforcement activities in alcoholic beverage licensed locations and away from licensed premises; these include investigations at events frequented by youth, e.g., spring break activities, relating to consumption of alcoholic beverages by persons under 21 years of age. During April and May 2006, the "Spring Break" period for college students, the division made 854 arrests and/or issued notices to appear for alcoholic beverage possession violations by persons under 21 years of age. The division does not track the disposition of those arrests.

The division provides training and makes presentations to various groups in its effort to keep alcohol from underage persons. It offers training to all new alcoholic beverage licensees and to all current licensees on how to prevent underage sales, e.g., how to check identification cards and driver's licenses and how to recognize false identification cards and driver's licenses. It also makes presentations to elementary, middle, and high schools, and to colleges. For example, at the University of Florida, the division participates in the university's mandatory orientation program by making a presentation on responsible drinking and underage drinking.

Over the past five years²² the division conducted 36,173 alcohol surveys, i.e., investigations of vendors selling alcoholic beverage to persons under the legal age. These investigations resulted in 5,027 instances in which a sale to a minor was made. This equals a five-year non-compliance rate of approximately 14 percent. Recent year-to-year non-compliance rates are slightly lower than the five year rate. According to the division, in 2003, the non-compliance rate for sale of alcoholic beverages to youth was at 11 percent.²³ For the one-year period of July 1, 2005 through June 30, 2006 the division has reported an 11.9 non-compliance rate.

The division's penalty guidelines for violations of the sale to underage persons prohibition in s. 562.11(1)(a), F.S., provide for a \$1000 fine and a seven-day

²² The period discussed is from July 1, 2001 through August 3, 2006.

²³ See *Changing Alcohol Norms (CAN): Florida's Initiative to Lower Youth Drinking, A White Paper*, Florida Office of Drug Control, April 2004.

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license suspension.²⁴ Based upon a review of the division's records for the disposition of administrative cases for a violation involving the sale by licensees to underage persons, the following chart represents the sanctions imposed by the division during each of the past five years.

Year	Suspensions with fines	Revocations	Other Penalty²⁵
2001	78	6	26
2002	105	11	13
2003	104	7	13
2004	112	7	2
2005	86	3	9
2006²⁶	50	0	6

It is unclear the extent to which this chart accurately reflects the number of revocations and suspensions that were directly attributable to a violation of s. 562.11(1)(a), F.S. The department does not maintain a distinct and clear record of the number of suspension or revocations for underage sale violations. According to the department, it is common for a licensee to be sanctioned for an administrative action containing several other beverage law violations in addition to a sale to an underage person violation. In instances of multiple, unrelated Beverage Law violations, it is difficult to determine the degree to which an ultimately issued sanction is attributable to a particular charge.

In July 2006, the division announced that it had instituted a new program to assist Florida's law enforcement agencies to identify the providers of alcohol to underage persons when there is an accident or incident that results in the fatality of a minor. The program is called "Identifying Contributors to Alcohol Related Events" or "ICARE."²⁷ According to the division, traditional local law enforcement focuses on the traffic crash investigation and not on where the underage person illegally acquired the alcohol. ICARE is intended to fill this gap in enforcement. In partnership with several law enforcement agencies throughout the state, including the Florida Highway Patrol and the Florida Department of Law Enforcement, the division has successfully traced two cases that have resulted in seven arrests, and, as of October 2006, was investigating 18 additional alcohol-related cases that resulted in the death of a minor. The division plans to expand the program through partnerships with other law enforcement agencies.

²⁴ See rule 61A-2.022, F.A.C., for the division's penalty guidelines. This rule references a table that details the relevant penalty for specific violations. A copy of this table is available at: http://www.myflorida.com/dbpr/abt/rules_statutes/violations.pdf. (Last visited September 6, 2006.)

²⁵ Some administrative actions were resolved with a suspension and fine or with a fine without a suspension.

²⁶ Records reviewed were through July 2006.

²⁷ The ICARE program was developed from the Governor's State Leadership Commission for Reducing Underage Drinking.

Florida's ICARE program is similar to the TRACE (Target Responsibility for Alcohol Connected Emergencies) program in California and the TrAIL (Tracking Alcohol in IL) program in Illinois. According to the division, both these programs receive federal funding. The division is evaluating the possibility of applying for federal grant money, which could provide additional law enforcement agents dedicated to this program and to enforcement of the underage alcohol prohibition.

Additional grant money for the ICARE program may be available from the Enforcing Underage Drinking Laws (EUDL) Program, which is administered by the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. The EUDL program is a federal initiative focused exclusively on preventing underage drinking, and is funded by an annual congressional appropriation of \$25 million to support state and local prevention activities.²⁸ The EUDL grant program gives each state approximately \$350,000 each year. In Florida, the money is disbursed through the Office of Drug Control.

C. Florida Office of Drug Control

The Office of Drug Control within the Executive Office of the Governor was created in 1999.²⁹ The Office of Drug Control's responsibilities include collaborating with the Office of Planning and Budgeting to coordinate the state's substance abuse efforts, provide information to the public about the problem of substance abuse and the substance abuse programs and services that are available, and develop a strategic program and funding initiative that links the separate jurisdictional activities of state agencies with respect to drug control. The Office of Drug Control must report, on or before December 1 of each year, to the Governor and the Legislature on the substance abuse trends in this state and the status of current substance abuse programs and services, the funding of those programs and services, and the status of the Office of Drug Control in developing and implementing the state drug control strategy. The report must include recommendations on measures that the director of the Office of Drug Control considers advisable for the effective implementation of the state drug control strategy.³⁰

Under the direction of the Office of Drug Control, the Changing Alcohol Norms Workgroup (CAN Workgroup) was established in June 2003 to develop a comprehensive strategy (the State Strategic Plan) to reduce underage drinking by focusing on public information, education, law enforcement, collaboration,

²⁸ See http://www.ncjrs.gov/html/ojjdp/news_at_glance/209154/topstory.html, for more information on the EUDL program. (Last visited October 18, 2006.) The Office of Juvenile Justice and Delinquency Prevention also operates the Underage Drinking Enforcement Training Center (UDETC) to provide training and technical assistance to states and communities.

²⁹ Section 397.332, F.S.; ch. 99-187, L.O.F.

³⁰ *Id.*

legislation, and treatment efforts. The CAN Workgroup consisted of expert members from state agencies,³¹ associations, and organizations. In April 2004, the CAN Workgroup's efforts resulted in the Changing Alcohol Norms (CAN) Whitepaper.³² This is a policy paper developed to guide the state's efforts to reduce underage drinking by changing youth alcohol norms. Changing alcohol norms refers to the policy approach designed to change the expectations of minors that drinking alcohol is not socially acceptable, for example educating children to recognize that not all children drink alcoholic beverages and that it is not the "cool" thing to do.

The CAN whitepaper included several recommendations related to public information efforts, education, and law enforcement. The policy paper focuses on elementary through high school students and on college students. The whitepaper included the following legislative recommendations:

- Amend s. 562.111, F.S., to prohibit consumption of alcohol by persons under 21 years of age.
- Enact graduated driver licensing laws.³³
- Strengthen the laws to revoke or suspend alcohol licenses from businesses engaged in repeated sales to underage persons.³⁴
- Implement a system for the registration of beer kegs that records information on the identity of the purchasers.
- Strengthen the dram shop liability statute to enhance liability for commercial establishments that knowingly sell alcohol to minors who subsequently cause injury to others.³⁵

³¹ The following agencies contribute to the State Strategic Plan:

- Department of Business & Professional Regulation, Division of Alcoholic Beverages and Tobacco
- Department of Law Enforcement;
- Fish and Wildlife Commission;
- Agency for Workforce Innovation;
- Department of Education, Office of Safe Schools;
- Department of Health, Child and Adolescent Health and Children's Medical Services;
- Department of Juvenile Justice; and
- Department of Children & Families.

³² A copy of the report is available at:

[http://www.myflorida.com/myflorida/government/governorinitiatives/drugcontrol/pdfs/2004-04-00-changing_norms.pdf#search=%22Changing%20Alcohol%20Norms%20\(CAN\)%20White%20Paper%22](http://www.myflorida.com/myflorida/government/governorinitiatives/drugcontrol/pdfs/2004-04-00-changing_norms.pdf#search=%22Changing%20Alcohol%20Norms%20(CAN)%20White%20Paper%22). (Last visited October 2, 2006.)

³³ Graduated driver licensing laws link driving privileges to age, e.g., the older an adolescent driver becomes, the more privileges he or she can attain such as relaxed curfews, etc.

³⁴ The CAN whitepaper does not specify which laws should be strengthened or how they should be strengthened.

The director of the Office of Drug Control also chairs the following commissions addressing the issue of alcohol abuse and underage alcohol use:

- The Governor’s Leadership Commission for Reducing Underage Drinking (Leadership Commission) was established in January 2006 and has a membership consisting of agency heads. It has semi-annual meetings to set priorities and policy. The Commission for Reducing Underage Drinking was created by Governor Jeb Bush to “increase education and awareness on the dangers associated with underage drinking, increase training and enforcement efforts among law enforcement officials and conduct in-depth research and analysis on emerging issues and trends associated with underage drinking.”³⁶
- The Underage Drinking State Task Force was established in November 2005. Its membership consists of upper-level agency personnel and meets quarterly to carry out the directions of the Leadership Commission.
- Florida’s First Lady’s Alcohol Workgroup Underage Drinking Prevention Initiative.

D. Other State Agencies

Several state agencies and commissions participate in the state’s efforts to address the issue of alcohol abuse and underage alcohol use. The Florida departments of Health, Education, Children and Families, and Juvenile Justice, and the Governor’s Office of Drug Control conduct the annual Florida Youth Substance Abuse Survey (FYSAS.)³⁷ The survey has been administered to Florida’s middle and high school students since the 1999-2000 school year, and is repeated annually each spring. The survey measures the levels of risk and the protective factors faced by youth and correlates those levels to alcohol, tobacco and other drug use rates. The Department of Children and Families licenses substance abuse treatment and prevention providers.³⁸ The Department of Juvenile Justice also supports several drug and alcohol abuse programs.

E. Local Law Enforcement

Local law enforcement agencies are the state’s front-line agencies in the effort to combat the illegal use of alcoholic beverages and the effects of alcohol abuse by college students. Local law enforcement agencies patrol the alcoholic beverage

³⁵ The CAN whitepaper does not specify how the current dram shop liability provision should be strengthened.

³⁶ Office of the Governor, *Press Release*, April 6, 2006. The press release is available at: <http://www.flgov.com/release/7649> (last visited, October 26, 2006.)

³⁷ See note 11, *supra*.

³⁸ Section 397.401, F.S.

licensed establishments frequented by college students and respond to disturbances at college student house parties.

A good example of the local law enforcement response to the problem of college student alcohol abuse is the Tallahassee Police Department which has a “party patrol” program that regularly patrols areas where college students socialize and live. The patrols enforce the Beverage Law and other violations that are prevalent when college students and alcohol mix. According to law enforcement, excessive alcohol use often results in violations of other laws. For example, local law enforcement enforce the following prohibitions, which they typically associate with alcohol abuse: disorderly conduct/breach of the peace,³⁹ disorderly intoxication,⁴⁰ possession of an altered driver’s license or ID card,⁴¹ littering,⁴² open container in vehicle,⁴³ driving while under the influence of alcohol,⁴⁴ and open house party violations involving possession of alcohol by minors.⁴⁵ This is not a complete list. Excessive college drinking often requires the enforcement of local ordinances, including noise abatement ordinances and prohibitions against possession of open containers within a prescribed distance from an alcoholic beverage licensed establishment.

According to law enforcement personnel, the enforcement of these associated laws tends to improve the quality of life in communities experiencing the negative effects of excessive college student drinking and function as a deterrent to over-consumption of alcohol and to the irresponsible behaviors that result from excessive and irresponsible alcohol consumption.

F. Non Governmental Organizations

There are a considerable number of persons and interest groups dedicated to combating the problem of alcohol abuse and underage alcohol use in Florida and nationwide, both in terms of treatment and prevention. Some of these efforts focus exclusively on the college students. The following is a representative, but not a complete, listing of the various non-governmental organizations dedicated to these problems in Florida. In addition to these organizations’ individual efforts, many of these groups also participate in local coalitions that act in concert with each other, state and local government agencies, and other interested parties to address the problem and to improve the welfare of their communities. During the course of this study, committee staff met with representatives from some of these

³⁹ Section 877.03, F.S.

⁴⁰ Section 856.011, F.S.

⁴¹ Sections 322.32(1) and 322.212, F.S.

⁴² Section 403.413, F.S.

⁴³ Section 316.2045(1), F.S.

⁴⁴ Section 316.193, F.S.

⁴⁵ Section 856.015, F.S.

organizations. Their materials, publications, input, and assistance contributed to the completion of this study.

- Florida Alcohol & Drug Abuse Association, Inc. (FADAA).
- Florida Center for Prevention Research at Florida State University.
- Florida Higher Education Alliance for Substance Abuse Prevention (FHE-ASAP).
- Mothers Against Drunk Driving (MADD).
- Partnership for Alcohol Responsibility at Florida State University.
- Students Against Destructive Decisions (SADD).
- Treatment and Prevention Evaluation Group at the University of Miami.

III. UNIVERSITIES AND COLLEGES

A. Legal Rights and Obligations

The Family Educational Rights and Privacy Act (FERPA)⁴⁶ provides privacy protections for student education records. It applies to all higher education schools that receive funding from the U.S. Department of Education. The act gives the parents of a student under 18 years of age the right to inspect the student's educational records and that right transfers to the student when he or she reaches 18 years of age. Generally, the parent or adult student must give the school written permission in order for the school to release any information from a student's education record. The act provides an exception that permits schools to disclose to the parents of students under 21 years of age any drug or alcohol violations that relate to any "federal, state, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance, regardless of whether that information is contained in the student's education records."⁴⁷ The act permits states to supersede this provision and prohibit higher education institutions from notifying parents about an alcohol violation.⁴⁸ Florida law does not appear to prohibit this disclosure.

The Drug-Free Schools and Campuses Act⁴⁹ requires that each higher learning institution receiving funds or any other form of financial assistance under any federal program must adopt and implement a written policy to prevent the unlawful possession, use, or distribution of illicit drugs and alcohol by all students and employees both on school premises and as part of any of its activities.

⁴⁶ See 20 U.S.C. § 1232g; and 34 C.F.R. Part 99.

⁴⁷ See 20 U.S.C. § 1232g(i).

⁴⁸ *Id.*

⁴⁹ See Title IV, Part A, Subpart 1, Elementary and Secondary Education Act of 1965 as amended by the No Child Left Behind Act of 2001, Public Law 107- 110.

Florida law authorizes each community college and state university to adopt, by rule, uniform codes of conduct and appropriate penalties for violations of rules by students.⁵⁰ Each community college and state university is required to compile and annually update a student handbook that includes students' rights and responsibilities. Each student handbook must also list the legal and institution-specific sanctions that will be imposed upon students who violate the law or institutional policies regarding controlled substances and alcoholic beverages.⁵¹

B. Public University Enrollment

The following chart shows the enrollment for the state university system (SUS):⁵²

Enrollment by Public University and Level, Fall 2005

	Undergrad	Grad	Unclass	Total
UF	34,028	14,310	1,378	49,725
FSU	30,418	7,926	1,308	39,652
FAMU	10,372	1,529	278	12,179
USF	32,968	7,910	2,143	43,021
FAU	19,951	3,386	2,367	25,704
UWF	7,828	1,239	634	9,701
UCF	37,568	6,328	1,057	44,953
FIU	28,406	5,085	3,484	36,975
UNF	13,077	1,618	658	15,353
FGCU	5,978	762	524	7,264
NCF	761	0	1	762
SUS	221,355	50,093	13,841	285,289

Because a university's response to the survey that was conducted by committee staff may be related to the size of the school enrollment and the number of

⁵⁰ See ss. 1001.64(8)(f), 1001.74(10)(e), and 1006.60, F.S.

⁵¹ Section 1006.50, F.S.

⁵² The data in this chart represents preliminary Fall 2005 information provided on the Internet by the Florida Board of Governors. This chart and additional data about the characteristics of the students in the state university system is available at: <http://www.flbog.org/factbook/quickfacts.asp#population>. (Last visited October 19, 2006.)

graduate and undergraduate students, this chart may help provide perspective to the survey responses.

C. Survey of Universities and Colleges

Committee Staff prepared and submitted a survey to all state universities. Staff also submitted the survey to selected private colleges and universities, and public community colleges. The survey addressed the schools' experiences with alcohol-related incidents and their efforts to prevent underage drinking and irresponsible drinking by students of legal age. This survey included specific questions that Senator Hill had asked that the committee and schools address. All of the state universities⁵³ and eight community colleges⁵⁴ responded to the survey. Three independent universities responded to the survey.⁵⁵ The following is a summary of the responses to the survey questions:⁵⁶

1. How many alcohol related deaths have there been in the past five years?

Prevention experts note that schools should track the off-campus alcohol-related fatalities of their students because alcohol-related deaths rarely occur on campus, and that tracking this information provides a more accurate gauge of the problem within the school's student population. The experts state that deaths that occur during spring break and other school term breaks should also be tracked by the schools because students with alcohol-related problems continue to engage in risky behaviors during school term breaks.

The University of Tampa (UT) was the only school that reported any deaths (three) that occurred during a term break. Only five schools reported any alcohol

⁵³ The state universities are: Florida A & M University, Florida Atlantic University, Florida Gulf Coast University, Florida International University, Florida State University, New College of Florida, the University of Central Florida, the University of Florida, the University of North Florida, the University of South Florida, and the University of West Florida.

⁵⁴ The survey was submitted to the state's 28 community colleges with the assistance of the Division of Community Colleges and Workforce Education within the Florida Department of Education. The eight community colleges that responded to the survey are: Brevard Community College, Broward Community College, Central Florida Community College, Gulf Coast Community College, Chipola College, North Florida Community College, Okaloosa-Walton College, and Pensacola Junior College.

⁵⁵ The independent universities that responded to the survey are: the University of Tampa, Nova Southeastern University, and the University of Miami.

⁵⁶ Senator Hill's letter to the committee, the survey, and survey responses are available for inspection or copying upon request of committee staff.

related deaths.⁵⁷ It is not clear whether all of the schools distinguished between on-campus deaths and off-campus deaths. For example, Florida A&M University (FAMU) reported no alcohol-related deaths on campus, while Florida State University (FSU) reported five off-campus deaths that were reported as involving alcohol.

It appears that there is not a uniform approach to how the schools investigate the deaths of their students or record whether the deaths were alcohol-related. Only one school reported a student death with any certainty that it was alcohol-related. The University of Florida reported one alcohol-related death, and noted that the death was probably caused by positional asphyxia; the student had a blood alcohol level of .22. Several schools noted that there had been some deaths of students in automobile accidents, but did not know if any of the accidents were alcohol-related.

2. Does campus security/police have the authority to issue driving under the influence (DUI) warning or citations? If so how many have been issued over the past five years?

Several of the schools responded to the survey by noting that they do not issue warnings for DUI violations, and none reported issuing any DUI warnings.

All of the state universities reported that the university police had the authority to issue DUI citations and to make arrests.⁵⁸ Only one independent university, the University of Miami (UM), reported that its campus police had that authority. However, UT reported that, although its security personnel won't arrest for DUI, they will report the student to the student judicial process.

Some schools reported both DUI arrests and arrests for .02 violations under s. 322.2616, F.S. Section 322.2616, F.S., provides that, notwithstanding s. 316.193, F.S., a law enforcement officer may detain a motor vehicle driver under 21 years of age whom the officer has probable cause to believe is under the influence of alcoholic beverages. It is unlawful for a person under 21 years of age with a blood alcohol level of .02 or higher to drive or be in actual physical control of the motor vehicle. Under s. 316.193, F.S., the applicable blood alcohol level for DUI is .08 for persons 21 years of age or older.

The most reported DUI arrests were from UF, which reported 399 arrests for DUI and 92 arrests for .02 citations. Only two state universities, FAMU and Florida International University (FIU), reported no DUI arrests.

⁵⁷ Florida State University, the University of Central Florida, the University of Florida, the University of Miami, and the University of Tampa.

⁵⁸ See s. 316.193, F.S., for provisions dealing with driving under the influence, and s. 327.352, F.S., relating to boating under the influence.

Most of the community colleges do not have law enforcement or security personnel with the authority to make DUI arrests. One of the community colleges (North Florida Community College) noted that its security personnel may detain a suspected violator for the local law enforcement agency. None of the community colleges reported any arrests.

3. How many alcohol related incidents have there been in the past five years?

The survey did not define the term “alcohol related incidents,” thereby leaving the term to be broadly defined by the schools. Most of the schools did not define the term. New College of Florida (New College) defined alcohol related incidents as incidents in which alcohol was reportedly a factor. This more general definition appears to have been that followed by the other schools because of the absence of any indication that the responding schools chose to define the term more narrowly. Florida State University explained that alcohol incidents include selling/giving/serving alcohol to a person under 21 years of age, open container in a vehicle violations, underage possession, and alcohol incidents that do not result in an arrest.

The University of North Florida (UNF) noted that it did not keep records by “incidents” but maintained records by “students,” and noted that it had charged 1403 students for alcohol related student conduct violations (incidents) in the past five years. This is an important distinction because reported incidents do not necessarily correlate to the number of students involved in the incidents. For example, the University of South Florida (USF) reported 464 incidents (including DUI incidents), but processed 792 student code violations relating to the school’s alcohol policy. These are the only two schools to provide this clarification and it is not clear whether all of the responding universities made a similar distinction in preparing their response.

The school with the highest reported number of incidents (2191) was UT. The state university with the highest reported number of incidents was UF with 694 incidents with arrests and 392 incidents without an arrest. The community colleges reported a lower number of alcohol-related incidents than the four-year colleges and universities.

One prevention expert noted that the number of reported alcohol related incidents does not necessarily correlate to a greater university problem with alcohol, i.e., a high reported incidence number does not mean that the school has more students who drink or drink irresponsibly than a school with a lower reported incidence number. The expert noted that high incidence numbers more likely indicate that the university’s administration is more diligent in tracking and recording incidents, and that the school is more likely to be engaged in active law

enforcement and security supervision of the campus in order to apprehend violators and protect the student population.

4. How many times have local law enforcement been called to campus for alcohol related incidents in the past five years?

Most of the state universities responded by stating that their university police departments were self-sustaining and did not require outside assistance from local law enforcement. Only Florida Gulf Coast University (42), FIU (3), and UM (150) reported calling local law enforcement for assistance. Two other schools reported that they did not keep a record of calls to local law enforcement.⁵⁹

5. How many alcohol related arrests have been made in the past five years?

All of the universities reported the number of the arrests during the five year period. The University of Florida reported the most arrests (1093). Florida State University reported 1092 total arrests, while the University of Central Florida (UCF) reported the third most arrests at 497 total arrests. Only two community colleges, Gulf Coast Community College (2) and Brevard Community College (6), reported any arrests. The number of arrests reported by the community colleges is significantly lower than the number of reported university arrests. Only FAMU (6), New College (3), and Nova Southeastern University (1) reported comparably low numbers.

It is not clear that all of the arrests reported by the universities were of students. For example, FSU reported that, for the five year period, 473 out of the total arrests of 1095 were students. This is the only school to provide this clarification so it is not clear whether all of the responding universities made a similar distinction in preparing their response.

6. How many alcohol related arrests have resulted in incarceration?

Five of the 14 responding universities reported incarcerations equal to the number of arrests.⁶⁰ Five universities reported incarcerations that were significantly lower than the number of arrests.⁶¹ For example, UF reported 1093 arrests for alcohol-related incidents, but only reported 468 incarcerations for those arrests. Florida State University is the only state university that reported that it did not keep a record of incarcerations.

⁵⁹ Nova Southeastern and the University of Tampa.

⁶⁰ Florida A&M University, Florida International University, New College of Florida, the University of Central Florida, and the University of Miami.

⁶¹ Florida Gulf Coast University, the University of Florida, the University of North Florida, the University of South Florida, and the University of West Florida.

It is also unclear from the responses whether incarceration meant that the arrested person was sent to the local jail for holding before a preliminary hearing, or whether the person was incarcerated pursuant to a sentence after a plea or trial. As with the reported arrests, it is also not clear whether all of the persons reported to be incarcerated after an arrest were students.

7. Are there any programs on campus to deter the use of alcohol? If so, please describe these programs.

All of the universities reported that they were actively concerned with the problem of alcohol abuse and irresponsible alcohol use. The universities and colleges responded with an extensive listing of the various programs and resources available to the state's college students and of the steps that the schools have taken to foster and encourage responsible alcohol use. The following is a summary of the types of programs these schools have established.

As required by law, all of the colleges and universities reported that they give students notice in the student handbook of the school's policies regarding drugs and alcohol. Only UCF and Florida Atlantic University (FAU) reported that they notify the student's parents that the student has violated the school's alcohol policy. However, most of the schools noted that violations of the policy result in mandatory participation in the school's substance abuse programs.

Several universities have on-campus programs dedicated to prevention research and education, and to substance abuse intervention and treatment, including:

- The Center for Alcohol and Drug Education (known as PIER21) at UM;⁶²
- The Partnership for Alcohol Responsibility (PAR) at FSU;⁶³
- The Florida Center for Prevention Research at FSU;⁶⁴
- The Alcohol and Substance Abuse Program at UF;
- The Campus Alcohol and Drug Information Center (CADIC) at UNF;
- The Center for Addiction and Substance Abuse (CASA) at USF;
- The Alcohol and Other Drug Prevention Programing at UCF;⁶⁵ and
- The CHOICES Alcohol Education Program at the University of West Florida (UWF).

Several colleges and universities provide treatment and counseling opportunities for alcohol dependent students. The University of Miami provides an anonymous process through which fellow students and faculty can refer students that they

⁶² See <http://www6.miami.edu/pier21/> (Last visited October 12, 2006.)

⁶³ See <http://www.tshc.fsu.edu/par/> (Last visited October 12, 2006.)

⁶⁴ See <http://fcpr.fsu.edu/> (Last visited October 13, 2006.)

⁶⁵ See <http://www.aod.sdes.ucf.edu/plan.htm> (Last visited October 12, 2006.)

believe to have a substance abuse problem to PIER21 for substance abuse intervention. The student is then educated and encouraged to seek substance abuse counseling through the school's counseling center.

Some schools also educate the students in the risks associated with alcohol abuse. For example, CADIC at UNF links responsible drinking with other risks by providing safe sex education, including HIV-AIDS awareness education. The program is licensed as a prevention provider through the Department of Children and Families. The Attitudes and Alternatives Program (AAP) at USF uses the Tier 1 strategy recommended by the NIAAA to help students make responsible choice and change behavior.

Many schools reported conducting what is termed social norms marketing, which involves educating students about the realities of alcohol use, e.g., that most students don't binge drink and responsible behavior is the norm. Several schools reported that they participate in national alcohol prevention campaigns such as the National Collegiate Alcohol Awareness Week (NCAAW),⁶⁶ which is a campaign sponsored by the BACCHUS Network (Boost Alcohol Consciousness Concerning the Health of University Students). This is a student organization fostering health and safety issues, including responsible alcohol use. Some events are also sponsored by GAMMA (Greeks Advocating Mature Management of Alcohol). This is a student organization within the BACCHUS Network umbrella that advocates alcohol responsibility by college fraternities and sororities.

Several of the schools also noted their participation in BACCHUS and GAMMA's "Safe Spring Break" campaign. "Safe Spring Break" promotes safe and sober driving, safe sexual decision-making, and avoiding high-risk drinking, in order to reduce, if not eliminate, the number of injuries and deaths among college and university students during the Spring Break period.⁶⁷ BACCHUS and GAMMA affiliate groups are present in many, but not all, of the state's public and independent universities, and community colleges. The universities also participate in the National Alcohol Screening Day.⁶⁸

Several schools noted that they provide late night, alcohol-free social activities for students as an alternative to bars and night clubs. For example, at UT, the school requires each residence hall to provide regular prevention programming for late-night and evening activities. The school's gym is also used every Monday through Saturday from 8 p.m. to Midnight for alcohol-free recreation activities. The

⁶⁶ See <http://www.bacchusgamma.org/ncaaw.asp> for information about National Collegiate Alcohol Awareness Week. (Last visited October 11, 2006.) For 2006, National Alcohol Awareness week was October 15, 2006 through October 21, 2006.

⁶⁷ See <http://www.bacchusgamma.org/safe-spring-break-campaign.asp> for information about "Safe Spring Break." (Last visited October 11, 2006.)

⁶⁸ See <http://www.mentalhealthscreening.org/events/nasd/> for information about National Alcohol Screening Day. (Last visited October 12, 2006.)

University of Central Florida offers the Late Knights program with “after hours” social activities in which 70 percent of the participants are under 21. The University of Florida offers “Gator Nights” every Friday night with live movies, bands, comedians, and a free midnight breakfast, and has a website dedicated to keeping students informed on healthy and safe alcohol-free social alternatives.⁶⁹

Some schools use peer to peer education in which trained students educate other students about the responsibilities and risks associated with alcohol use. For example, FSU has the Knowing About Responsible Management of Alcohol & Other Drugs Peer to Peer Education (KARMA) program, and UT has the Team CHAOS (Creating Healthy Options for Students) program.

Several schools reported efforts to encourage students not to drink and drive by providing alternative transportation. The University of Miami, UF, and FSU provide students with a late night bus service between popular night-spots and student housing. The University of Florida also sponsors a designated driver program in coordination with local bars and restaurants.

Some schools reported prevention programs designed to engage the students’ interests through creative education and norms marketing approaches. For example, UNF students are given “beer goggles” that simulate how a person’s vision reacts while over the legal limit for alcohol. The school also conducts a “mocktail” challenge in which fraternities, sororities, and athletes create non-alcohol drinks. The “My 21st Birthday” program at UF provides students with an email from the Dean of Students during the week of their 21st birthday that encourages a safe and responsible celebration.

Cooperation with local law enforcement is a component of several schools’ prevention efforts. For example, UF’s police department coordinates with the Gainesville Police Department’s “Party Patrol,” and UT hosts an event each semester with local law enforcement called “DUI Wolf Pack” to raise awareness of drinking and driving.

Each of the responding colleges and universities are members of the Florida Higher Education Alliance for Substance Abuse Prevention (FHE-ASAP),⁷⁰ whose goal is to increase the effectiveness of campus and community prevention coalitions. For example, UNF reaches out to the community through the UNF Campus Community Coalition on Substance Abuse Prevention, and is a member of several drug and alcohol abuse prevention associations.

⁶⁹ See UF’s “Stuff To Do” at <http://www.union.ufl.edu/stufftodo/>. (Last visited October 12, 2006.)

⁷⁰ See <http://www.fhe-asap.org/> (Last visited October 11, 2006.)

8. Are there any sports venues on campus funded by the alcohol beverage industry? If so, identify who does the funding and what they fund.

Three schools reported receiving funding from the alcoholic beverage industry for their athletic departments. Anheuser-Busch provides funds to FAMU's athletic programs in exchange for radio advertising at sporting events and advertising on the athletics scoreboard. Florida Atlantic University (FAU) reported that its athletic department has Anheuser-Busch as a corporate sponsor. Through this sponsorship, the school receives funding and products for special events for non-athletes over 21 years of age. Although UNF does not receive funding for its stadium or athletics, it reported that it receives advertising support from two beer distributors, Champion Brands and North Florida Beverage.

9. Are there any beer or alcoholic beverage advertisements on campus?

Most of the schools reported that there are no alcoholic beverage advertisements on campus. Several schools reported that they prohibit handbills, flyers, or posters on campus for any bars or clubs.

Three universities reported that alcoholic beverage advertisements can be found in the on-campus full-service restaurants and bars. The University of West Florida and FAU have full service restaurants on the campus that have alcohol advertisements, and UM's Rathskeller, an on-campus bar, also has alcohol advertisements.

Three universities reported that they have alcoholic beverage industry advertisement in their athletic facilities. Alcoholic beverages are advertised in FAU's arena, and there are alcoholic beverage advertisement banners at the UNF arena and at its baseball and softball stadiums. The University of Tampa reported that a local beer distributor annually purchases a sign at its soccer stadium, but stated that the money goes to the university's general fund and is not used for any specific sport.

Alcoholic beverage advertisements may be present on campus in less overt ways. For example, UCF reported that several off-campus publications are distributed on the campus that include alcoholic beverage and drink specials advertisements. Only USF reported that its student newspaper, The Oracle, accepts ads from clubs and local businesses, some of which advertise alcohol drink specials.

10. How many alcohol related hospitalizations have there been within the past five years?

Four universities⁷¹ and all of the community colleges reported that they did not know of any instances of alcohol-related hospitalizations. This includes FSU which reported that it had begun to work with local hospitals to develop a system to track this information for alcohol-related emergency room visits and/or hospitalizations.

The number of hospitalizations varies greatly across the state. The colleges and universities reported a total of 367 known alcohol-related hospitalizations during the preceding five years. Florida Gulf Coast University and UNF reported the lowest number of hospitalizations with each reporting two known hospitalizations. The highest reported incidence of alcohol-related hospitalizations was from UF, which reported 186 hospitalizations during the past five years. The second and third highest reported number of hospitalizations were from UCF and UT, which had 50 and 51 hospitalizations, respectively.

As with the university responses pertaining to alcohol-related incidents, higher reported hospitalizations do not necessarily correlate to a greater university problem with alcohol. As previously noted, higher numbers may also indicate that the university's administration is more diligent in tracking and recording alcohol-related incidents and student hospitalizations.

11. What percentage of the student body is under the age of 21?

The percentage of the student body under 21 years of age varies among the state's universities. New College and FAMU were the only two schools to report a student population that was predominantly under 21 years of age at 62.1 percent and 52.76 percent, respectively. The University of West Florida reported the lowest population of students under 21 years of age with a fall and spring semester averaged under 21 population of 18.5 percent. On average, the universities reported that 38 percent of their students were under 21 years of age.

The community colleges reported a generally higher percentage of students under 21 years of age than the universities, but the percentage of the student body under 21 years of age also varies among the state's community colleges. Only Chipola College and Brevard Community College reported a student population that was predominantly under 21 years of age at 54 percent and 65 percent, respectively. Pensacola Junior College reported the lowest population of students under 21 years of age at 25 percent of the population. On average, the community colleges reported that 42.8 percent of their students were under 21 years of age.

⁷¹ Florida A&M University, Florida International University, Florida State University, and the University of South Florida.

12. Does the university/college have any programs that foster or encourage the responsible use of alcohol by students? If so, please describe these programs.

All of the programs that are intended to foster or encourage the responsible use of alcohol by students are also engaged in deterring alcohol use. Therefore, the universities' responses to this question are similar to the responses to Question 7.

13. Does the university/college have any programs to assist students with an alcohol abuse or dependency problem? If so, please describe these programs.

All of the universities reported that they have one or more, on-campus, alcohol and substance abuse programs that can provide counseling for students with an alcohol or substance abuse problem. Several noted that they provide voluntary screening or assessments for students to determine whether they need formal counseling assistance. Several universities noted that they require mandatory assessments for students who violate the school's alcohol or substance abuse policies.

Only one community college, Gulf Coast Community College, reported that it provided counseling. However, most of the community colleges reported that they refer students with alcohol or substance dependency problems to off-campus, local community counseling resources.

14. What is the university/college's policy regarding alcohol possession on campus, including in college/university housing or during events frequented by students?

Florida A&M University was the only school to report that it is a "dry campus" and that students are not allowed to have alcohol on campus at any function or student housing. All of the other universities responded that they permit alcohol possession under limited circumstances. For example, most of the universities permit students over 21 years of age to possess beer or wine in their dorm rooms, but not in other campus or housing common areas; students may possess alcohol in their dorms if all of the roommates are of legal age. Most of the universities also reported that they prohibit beer kegs or "party balls" at campus housing. Several schools limit alcohol possession to specific residence halls.

Several universities reported that alcoholic beverages are permitted on campus at events and facilities, such as on campus restaurants and meeting facilities, but that the events and facilities must comply with the school's alcohol policies. These policies typically require that the event or facility must be approved by the university president or board of trustees and that the event and facility must comply with all applicable state and local laws and university policies pertaining

to alcohol possession and use. Otherwise, all of the schools prohibit alcohol in public areas of the campus. Some schools also noted that alcohol beverages are not permitted if the event is attended predominantly by students under 21 years of age.

The University of Florida prohibits possession of alcohol at fraternity and sorority housing. It was the only school that reported its policy regarding possession of alcohol at fraternity and sorority housing. The University of Central Florida reported that, in the tailgating areas for football games, it prohibits kegs, funnels, and drinking games, and has alcohol enforcement personnel monitoring tailgating areas for compliance with state and local laws and the university's alcohol policy. It was the only school that noted its tailgating policies.

All of the community colleges reported that they prohibit possession of alcoholic beverages on campus.

15. Do any the college/university's sports teams utilize any off-campus or on-campus venues that serve alcoholic beverage during the team's sporting event? If so, what is the school's policy regarding the sale and service of alcoholic beverage during these sporting events. For example, does the school limit the sale and service of alcoholic beverage to certain times or limit the types of alcoholic beverage that may be served during the event?

Five universities reported that they do not use off-campus sports venues and that they prohibit alcohol at all on-campus sporting events.⁷² All of the remaining universities reported that they use off-campus facilities that are licensed to sell alcoholic beverages for various sports, including golf, ice hockey, basketball, and football.

Several schools noted that they have imposed limits for alcohol sales during off-campus sporting events. Four universities (FAU, UCF, UM, and USF) play football at off-campus stadiums. They each reported that all alcohol sales stop at the beginning of the third quarter, and that sales are limited to beer, or beer and wine. The University of Central Florida reported that 2006 is the final year it will use the off-campus Citrus Bowl in Orlando, and that beginning next year it will have an on-campus stadium that will prohibit alcohol sales. Two universities (FSU and UF) reported that they play their home football games at on-campus stadiums. They prohibit alcohol sales in these stadiums but permit alcohol use or possession in individual stadium suites, i.e., skyboxes.

⁷² Florida A&M University, New College of Florida, Nova Southeastern University, the University of Tampa, and the University of West Florida.

Only UNF reported that it uses one or more off-campus sports facilities over which it has imposed or negotiated no alcohol-sales restrictions.

The National Collegiate Athletics Association (NCAA) permits member colleges and universities to set their own alcohol policies. However, the NCAA prohibits the sale of alcoholic beverages for consumption at any game sponsored or administered by the NCAA, including NCAA championship games. Alcoholic beverages also cannot be brought to the site of any NCAA championship locations until all patrons have left the facility or area used for the competition.⁷³

16. What steps has the university/college taken to address the issue of underage alcohol consumption, and to address concerns relative to alcohol abuse, including binge drinking and alcoholism, within its student body?

The responses of the universities and community colleges to this question were similar to the responses to questions 7 and 12. However, some schools noted additional programs and efforts.

Florida A&M University is the only university that noted that it is on the Governor's Underage Drinking Task Force. According to the Office of Drug Control, FAMU is not the only state university that participates in the task force. Florida State University also participates, and all of the other universities are represented at meetings by an FHE-ASAP representative.

Several schools noted the integration of the universities' health and wellness clinics and services into the schools' prevention efforts. For example, USF's student health services help develop and implement the school's alcohol-related services and programs and participate in community coalitions on substance abuse. The University of South Florida has also developed the Substance Education and Awareness Team (SEAT) task force, which is composed of student affairs staff members and meets monthly to facilitate collaboration among, and to heighten awareness of, the school's alcohol and other drugs education, prevention, and intervention efforts.

The University of Florida also noted that it has joined the Campaign for Alcohol-Free Sports to reduce the amount of alcoholic beverage advertising to underage students and young adults.⁷⁴

⁷³ See NCAA bylaws 31.1.15 and 31.6.2, which are available at <https://goomer.ncaa.org/wdbctx/LSDBi/LSDBI.home>. (Last visited October 11, 2006.)

⁷⁴ See <http://www.cspinet.org/booze/CAFST/> for more information on the Campaign for Alcohol Free Sports. (Last visited October 11, 2006.) The campaign's website notes that the following Florida schools support this campaign: Jacksonville State University, University of Florida, Lynn University, Rollins College, and Saint Leo University.

The University of Central Florida noted that its Alcohol Screening and Brief Intervention in a College Clinic program, which is an NIAAA funded intervention program that uses primary care provider administered interventions for alcohol and substance abuse problems. The University of Central Florida reported that this program has demonstrated a decrease in the incidence of binge drinking and the number of driving under the influence incidents.

The importance of continuing to review the school's efforts, and of looking to other experts to determine best practices, was indicated by UWF, which has sent its director of student health and counseling services to several national education training conferences to make sure that the school's alcohol programs use best practices.

IV. ALCOHOLIC BEVERAGE INDUSTRY

A. Prevention Efforts by Manufacturers

The alcoholic beverage manufacturers have instituted extensive programs designed to prevent sales of their products to underage persons and to promote the responsible and legal consumption of alcoholic beverages. Many of the efforts described below operate across the three-tier system,⁷⁵ and involve collaborative efforts among the manufacturers, distributors, and retail vendors. Many of the efforts described are also bilingual.

Establish Advertising and Marketing Standards. Alcoholic beverage industry manufacturers and trade groups have established voluntary advertising and marketing standards that require that advertising and marketing materials be directed to adults and should not appeal to underage consumers. The Beer Institute, which is an association that represents most of the country's beer manufacturers, has had such a standard since 1937 when it issued its Advertising and Marketing Code.⁷⁶ This code sets forth voluntary guidelines that are applicable to all brewer advertising and marketing materials. It requires that 70 percent or more of the target audience for an advertisement must be of legal age. For example, at least 70 percent of the viewers for a television program showing a beer advertisement must be of legal age. The Distilled Spirits Council of the United States (DISCUS), Inc., which represents liquor distillers, and other

⁷⁵ In the United States, the regulation of alcohol has traditionally been through what is termed the "three-tier system." The system requires that the manufacture, distribution, and sale of alcoholic beverages be separated. Retailers must buy their products from distributors who in turn buy their products from the manufacturers. Generally, manufacturers cannot sell directly to retailers or directly to consumers.

⁷⁶ A copy of the Beer Institutes' Advertising and Marketing Code is available at: <http://www.beerinstitute.org/tier.asp?bid=249>. (Last visited October 6, 2006.)

alcoholic beverage manufacturers has a similar advertising and marketing code of standards.⁷⁷

Partner with Vendors and Distributors. The manufacturers also engage in cooperative efforts with their vendors and distributors by providing funding, printed materials, and multimedia materials, including radio and television advertisements that promote the responsible and legal use of their products. They provide the vendors, through the distributors, with tools designed to prevent underage sales of alcoholic beverages, e.g., driver's license guides that help identify fraudulent licenses and calendars that help the vendor determine a person's age. The industry has indicated that the identification of fake ID's is a major problem for vendors.

Market Responsible and Legal Alcohol Use. In addition to advertising and marketing their products, many manufacturers also advertise and market the responsible and legal use of their products as a brand. They use television, radio, print, and Internet public service announcements to advertise and promote responsible and legal alcoholic beverage use. Many of the manufacturers include their responsible use brand on the actual alcoholic beverage container. The cost of responsible drinking marketing can be extensive. For example, Diageo's⁷⁸ marketing and compliance procedures require that 20 percent of its North American broadcast advertising budget focus exclusively on responsible drinking themes.

The manufacturers target these prevention efforts to persons above and below the legal drinking age in separate marketing campaigns. However, some manufacturers limit their company-branded responsible use efforts to persons of legal age. For example, Heineken USA limits its company-branded responsible-use marketing to persons 21 year of age or older. It maintains an Internet site for its program at enjoyheinekenresponsibly.com, but limits access to the information at that website to persons of legal age. However, it has a program called "Responsible Means 21" that targets all ages and maintains a website (responsiblemeans21.com) that is open to underage persons. This program does not include the company's brand and is currently only being used by Heineken USA in conjunction with law enforcement agencies in Massachusetts and Connecticut.

⁷⁷ See DISCUS, Code of Responsible Practices for Beverage Alcohol Advertising and Marketing. A copy of this code is available at:

<http://www.discus.org/responsibility/code.asp>. (Last visited October 6, 2006.)

⁷⁸ Diageo is a major international manufacturer of wine, beer, and spirits. See <http://www.diageobrand.com>. (Last visited October 17, 2006.)

Some manufacturers focus their prevention efforts on parents. For example, Coors Brewing Company's efforts are focused on parents through its MVParents campaign.⁷⁹ The company believes that this is the better long-term approach.

Educating the Public. The manufacturers also produce educational materials that are aimed at the general public or targeted directly to affected groups such as minors, college students, and parents.

Many of these materials are branded with the manufacturer's responsible use logo or the manufacturer's brand. For example, Anheuser-Busch produces the "Family Talk" and "College Talk" guides, which it developed with education and health experts, to help parents of underage students prevent underage drinking and the parents of college students to communicate with students as they prepare for the alcohol-related issues in their college experience.⁸⁰ Some of the material provided by manufacturers does not include the company brand on the educational material in order to respect the concerns of some parents and educators who might be dissuaded from using industry branded materials.

Some of the educational materials are produced by organizations specifically created by the industry to foster the legal and responsible use of alcoholic beverages. For example, the Century Council,⁸¹ a not-for-profit prevention advocacy group funded by the liquor distillers, produces education software called "Alcohol 101 Plus."⁸² This is a computer program designed to guide college students through scenarios that demonstrate alcohol-related problems and risks faced by college students, and provides guidance on how to address these concerns.

Work with Independent Prevention Advocates and Research Institutions.

Many of the alcoholic beverage manufacturers partner with independent prevention advocates, research institutions, and local community coalitions and programs. They also engage in cooperative efforts with the federal government. For example, the Century Council's "Alcohol 101 Plus" educational software was prepared with input provided by the National Institute on Alcohol Abuse and Alcoholism.

These cooperative efforts take various forms. Some manufacturers rely upon independent research institutions to research the extent of the underage drinking and general abuse problem and to gauge the effectiveness of prevention strategies. They also provide funding to local prevention coalitions, including college

⁷⁹ See MVParents.com. (Last visited October 6, 2006.)

⁸⁰ See <http://www.familytalkonline.com/> and <http://www.collegetalkonline.com/>. (Last visited October 6, 2006.)

⁸¹ See <http://www.centurycouncil.org> for more information about the Century Council. (Last visited October 17, 2006.)

⁸² See <http://www.alcohol101plus.org/home.html>. (Last visited October 6, 2006.)

prevention efforts. For example, Miller Brewing Company was the first corporate sponsor of the college alcohol abuse prevention program Boost Alcohol Consciousness Concerning the Health of University Students (BACCHUS).

The manufacturers have also helped communities develop prevention programs in communities and on college campuses. For example, several manufacturers and distributors provided funding for the Hospitality Resource Panel in Tallahassee. Diageo donated \$80,000 to fund this program. This program was a coalition of local businesses, including alcoholic beverage-licensed establishments, local government agencies, law enforcement, and local university representatives dedicated to promoting responsible drinking and safety policies. Although this program is no longer functioning in Tallahassee, with the assistance of the Tallahassee-area distributors, a similar program has been established in Gainesville and is still operational. Anheuser-Busch has made a \$2.75 million endowment to the National Collegiate Athletics Association, and individual grants to colleges across the country, including Florida State University, to help fund prevention efforts.

The manufacturers have also used independent resources to improve the effectiveness of their prevention efforts. For example, DISCUS uses the expertise of Teenage Research Unlimited (TRU) to develop and implement its teen-targeted prevention efforts.⁸³

B. Prevention Efforts by Distributors

The distributors help the manufacturers implement many of their responsible consumption efforts, including their underage drinking prevention programs. Although some of the distributors' prevention efforts are funded through grants or matching grants from the manufacturers, the distributors also engage in independent prevention efforts. The distributors' prevention efforts include the following types of programs:

Fund Local Prevention Efforts. The distributors assist local prevention programs. These programs can take many forms. For example, Cone Distributing, Inc., along with Miller Brewing Company provided funding to a program at Florida State University intended to provide safe and alcohol-free late night entertainment, and late night breakfasts to university students. At the University of South Florida, distributor J.J. Taylor Distributing of Florida helped fund alcohol responsibility courses for students.

Provide Responsible Vendor Training. Many alcoholic beverage distributors provide responsible vendor training to their retail vendors free of charge.

⁸³ For more information about TRU, see <http://www.teenresearch.com/home.cfm>. (Last visited October 6, 2006.)

According to the distributors, this training is expensive and many retail vendors could not otherwise afford to provide their employees with training in how to serve alcoholic beverages legally and responsibly. Acting cooperatively with the manufacturers, many of the distributors view responsible vending as part of their marketing efforts and involve their salespersons in those efforts. For example, the Anheuser-Busch distributorships in Florida have provided extensive vendor training opportunities and materials to their retail vendors, including point-of-purchase reminders such as lapel buttons, cooler stickers, signs, and wristbands. According to Anheuser-Busch, more than 371,000 servers have been trained by Anheuser-Busch distributors since 1989.

Partner with Local Law Enforcement. Some distributors create partnerships with local law enforcement by printing and distributing signs and pamphlets designed to assist retail vendors to comply with state and local laws.

Drunk Driving Prevention. Several distributors provide funding for services that help to prevent drunk driving. For example, Gold Coast Eagle Distributing of Sarasota, gives cash incentives to taxi-cab drivers who provide rides home for drivers who are too intoxicated to drive. This distributor also helps fund a program known as Tow-to-Go, which provides a toll-free number and free towing for the car of the person who was too intoxicated to drive. Gold Coast Eagle Distributing began this program in Sarasota and it is being expanded nationwide. For college students, several distributors fund programs designed to provide safe rides home from bars. For example, at the University of Miami, South Florida distributor Gold Coast Beverage Distributors funds the Ibis Ride program that provides students with “safe and sober” transportation on Friday and Saturday nights. The program was recently expanded to Thursday nights.

Promote Responsibility at College and Community Events. Many of the distributorships are active in their communities, including at college football games and other large gatherings and public events, promoting responsible drinking and behavior. For example, Anheuser-Busch established the “Good Sport” program through its distributors at college football game throughout the state. The program promotes responsible alcohol use practices for tailgaters such as offering your guests alcohol-free beverage alternatives, serving food with the alcohol beverages, and respecting university rules and state and local laws. In addition to providing information and encouraging responsible drinking, the program encourages people not to litter, to recycle, and to respect other fans. To encourage these responsible practices, “Good Sport” team members roam the stadium parking lots and tailgating areas and give gifts to persons demonstrating responsible and civic-minded behavior.

C. Prevention Efforts by Vendors

Despite all of the efforts by the distributors and the manufacturers to promote the legal and responsible use of their products, the effectiveness of these efforts can be erased by a single inattentive or ill-intentioned store clerk or bartender. Recognizing this reality, the principal, and potentially most effective, prevention activity conducted by the retail vendors is providing responsible vendor training to their employees.

Industry representatives also note that, while even the best trained and diligent vendors can inadvertently make a sale to an underage person, a responsible vendor can reduce the likelihood of a violation through training, diligence, and responsible sales practices. Many alcoholic beverage-licensed establishments, especially those frequented by college students or underage persons, employ security personnel, including off-duty law enforcement officers, to check identification cards at the entrance and to patrol the establishment to discourage, identify, and address underage drinkers and other illegal or disruptive behavior.

Some retail vendors participate in other programs designed to prevent underage sales. For example, some vendors participate in what is termed the “Cops in Shops” program in which a law enforcement officer is present inside the retail establishment to deter underage persons from attempting to purchase alcohol, and to deter adults from buying alcoholic beverages for minors. Other vendors conduct mystery shopping inspections in which an underage person or a person of youthful appearance without an identification card attempts to purchase alcoholic beverages. Mystery shopping aids the vendor to gauge the effectiveness of his or her employee training and sales procedures.

Many retail vendors also avoid irresponsible marketing practices. According to distributor representatives, they occasionally withdraw their support from events conducted by their retail vendors that are in bad taste or may potentially result in underage alcoholic beverage sales or service. (See discussion regarding drink specials, *infra*.)

D. Commercial Value of Underage Drinking

A recent study by the National Center on Addiction and Substance Abuse at Columbia University (CASA) explored the commercial value to the alcohol industry of underage drinking and pathological drinking.⁸⁴ The study maintained that for 2001, the last year for which necessary data was available, a minimum of

⁸⁴ National Center on Addiction and Substance Abuse at Columbia University, *The Commercial Value of Underage and Pathological Drinking to the Alcohol Industry*, May 2006.

\$22.5 billion (17.5 percent) of consumer expenditures for alcohol came from underage drinking. The study also maintained that 25.9 percent of underage drinking met the clinical criteria for alcohol abuse or dependence. In contrast, 9.36 percent of adult drinkers meet those criteria.

The CASA study concluded that underage drinking benefits the alcohol industry because of the “total amount consumed by teens, and the contribution of underage drinking to maintaining a supply of adult drinkers.”⁸⁵ The study rejected industry efforts to confront underage and pathological drinking as an apparent conflict of interest and that the industry was unable to regulate its advertising and marketing practices in regards to underage drinking. In addition to improved public health education, the CASA Study concluded that federal action was needed to regulate alcohol advertising and marketing practices.

The industry disputes the findings of this report. It was criticized by George Mason University researchers as a study that “is riddled with substantial errors” and wildly overstates underage drinking [and] benefits to drinks industry.”⁸⁶ A 2003 report by the Federal Trade Commission (FTC) reviewed the advertising and marketing practices of the alcoholic beverage industry and concluded that the self-regulation practices of the industry had shown improvement since a 1999 FTC report. The FTC study found the largest improvement in the area of advertisement placement. It recommended that the industry participate in third-party reviews of its advertising and marketing practices.⁸⁷

V. ISSUES AND POSSIBLE REMEDIES

A. Location-Neutral Prohibition Against Delivery of Alcohol to Persons Under 21

In *United Services Automobile Association v. Butler*⁸⁸ (*Butler*), the underage sale, delivery or service prohibition in s. 562.11, F.S., was interpreted as being limited to violations that occur on alcoholic beverage licensed locations and not applicable to instances that occur at locations that are not licensed to serve alcoholic beverage.

Based upon discussions with several State Attorney offices across the state, it appears that s. 562.11(1)(a), F.S., is not being interpreted consistently between

⁸⁵ *Id.*

⁸⁶ See http://www.stats.org/stories/another_crazy_columbia_may08_06.htm. (Last visited October 17, 2006.)

⁸⁷ See *Alcohol Marketing and Advertising, A Report to Congress*, Federal Trade Commission, September 2003. A copy of the report is available at: <http://www.ftc.gov/os/2003/09/alcohol08report.pdf>. (Last visited October 18, 2006.)

⁸⁸ *United Services Automobile Association v. Butler*, 359 So.2d 498 (Fla. 4th DCA 1978).

judicial circuits. Some State Attorney offices interpret the provision as applicable to violations that occur only on licensed alcoholic beverage locations, while other offices interpret the provision more broadly to include both licensed and unlicensed locations. According to the division, this provision is also not interpreted consistently among the agency's district offices.

In instances involving an adult who gives an alcoholic beverage to a child under 18 years of age at a non-licensed location, jurisdictions that follow the *Butler* decision can use s. 827.04, F.S., to charge the adult with a first degree misdemeanor violation of contributing to the delinquency of a child. This is a greater penalty than the second degree misdemeanor offense in s. 562.11(1)(a), F.S.

When an adult serves an alcoholic beverage to another adult who is less than 21 years of age, jurisdictions that follow the *Butler* decision may rely on s. 777.011, F.S., to charge the adult as a principal in the first degree. This violation charges the person who gives the alcohol to the underage person with aiding and abetting the person to illegally possess the alcoholic beverage. A violation of s. 777.011, F.S., as a principal in the first degree for a violation of underage possession in s. 562.11(1)(a), F.S., constitutes a second degree misdemeanor.

The lack of clarity in s. 562.11(1)(a), F.S., regarding whether a violation of this section is limited to alcoholic beverage licensed locations and the inconsistent interpretation of this provision across the state, may contribute to the inequitable application of criminal penalties. For example, an adult may be charged with a second degree misdemeanor violation of s. 562.11(1)(a), F.S., while another adult in a different jurisdiction but with the same circumstances may be charged with a first degree misdemeanor violation of contributing to the delinquency of a child under s. 827.04, F.S.

B. Prohibiting Consumption of Alcohol by Underage Persons.

Section 562.111, F.S., prohibits a person under 21 years of age from having in his or her possession alcoholic beverages, but does not prohibit the consumption of alcoholic beverages. Thirty-one states appear to prohibit the possession and the consumption of alcoholic beverage by persons under 21 years of age.⁸⁹

⁸⁹ See: Alcohol Policy Information System at http://www.alcoholpolicy.niaaa.nih.gov/index.asp?SEC=%7B0D5C719E-FCE8-4E15-A367-4145C655505F%7D&Type=BAS_APIS (Last visited September 18, 2006.)

Proponents of prohibiting underage alcohol consumption, including the Changing Alcohol Norms Workgroup,⁹⁰ cite several advantages to such a prohibition. According to law enforcement and the Governor's Office of Drug Control, which also recommends the prohibition, possession of alcoholic beverages can be difficult to prove because underage persons can easily put aside an alcoholic beverage container when they notice a law enforcement officer. Unless the law enforcement officer sees the underage person before they see the officer, the officer is unable to make an arrest even if the person is noticeably intoxicated.⁹¹ A consumption prohibition would permit law enforcement to arrest minors and underage person who are intoxicated even when the officer does not witness the actual possession of the alcoholic beverage container.

Some states that prohibit consumption also set forth exceptions relating to whether the parent or legal guardian has given permission, whether the parent or guardian is present, or whether the consumption occurred in a private residence or location. Some states provide an exception if the underage person is married to a person who is 21 years of age or older and the spouse consents. Some states also provide an exception for consumption for religious, educational, or medical purposes. For example, Illinois prohibits consumption but provides an exception for consumption under the direct supervision and approval of the parent or guardian and which occurs in the privacy of a home.⁹² Louisiana also permits consumption when there is consent by a spouse who is 21 years of age or older, consumption for an established religious purpose, and consumption "for medical purposes when purchased as an over-the-counter medication, or when prescribed or administered by a licensed physician, pharmacist, dentist, nurse, hospital, or medical institution."⁹³

Proof of alcoholic beverage consumption could be obtained by use of a breathalyzer test to measure the existence of alcohol in the suspect. New Hampshire prohibits the intoxication by consumption of alcohol by an underage person, and provides that an alcohol concentration of 0.02 or more shall be prima facie evidence of intoxication.⁹⁴ A prosecutor also recommended that, if a minor refuses to take the breathalyzer test, the minor's driving privilege should be suspended in same manner provided in s. 316.1932, F.S., for driving under the influence violations.

⁹⁰ See *Changing Alcohol Norms (CAN): Florida's Initiative to Lower Youth Drinking, A White Paper*, Florida Office of Drug Control, April 2004.

⁹¹ Law enforcement officers may arrest a person without a warrant when that person has committed a misdemeanor in the presence of an officer. See s. 901.15(1), F.S.

⁹² See s. 235, Ill. Comp. Stat.

⁹³ See La. Rev. Stat. Ann., s. 14:93.10(2).

⁹⁴ See N.H. Rev. Stat. Ann., s. 179:10.

C. Driver's License Revocation for 18 to 20 year-old Violators

Persons under 21 years of age who violate s. 562.11(2), F.S., by misrepresenting or misstating their age or the age of another when purchasing, or attempting to purchase, or when inducing a vendor to sell, give, serve, or deliver alcoholic beverages are subject to a driver's license suspension under s. 322.056, F.S. However, the applicability of s. 322.056, F.S., is limited to persons under 18 years of age. Persons who possess alcoholic beverages in violation of s. 562.111, F.S., are also subject to having their driver's license suspended under s. 322.056, F.S., and that penalty is also limited to persons under 18 years of age.

Persons found to have violated ss. 562.11(2) and 562.111, F.S., are subject to disparate treatment based upon their age. For example, a seventeen year-old who misrepresents his or her age to purchase alcohol may have his or her driver's license revoked, but a nineteen year-old person who violates the same provision is not subject to this penalty. Prevention proponents assert that this inequitable age-based penalty structure undermines the seriousness of the prohibition, which proponents argue should be applied consistently across the affected under 21 years of age group.

D. Keg Registration

Several communities across the country have enacted keg identification or tagging requirements commonly referred to as "keg registration" or "keg tagging." These provisions are limited to beer kegs that are sold at retail for consumption off of the alcoholic beverage licensed premises. Under keg registration, retailers are required to affix unique identification tags to the kegs. These identification tags are intended to permit law enforcement to track a keg to the vendor who sold it. The vendors are required to keep a record of the sale of each keg that includes the identification number for the sold keg along with the purchaser's name, address, telephone number, and driver's license number. These records must be kept for a specified length of time. Some keg registration laws may also require that the seller obtain the signature of the purchaser affirming that the buyer will not permit anyone under 21 years of age to consume the alcohol in the keg, and to list the location where the beer is to be consumed.⁹⁵ Some states specify the form of the keg tag, require keg deposits, and require that the seller's keg registration forms must be made available to law enforcement during regular business hours.⁹⁶ The

⁹⁵ See for example, Ga. Code Ann., s. 3-5-5.

⁹⁶ See Wagenaar, Alexander C., et al., *Measuring public policy: The case of beer keg registration laws*, 2005, for a detailed discussion of keg registration laws. A copy of this study is available at:

http://www.dps.state.ia.us/KYDS/MeasuringPublicPolicy_Wagenaar_EvProgPlanning05.pdf. (Last visited September 6, 2006.)

definition of a keg also differs by jurisdiction and ranges from two gallons to seven gallons. Although these components of a keg registration requirement vary by jurisdiction, twenty-six states and the District of Columbia have adopted a keg registration requirement. Keg registration is also required in local jurisdictions that do not have a state-wide requirement.⁹⁷

Keg registration is supported by law enforcement and by alcohol treatment and prevention organizations. However, it is opposed by representatives for the alcoholic beverage industry, including the retail alcoholic beverage vendors.

Some studies have sited keg registration as the type of local regulation that may be responsible for reductions in alcohol-related traffic fatalities. However, none of the studies have specifically found a direct link between keg registration and reductions in alcohol-related traffic fatalities. Studies finding reductions in alcohol-related traffic fatalities include keg registration as one of the various types of requirements that most protect against alcohol related fatalities.⁹⁸ Therefore, it is not clear to what extent any reductions in fatalities may be attributable solely to keg registration.

Keg registration is intended to address two circumstances. First, the record keeping requirement may dissuade sales to underage persons. Second, keg registration may permit law enforcement to ascertain the person or persons responsible for providing a beer keg that was used to serve an alcoholic beverage to an underage person, e.g., the type of investigation performed in the division's ICARE program.

According to Florida law enforcement officials, keg registration would be a helpful tool for law enforcement in their fight against underage drinking. The Florida Police Chiefs Association has supported keg registration. According to law enforcement officials, keg registration helps law enforcement to identify the person or persons responsible for a beer keg used to serve alcohol to an underage person. For example, it is common for law enforcement to investigate a party at which underage persons have been consuming alcohol from a keg, but the officers are unable to identify the person who purchased and provided the beer keg. This is

⁹⁷ For example, Alabama does not have a state-wide keg registration requirement, but Mobile County, Alabama has such a requirement.

⁹⁸ See Cohen, Deborah A., *The Population Consumption Model, Alcohol Control Practices, and Alcohol-Related Studies*, Louisiana State University Health Sciences Center, February 2002. See also Robert Wood Johnson Foundation, *A Case for Regulation: Less Access to Alcohol, Few Traffic Deaths*, for a summary of this study at <http://www.rwjf.org/reports/grr/031603.htm> (Last visited September 6, 2006.) Other regulations referenced in this study include prohibiting drive-through liquor stores, prohibiting drinking in cars, prohibiting people under 21 years of age from entering bars, requiring businesses that serve alcohol to serve food as well, restricting alcohol at sports events, and reducing the number of alcoholic beverage retail outlets per 100,000 people.

especially common among college-aged parties, where two or more persons may be on the lease for the apartment or house at which the party occurs, or the party may occur in an apartment complex's pool area. The officials noted that keg registration would help identify the person responsible for providing the keg to the party and failing to take measures to protect underage persons from having access to the beer.

Opponents of keg registration stress that there is no evidence of its effectiveness in curbing underage drinking. Representatives for the retail vendors expressed the concern that the recordkeeping requirements of keg registration would be too burdensome for a regulatory program of unproven efficacy. They asserted that it was more likely that vendors would face discipline for failing to meet the technical recordkeeping requirements of keg registration than the keg registration actually leading to the arrests of persons supplying alcohol to minors. They noted that keg registration requirements can easily be avoided by consumers who choose to buy cases of beer instead of beer kegs, and that it is illogical to regulate keg sales in this manner while consumers can continue to purchase other types of alcoholic beverages in bulk without such a regulation. They also believe that keg registration may encourage the use of fraudulent identifications, when purchasing kegs, by persons who intend to violate the law, and that any law enforcement benefits can be easily avoided by defacing the keg identification label.

Proponents of keg registration counter the opponent's concerns by asserting that the efficacy of keg registration is dependent on the quality of its enforcement. They argue that effective keg registration requirements must address some of the opponent's concerns by prohibiting the defacing of the labels, prohibiting the use of false identification in the keg registration process, and regular inspections of the vendor's registration records and kegs to verify compliance. For example, California provides that it is a misdemeanor to possess a keg with knowledge that it is not identified, and to provide false identification on the keg registration receipt.⁹⁹

E. Telephone Tip Line for Reporting Underage Drinking

On May 1, 2006, the State of Kansas initiated a toll-free underage drinking tip line (1-866-MustB21) for citizens to anonymously report house parties or "pasture parties" involving underage drinking, plans to purchase alcohol for underage persons, and retailers who are willing to sell alcohol or drugs to underage persons. The tip line is operated 24 hours a day, seven days a week by the Kansas Department of Transportation (KDOT). Calls made to the tip line are automatically routed to the local law enforcement agency nearest to the town of origin.

⁹⁹ See Cal. Bus. & Prof. Code, s. 25659.5.

According to a representative for the KDOT, the tip line received approximately 140 calls during its first four months of operation, and has received positive feedback from local law enforcement. The telephone system was developed as a service of the telephone company (AT&T). According to the KDOT representative, the telephone company has advised that other states can tie into the KDOT system using the same toll-free number.

According to a representative for the KDOT, this program is operated through the transportation department because of its connection to underage drinking and driving concerns. The program is funded through a grant from the Enforcing Underage Drinking Laws (EUDL) Program.¹⁰⁰

In Florida, the division provides a toll free number for reporting underage drinking and sales. The telephone number is 1-866-540-SUDS (Stop Underage Drinking and Sales). The calls are routed through the department's call center. However, this line only operates during the business hours (8 a.m. to 6 p.m.) on Monday through Friday. Tips made after hours or on the weekend must be left on the center's voice mail system. The division investigates all complaints received on the tip line. The telephone number is advertised on the division's web site and on bumper stickers attached to most division vehicles. The division is also working with the Office of Drug Control to secure funding for billboard and radio advertisements.

Prevention experts who were interviewed regarding the benefits of such a program in Florida expressed support for the concept. However, it is unclear what resources would be needed to initiate a 24-hour, seven days a week tip line similar to the tip line available in Kansas. It is also unclear which agency would be capable of maintaining that type of tip line, and whether such a service would be beneficial to Florida.

F. Prohibiting the Sale or Service of Alcohol to Intoxicated Persons

Florida is one of three states that does not prohibit the sale or service of alcohol to intoxicated persons. Forty-seven states and the District of Columbia have such a prohibition.¹⁰¹ State laws vary in terms of their description of the intoxication, e.g., obviously intoxicated, visibly intoxicated, appears to be intoxicated, reason to

¹⁰⁰ See note 28, *supra*.

¹⁰¹ See U.S. Department of Transportation, National Highway Safety Administration (NHTSA), *Prevention Over-Consumption of Alcohol –Sales to the Intoxicated and “Happy Hour” (Drink Special) Laws*, Revised February 2005. The report notes that Florida, Nevada, and Wyoming are the only states that do not have laws prohibiting the sale or service of alcohol to intoxicated persons.

believe is intoxicated, etc.¹⁰² The level of proof required to establish a violation also differs by state. Some states use a negligence or reckless standard, but some states require proof that the server knew the person was intoxicated.¹⁰³ A knowing standard is more difficult to prove.

Some alcohol abuse and prevention advocates, and some law enforcement professionals, support such a prohibition in Florida. They argue that the prohibitions against the sale or service to habitual drunkards in ss. 562.50 and 768.125, F.S., are insufficient to hinder binge-drinking¹⁰⁴ and/or excessive drinking activities by college students. Although studies have found that banning the service or sale of alcohol to intoxicated persons can reduce the harm caused by impaired drivers and other alcohol-related problems, studies have also found that, in the states with such a ban, inadequate resources and attention have undermined the effectiveness of these laws.¹⁰⁵

Alcoholic beverage vendors advise that banning the sale or service of alcohol to intoxicated persons is unnecessary because the current laws are sufficient to address the problem. Vendors and distributors represent that they have always believed that it was their duty not to serve to intoxicated persons. They stress that it is part of the responsible vendor training not to serve to intoxicated persons because of the threat of a civil law suit under the Dram Shop Act.¹⁰⁶ They also note that the cost of liquor liability insurance (part of the general liability insurance maintained by alcoholic beverage licensed business) further encourages them not to sell or serve to intoxicated patrons.

G. Confiscation of Fraudulent Identification Cards

Law enforcement, vendors, and distributors who help train vendors in responsible vendor practices expressed the concern that the current law is unclear regarding whether vendors can retain driver's licenses and other identification cards that the vendor believes to be fraudulently presented. Current law does not authorize vendors or their employees to retain identification cards that they believe to be fraudulent by falsely representing the age and/or identity of the person offering the identification card. Section 322.212, F.S., prohibits the possession of fraudulent driver's licenses, and s. 322.05(6), F.S., prohibits the possession of any fictitious, fraudulently altered, or fraudulently obtained identification card. Vendors are concerned that they could face civil or criminal charges for seizing an identification card they incorrectly believed to be fraudulent. Failure to seize an

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Binge-drinking has been defined by various sources as having five or more alcoholic beverage drinks at one sitting.

¹⁰⁵ *See* NHTSA report at note 101.

¹⁰⁶ Section 768.125, F.S.

identification card believed to be fraudulent also presents the risk that the card could be used to purchase an alcoholic beverage at another less vigilant location. As a practical matter, vendors advise that when confronted by a vendor or a vendor's employee, most persons do not request the return of the fraudulent identification. Concerns were also expressed regarding whether the confiscated identification cards should be remitted to the division, the Florida Department of Highway Safety and Motor Vehicles, or to other local law enforcement agencies.

Ten states provide for the seizure of identification cards that the vendor believes to be fraudulent. For example, California permits an alcoholic beverage licensee, or his or her agent or employee, to seize any identification presented by a person that falsely shows the person to be over 21 years of age. The licensee must give a receipt to the person from whom it was seized. The seized identification must be given to the local law enforcement agency that has jurisdiction over the premises within 24 hours. California, along with several other states, also provides the vendors and their employees with protection from civil or criminal liability for seizing a license or identification card they believe to be fraudulent.¹⁰⁷

H. Mandatory Server Training

The Beverage Law does not require that persons who serve or sell alcoholic beverages must be trained in any way, including trained in skills needed to avoid sales of alcohol to underage persons, e.g., identifying fake identification cards. However, Florida does provide for voluntary vendor training. The Responsible Vendor Act at ss. 561.701 to 561.706, F.S., is intended, among other things, to eliminate the sale or service of alcoholic beverages to underage persons by encouraging responsible practices for serving and promoting the service of alcohol.

The provisions of the act are not mandatory for vendors. The act encourages vendors to qualify under the act by exempting qualified responsible vendors from revocation or suspension of their alcoholic beverage license if they comply with its requirements. Section 561.706(2), F.S., requires that the Division of Alcoholic Beverages and Tobacco consider responsible vendor qualification to mitigate penalties for violations related to serving or selling alcoholic beverages to underage persons or the illegal use of, or trafficking in, controlled substances.

Section 561.705, F.S., provides the qualifications for a responsible vendor. To qualify as a responsible vendor, an alcoholic beverage licensee must satisfy the manager and employee training requirements as specifically set forth in s. 561.705, F.S. Qualified responsible vendors must also establish a written policy for the immediate dismissal of an employee who uses controlled substances on the licensed premises, maintain training records, and post signs regarding the

¹⁰⁷ See Cal. Bus. & Prof. Code, s. 25659.

vendor's policy against serving or selling alcoholic beverages to underage persons or the illegal use of, or trafficking in, controlled substances.

Eighteen states have some level of mandatory training for servers or sellers, managers, or licensees. The required training may include training in serving and selling procedures, identifying signs of intoxication, methods for checking age identification, and intervention techniques. Some states require that managers be trained on how to train their employees, policy and procedures development, and staff supervision techniques. They also distinguish between establishments that sell for consumption on or off the licensed premises. Some states, like Florida, use training for the mitigation of administrative penalties. For example, Alaska requires that licensees, managers, and servers/sellers be trained,¹⁰⁸ while New Jersey requires that the licensees and managers be trained but does not require training of the servers or sellers.¹⁰⁹ Alaska applies the requirement to establishments licensed for on and off premises consumption.¹¹⁰ New Jersey limits the requirement to establishments licensed for off-premises consumption.¹¹¹ Not all states that require training provide for mitigation of penalties.

Alcoholic beverage industry representatives assert that the current system of voluntary training is adequate. They question whether mandatory training would be more effective than the current voluntary system. They stress that voluntary training is more effective than training that is mandatory and guided by "technical paper compliance." Vendor representatives also expressed concerns regarding the costs of mandatory training and the attendant bureaucracy. A provider of responsible vendor training, with experience in states with mandatory and voluntary responsible vendor training, noted that most vendors in mandatory training states do not provide the training themselves but hire professional, state-certified providers. The provider maintained that the cost of providing mandatory responsible vendor training would be very burdensome for establishments with high employee turnover. They also stress that the Responsible Vendor Act and available insurance discounts for training provide enough incentives for licensees to engage in responsible vendor training.

One responsible trainer noted that most vendors in Florida are not familiar with, or aware of, the Responsible Vendor Act, and that the division does not promote compliance with the responsible vendor act and its benefits. This trainer's assertion is reinforced by the fact that the division's website does not reference the Responsible Vendor Act or provide vendors with guidance on how to comply with its requirements.

¹⁰⁸ See Alaska Adm. Code, tit. 13, s. 104.465; and Alaska Stat., s. 04.21.025.

¹⁰⁹ See N.J. Adm. Code, tit. 13, s. 2-22.3.

¹¹⁰ See Alaska Adm. Code, tit. 13, s. 104.465(a).

¹¹¹ See N.J. Stat. Ann., s. 33:1-12; and N.J. Adm. Code, tit. 13, s. 2-22.3.

I. Regulating Drink Specials

Some states and municipalities regulate or prohibit drink specials. Drink specials may include free drinks, price-discounted drinks like two-for-one specials, “happy hour,” and “all-you-can-drink” specials. Drink special regulation may include prohibitions against certain drink specials and/or prohibitions against the advertising of such specials.

Proponents of regulating drink specials argue that the specials encourage excessive and dangerous drinking and that many drink specials are marketed to college students. This was the rationale cited by the City of Tampa when, on September 12, 2006, it submitted a request to the Florida Attorney General for an opinion regarding whether the city could enact an ordinance regulating drink specials or whether such an ordinance was pre-empted by the Beverage Law.¹¹²

According to some prevention experts concerned with excessive college drinking, the advertisement and the marketing of drink specials promote or encourage excessive drinking. Particularly, drink specials specifically targeted at college students. For example, in the *FSView & Florida Flambeau*,¹¹³ a student newspaper distributed for free on the Florida State University campus and at area retailers, most of the local, student-oriented bars and nightclubs advertise weekly drink specials and events in a two or three page advertisement section. The advertised drink specials include: all you can drink at a set price, typically five or ten dollars, free drinks for ladies, nickel beers, and other low-cost specials.¹¹⁴ Representatives for the retail vendors note that these drink specials are usually effective during the hours before 10 p.m. or before midnight, which is typically the period before most students visit their establishments and that the advertisements do not promote excessive alcohol use.

The City of Jacksonville, Florida, regulates drink specials and their advertisement. It prohibits the delivery of two or more drinks to one person at one time for

¹¹² A copy of the request from the City of Tampa to the Attorney General is on file with the committee.

¹¹³ The *FSView & Florida Flambeau* is published by the Gannett Company, which also publishes *USA Today* and the *Tallahassee Democrat*, and of several youth-oriented publications, including *Noise*, *Velocity*, and *Intake*.

¹¹⁴ *See*, for example, *FSView & Florida Flambeau*, August 24, 2006, pages 26 and 27, which included two full page advertisements for multiple bars and drink specials. The publisher was contacted for this report. The publisher stressed the First Amendment rights of the advertisers, and noted that the newspaper does not approve ads that promote excessive drinking or are offensive. For example, the publisher noted that it has not approved ads for “unlimited drinking.” However, when asked about its usual advertisement of “all you can drink” specials, the publisher noted that these advertisements did not encourage excessive drinking.

consumption by that one person, all-you-can-drink specials, sale of beer or liquor pitchers for just one person, and the advertising of prohibited drink specials.¹¹⁵

There is uncertainty regarding whether the Beverage Law pre-empts local government regulation of drink specials in the manner exercised by the City of Jacksonville and contemplated by the City of Tampa. Section 562.45(2)(a), F.S., explicitly authorizes counties and municipalities to regulate the hours of business and location of places of business and to prescribe sanitary regulations. Section 562.45(2)(b), F.S., authorizes counties and municipalities to regulate the type of entertainment and conduct permitted in any establishment licensed under the Beverage Law. However, s. 562.45(2)(c), F.S., prohibits counties and municipalities from regulating or prohibiting those activities or business transactions of a licensee that are regulated by the division.

Whether a local ordinance is pre-empted by the Beverage Law is dependent on whether the ordinance directly conflicts with state law.¹¹⁶ Case law has interpreted the prohibition in s. 562.45(2)(c), F.S., to provide that local governments can prohibit the service of alcohol at the same time as sexual performances,¹¹⁷ can require that employees of alcoholic beverage vendors must register with the police department,¹¹⁸ and can require the posting of health warning signs in alcoholic beverage licensed business.¹¹⁹

There are no reported opinions regarding the authority of local governments to regulate drink specials. In a 1987 challenge to Jacksonville's regulation of drink specials, the Fourth Judicial Circuit Court held, in an unreported opinion, that the Beverage Law does not preempt the city's regulation of drink specials.¹²⁰ This case was not appealed and it remains unclear whether the local government regulation of drink specials is pre-empted by the Beverage Law.

It appears that 23 states also prohibit drink specials to some degree. The states differ as to what constitutes a prohibited drink special. For example, Massachusetts appears to be one of the most comprehensive in regards to what is a prohibited drink special. Massachusetts prohibits the delivery of free drinks, the delivery of two or more drinks to one person at one time, the sale of drinks at a price less than regularly charged for such drinks, the sale of an unlimited number

¹¹⁵ See Section 154.113, Ordinance Code, City of Jacksonville, Florida.

¹¹⁶ See *State v. Redner*, 425 So.2d 174 (Fla. 2nd DCA 1983).

¹¹⁷ See *City of Miami Springs v. J.J.T., Inc.*, 437 So.2d 200 (Fla. 3rd DCA 1983).

¹¹⁸ *Redner*, at n. 114, *supra*.

¹¹⁹ See *Hillsborough County v. Florida Restaurant Assn. Inc.*, 603 So.2 587 (Fla. 2nd DCA 1992).

¹²⁰ See the Order Granting Temporary Injunction and the Final Judgment in *Jacksonville Bar and Restaurant Owner's Association, et al. v. City of Jacksonville*, Fourth Judicial Circuit, Case no. 86-1893-CA, Div. M. (March 27, 1986 and January 23, 1987 respectively).

of drinks for any set period of time for a fixed price (except at private functions not open to the public), and increasing the volume of alcohol beverages without proportionally increasing the price regularly charged for that drink during the same week. It also prohibits the advertisement of the prohibited drink specials.¹²¹ These restrictions are similar to the drink specials prohibited by the Jacksonville ordinance.

Representatives for the retail vendors and the alcohol distributors expressed the concern that limiting drink specials for all vendors to address irresponsible drinking by college students would be too broad of a step and would apply to businesses that do not cater to college students.

Two retail vendors, alcohol abuse prevention advocates, and others stated that drink specials like all-you-can-drink specials are expensive for vendors and are not cost effective, i.e., they are not profitable but instead lose money for the vendor. Vendors maintained that they are compelled to run drink specials because their competitors are offering drink specials, and because the drink specials attract the patrons to the establishment.

Proponents of regulating drink specials, including two vendors, stated that, although vendors generally may not oppose the limiting of drink specials because such regulation would eliminate the competitive pressure to engage in this expensive and unprofitable practice, the beer distributors would be the principal opponents to such a limiting or banning of drink specials. The vendors and other interested parties, including local government and law enforcement representatives, noted that, although the vendors who offer drink specials like the all-you-can-drink and free-drink specials tend to lose money on such offers, the beer distributors tend to profit from the offers because the vendor must still pay the regular wholesale price for the beer that they give away or sell at drastically reduced prices. Representatives for the beer distributors refute this assertion.

J. Prohibiting Underage Persons from Bars

Florida Law does not prohibit persons 18 to 20 years of age from patronizing bars.¹²² Some alcohol-abuse prevention advocates assert that permitting underage persons in bars places them in an environment with a high risk for access to alcohol because patrons 21 years of age or older can buy drinks for the underage patrons and that it is more difficult to supervise a crowded establishment with

¹²¹ See chapter 204, Code of Massachusetts Regulations, s. 4.03.

¹²² Section 562.48, F.S., prohibits any person operating any dance hall in connection with the operation of any place of business where any alcoholic beverage is sold to knowingly permit or allow any person under the age of 18 years to patronize, visit, or loiter in the dance hall or place of business unless accompanied by a parent or natural guardian. The Beverage Law does not define the term “dance hall” and it is unclear whether this term would include bars.

underage patrons mixed-in with older adults. Six local governments in Florida prohibit alcoholic beverage licensed establishments from permitting patrons under 21 years of age from entering the establishment.¹²³ The Florida ordinances generally provide exceptions, including exceptions for bona fide restaurants,¹²⁴ bowling allies, billiard halls, hotels, persons accompanied by a parent or guardian, and members of the military.

Proponents of banning underage persons in bars argue that the prohibition has reduced crime and the consequences of underage alcohol use in those communities. As with the regulation of drink specials, it is unclear whether local governments have the authority to enact such ordinances or whether they are preempted by the Beverage Law. Some proponents of banning underage persons from bars acknowledge that exceptions can be made to permit underage patrons into bars to view live performances or other live entertainment, provided the vendor takes adequate measures to insure that the underage persons do not have access to alcohol.

Opponents of such a ban stress the alcoholic beverage industry's efforts to curb underage drinking and that banning underage persons from bars would have little practical effect on underage drinking. They argue that the underage persons who illegally obtain alcohol in bars do so with fake identification cards, and, under such a ban, the same fake identification cards used to illegally purchase alcohol are just as effective for the purpose of entering age-restricted bars. According to law enforcement, approximately 70 percent of the underage persons they arrest for underage alcohol possession at licensed premises also possess a fake driver's license or other fraudulent identification.

Opponents of age restrictions for bars also argue that most college students fall within a narrow age range, and that most college students who are 21 years of age and older have friends, or socialize with persons, who are under 21 years of age. They maintain that such a ban would unfairly limit social opportunities for all college students. They also stress that barring underage persons from bars would encourage underage college students to socialize in locations that are not as safe or that have no supervision and that their access to alcohol would not be limited by the ban because the underage person's main source of alcohol is not alcoholic beverage licensees. Industry representatives cite a Century Council study that

¹²³ The local governments and ordinances are: Ft. Lauderdale (ordinance no. C-00-73, s. 5-36, Code of Ordinances of the City of Ft. Lauderdale), Ocala (ordinance no. 5560, s. 6-9, Code of Ordinances of the City of Ocala), Ft. Myers (s. 6-1, Code of Ordinances of the City of Ft. Myers), West Palm Beach (s. 6-3, Code of Ordinances of the City of West Palm Beach), Manatee County (Ordinance 06-42, Code of Ordinances of the Manatee County), and Miami Beach (s. 6-5, Code of Ordinances of the City of Miami Beach).

¹²⁴ Bona fide restaurants are defined by each of these municipal ordinances as alcoholic beverage licensed establishments that derive at least 51 percent of their gross revenue from the sale of food.

found that 65 percent of youth who consume alcohol report that friends and family are the main source from which they get the alcohol. The study also found that only seven percent reported getting alcohol from a store or bar.¹²⁵ This study focused on minors 10 to 18 years of age and it is not clear to what degree this study's results are relevant to underage adults in college.

Opponents of age restrictive bars also identify the difficulty of defining a bar for purposes of the restriction. Applying an age restriction based on the type of alcoholic beverage license held by an establishment would be ineffective, e.g., a license that permits the sale for consumption on the premises of all alcoholic beverage (a full liquor license) versus a license that only permits the service of beer and wine (a beer and wine license), because, for example, not all bars have full liquor licenses and many restaurants do. However, for purposes of the smoking ban, bars have been defined as licensed premises predominantly or totally dedicated to serving alcoholic beverages and for which the service of food is merely incidental.¹²⁶

VI. Direct Shipment of Alcoholic Beverages to Underage Persons

Sales of wine made through the Internet or by mail order directly to consumers outside of the established three-tier system are potential sources of alcoholic beverages for underage persons. United States Supreme Court and Florida Federal District Court decisions invalidating state laws, including laws in Florida, banning such shipments have raised concerns regarding the unregulated direct shipment of wine into this state and the extent to which the practice may make wine sales available to underage persons.

Sales by out-of-state or in-state alcoholic beverage manufacturers and retailers to consumers in another state made outside of the established three-tier systems are commonly termed "direct shipment." In the United States, the regulation of alcohol has traditionally been through what is termed the "three-tier system," which requires that the manufacture, distribution, and sale of alcoholic beverages be separated. Retailers must buy their products from distributors who in turn buy their products from the manufacturers. Generally, manufacturers cannot sell directly to retailers or directly to consumers.

Section 561.545(1), F.S., prohibits the direct shipping of all alcoholic beverages to consumers from out-of-state. It also prohibits common carriers from transporting alcoholic beverages from an out-of-state location to anyone in this

¹²⁵ See The Century Council, *Underage Alcohol Access*, May 2003.

¹²⁶ See s. 386.203(11), F.S., which defines "incidental" as sales of food that are no more than 10 percent of the establishment's gross revenue.

state who does not hold a valid manufacturer, wholesaler, or exporter's license, or who is not a state-bonded warehouse.

A first violation of this prohibition results in the issuance, by the division, of an order to show cause why a cease and desist order should not be issued. A violation within two years of a cease and desist order, or within two years of a previous conviction, constitutes a felony of the third degree.

Section 561.54(1), F.S., prohibits deliveries of alcoholic beverages from out-of-state by common or permit carriers, operators of privately owned cars, trucks, buses, or other conveyances, except to manufacturers, wholesalers, or exporters, or bonded warehouses in this state. Section 561.54(2), F.S., provides a cause of action for any licensee who is aggrieved by a violation of this prohibition. The court must assess damages equal to three times the amount of delivery charges or the fair market value of the merchandise unlawfully brought into the state. The court must also award the plaintiff its costs and reasonable attorney's fees.

Florida's prohibition against direct shipping is limited to the direct shipping of alcoholic beverages from out-of-state to Florida; it does not prohibit direct shipping from an in-state winery to customers in Florida or in another state.

In *Granholm v. Heald* (*Granholm*),¹²⁷ consolidated cases from Michigan and New York, the U.S. Supreme Court held that a state cannot allow in-state wineries to sell wine directly to consumers in that state while simultaneously prohibiting out-of-state wineries from also selling wine directly to consumers. The decision invalidated laws in Michigan and New York that discriminated between in-state and out-of-state wine manufacturers in this manner.

Granholm explicitly noted that states may regulate the distribution and sale of wine via a three-tier system of licensed manufacturers, distributors, and retailers. The Court also noted that states may prohibit the direct shipment of alcoholic beverages to consumers.¹²⁸ However, states may not impose requirements on

¹²⁷ *Granholm v. Heald*, 125 S.Ct. 1885, 161 L.Ed.2d 796 (2005). The U.S. Supreme Court held:

the laws in both States discriminate against interstate commerce in violation of the Commerce Clause, Art. I, s.8, cl. 3, [United States Constitution] and that the discrimination is neither authorized nor permitted by the Twenty-first Amendment. Accordingly, we affirm the judgment of the Court of Appeals for the Sixth Circuit, which invalidated the Michigan laws; and we reverse the judgment of the Court of Appeals for the Second Circuit, which upheld the New York laws.

¹²⁸ The Court's analysis is based, in part, upon the Webb-Kenyon Act, 27 U.S.C. s. 122, which prohibits the shipping of alcoholic beverages into a state in violation of that state's laws, and Twenty First Amendment of the U.S. Constitution.

interstate commerce that discriminate in favor of in-state interests. States can regulate imported wine only to the same extent and in the same manner that they regulate domestically produced wine. The *Granholm* decision was limited to the regulation of wine.

Florida's direct shipping prohibition was challenged in the case of *Bainbridge v. Turner (Bainbridge)* by wine consumers and out-of-state wineries.¹²⁹ This lawsuit challenged Florida's statutory scheme prohibiting out-of-state wineries from shipping their products directly to Florida consumers while permitting in-state wineries to do so.

Based on the U.S. Supreme Court decision in *Granholm*, the United States District Court, Middle District of Florida, issued an order finding that ss. 561.54(1)-(2) and 561.545(1), F.S., violated the Commerce Clause and were therefore unconstitutional under the authority in *Granholm*, and enjoined the enforcement of these provisions.¹³⁰ The court found that these statutes discriminate against out-of-state wineries by prohibiting them from selling and delivering wine directly to customers in Florida when in-state wineries are not so prohibited. Consequently, the prohibition against direct shipment of wine to Florida's consumers is not enforceable at this time, and wine manufacturers and vendors from out-of-state are also not subject to any regulation in Florida.

According to the division, the *Bainbridge* final order bars the enforcement of ss. 561.54 and 561.545, F.S., against out-of-state wineries. The division indicated that it interprets the *Bainbridge* order as applicable only to out-of-state wine manufacturers. The division initially advised that it intended to issue vendor permits to allow out-of-state wine manufacturers that hold all current, valid federal permits to legally direct-ship wines to Florida consumers, and that it did not intend to issue vendor permits to out-of-state retailers who wish to direct-ship wines into the state.

However, the division's response to the *Bainbridge* ruling on its Internet site does not reference any licensure requirement for out-of-state direct shippers of wine. It states that the ruling "precludes enforcement of the ban on direct wine shipments from non-Florida wineries to Florida consumers, but does "not limit the state's authority to collect taxes on wine or to enforce the prohibition of the sale of alcoholic beverages, including wine, to a person under the age of 21."¹³¹ The division's statement on its website provides information for the payment of sales and excise taxes, the prohibition against sales in dry counties, and the underage sales prohibition.

¹²⁹ *Bainbridge v. Turner*, No. 8:99-CV-2681-T-27TBM (M.D. Fla.)

¹³⁰ *Bainbridge v. Turner*, No. 8:99-CV-2681-T-27TBM (M.D. Fla., order dated August 5, 2005).

¹³¹ See http://www.myflorida.com/dbpr/abt/hot_topics/wine_shipment_into_florida.shtml. (Last visited October 9, 2006.)

Opponents of direct shipping have expressed concerns that direct shipping of wines, or other alcoholic beverages, may facilitate access to alcoholic beverages by persons less than 21 years of age. This has been identified as the number one concern of the state's retail vendors and of advocates against underage alcohol and drug use. Advocates of direct shipping assert that the state's interests in prohibiting sales to minors and collecting applicable taxes can be adequately addressed through regulation.

It is unclear whether, or to what extent, direct shipping may affect minors' access to alcohol. To date, there are no studies that show a link between direct shipping and an increased risk of delivery or sales of alcoholic beverages to minors. Most instances in which alcohol purchases are made via mail order or the Internet by minors, or in which deliveries by common carrier are made to minors, have involved investigations, or sting operations, conducted by state regulators.¹³² It is unclear to what extent such violations occur outside of these controlled circumstances.

States that permit direct shipment have generally reported few or no problems with shipments to minors. A 2003 study by the Federal Trade Commission found that the 26 states allowing direct shipments reported no problems with minors' increased access to wine.¹³³ In *Granholm*, the Court noted the FTC study, and added that this study's findings were not surprising because "minors are less likely to consume wine, as opposed to beer, wine coolers, and hard liquor."¹³⁴ The Supreme Court also noted that minors who decide to disobey the law have more direct means to do so, and that direct shipment is an "imperfect avenue" by which minors can get alcohol because they "want instant gratification."

From 1996 through 1998, the Division of Alcoholic Beverage and Tobacco investigated complaints from vendors, distributors, and consumers regarding the direct shipping of alcoholic beverages from out-of-state persons to consumers in Florida.¹³⁵ These investigations resulted in the division's issuance of Notices to Show Cause to 16 companies, including three common carriers. None of the sales in these investigations involved sales to minors.¹³⁶

¹³² For example, in early 2005, a 20 year-old university student ordered wine and tequila over the Internet at the behest of Florida's Attorney General's Office. See Alisa Ulferts, "Crist Sides With Retailers on Mail-Order Alcohol Law," *St. Petersburg Times*, February 2, 2005, 1B.

¹³³ See *Possible Anticompetitive Barriers to E-Commerce: Wine*, Federal Trade Commission (July 2003).

¹³⁴ See *Granholm* at 1905.

¹³⁵ Based on information received from the Division of Alcoholic Beverage and Tobacco.

¹³⁶ The United States District court for the Middle District of Florida issued a stay in the enforcement of s. 561.54, F.S., thereby precluding any subsequent investigations. The division has been awaiting the conclusion of the *Bainbridge* case before pursuing any further investigations.

Opponents of direct shipping assert that the practice presents a genuine avenue for access to alcoholic beverage by minors. They assert that minors are resourceful, particularly when they are told that they cannot do something. They further assert that minors may be attracted to the challenge of obtaining alcohol from direct shippers, and that more readily available direct shipment options may increase the current prospects of minors to obtain alcohol through direct shippers.

Based on an Internet survey conducted by Teenage Research Unlimited (TRU), direct shipment opponents state that 3.1 million minors between the ages of 14 to 20 report having a friend who personally ordered alcohol through the Internet, and that two percent of those 14 to 20 year olds (551,000) reported that they personally ordered alcohol through the Internet.¹³⁷

While opponents of direct shipping assert that the practice enables minors to get access to alcoholic beverages, the proponents of direct shipping assert that direct shippers can take, and are willing to take, measures to ensure that direct shipped alcohol does not make it into the hands of persons not legally authorized to possess alcoholic beverages.

The measures designed to avoid direct shipping alcohol to minors address the issue when the sale is made (point of sale) or when the actual delivery is made (point of delivery).¹³⁸ Point of sale measures involve commercial services designed to confirm the identity and age of the person making a particular purchase via telephone, mail order, or the Internet. These services utilize public and private credit records and various public databases, including state employment, license records, court records, and driver's license records, to confirm age and identity. There are also non-credit-based age verification services that use independently issued identification codes.

Point of delivery age verification requires that an adult provide proof of age with valid photographic identification at the time the delivery is made. The proof of age at the point of delivery may be required of the person who made the purchase, the person accepting the delivery, or both. The Model Direct Shipment Bill proposed by the Wine Institute, a national association of wine manufacturers, requires that containers of alcoholic beverages shipped directly into a state must be conspicuously labeled with the words: "Contains Alcohol: Signature of Person Age 21 or Older Required for Delivery." States that have legalized direct shipping have required similar container labeling. For example, New York, which legalized direct shipping in 2005, requires a conspicuous label with the words: "Contains

¹³⁷ A copy of the TRU survey is available at: <http://www.wswa.org/public/media/tru-research/index.html> (Last visited October 27 2006.)

¹³⁸ For a detailed discussion of age verification systems see: *Final Report of the COPA Commission Presented to Congress*, Commission on Online Child Protection, October 20, 2000. A copy of the report is available at <http://www.copacommission.org/report>. (Last visited October 23, 2006.)

Wine – Signature of Person Age 21 or Older Required for Delivery – Not for Resale.” New York, like other states that have legalized direct shipping, requires point of delivery age verification, however, the recipient of the delivery does not have to be the person who made the purchase.¹³⁹

Direct shipping proponents and representatives for Florida wine manufacturers expressed the concerns that point of sale age verification requirements impose additional, unreasonable costs to transactions, and that point of delivery measures should sufficiently address the concern. They also note that not all wineries have the technological systems needed to utilize these services. The division recommends that direct shippers should be required to verify the age of the recipient prior to shipment. Representatives for Florida vendors also recommend point of sale age verification.

There were several bills introduced during the 2006 Regular Session to allow and regulate the direct shipment of wine to consumers in Florida. All of the bills addressed the issue of underage access to direct shipments of wine. The filed bills were SB 144 by Senator Saunders, SB 282 by Senator Dockery, SB 944 by Senator Geller, and HB 247 by Representative Bogdanoff. SB’s 144 and 944 were subsequently combined by the Senate Regulated Industries Committee as CS/SB 144 and 944. CS/SB 282 died on the Senate Calendar and CS/SB 144 and 944 died in the Senate Committee on General Government Appropriations. HB 247 1st Engrossed passed the House but died in the Senate Committee on Regulated Industries.

All of the direct shipment bills filed during the 2006 Regular Session would have prohibited the direct shipment of wine to persons under 21 years of age, required that each package containing wine must conspicuously state that it contains alcohol, and required an adult signature for delivery. CS/SB 282 also required that the direct shippers verify the age of the purchaser at the time of sale.

Interim Project Summary 2006-146,¹⁴⁰ reviewed the status of the current law, and addressed the issues and concerns presented by the *Granholm* decision. The study made the following recommendation relative to access to direct-shipped wines by underage persons:

- Require age verification procedures for the point of delivery, point of sale, or both, that, at minimum, require that an adult provide proof of age with a valid photographic identification at the time the delivery;
- Require that containers of wine shipped directly to consumers must be conspicuously labeled with words that identify them as containing alcohol

¹³⁹ See N. Y. Alco. Bev. Cont. Law Ann., s. 79-c.

¹⁴⁰ See *Direct Shipment of Wine to Florida Consumers, Report Number 2006-146*, Florida Senate Committee on Regulated Industries, November 2006.

and require the signature of a person 21 years of age or older before delivery can be made;

- Impose specific shipping requirements on common carriers, including requiring that the common carrier must require that the recipient of wine provide proof of age, and that the recipient of the wine must sign an acknowledgment of receipt. The common carrier should also be required to refuse delivery if the recipient refuses to provide proof of age.

Conclusions and Recommendations

Staff recommends that the Legislature take the following actions:

- Amend s. 562.11, F.S., to prohibit the sale, delivery or service of alcoholic beverages to persons under 21 years of age without limiting the prohibition to alcoholic beverage licensed locations.
- Amend s. 562.111, F.S., to prohibit the consumption of alcoholic beverages by persons under 21 years of age.
- Amend s. 322.056, F.S., to provide that violations of ss. 562.11(2) and 562.111, F.S., by all persons under 21 years of age may be subject to the provision's driver's license penalties.
- Amend ss. 322.05 and 322.212, F.S., to permit alcoholic beverage vendors and their employees to confiscate driver's licenses and identification cards believed to be fraudulent, provided that any seized identification be given to the local law enforcement agency or to the Division of Alcoholic Beverage and Tobacco (division) within 24 hours, or another reasonable period of time. Vendors should also be given protection from civil or criminal liability for seizing a license or identification card they believe to be fraudulent.
- Amend s. 562.45(2)(a), F.S., to provide that counties and municipalities are authorized to enact ordinances regulating drink specials, including the advertisement of drink specials.

If the legislature decides to require the registration of beer kegs, the legislature should require that retailers affix unique identification tags to beer kegs, that vendors keep a record of the sale of each keg that includes the identification number for the sold keg along with the purchaser's name, address, telephone number, and driver's license number, that these records must be kept for a specified length of time, that the vendor obtain the signature of the purchaser affirming that the buyer will not permit anyone under 21 years of age to consume the alcohol in the keg, that the record list the location where the beer is to be consumed, and that the seller's keg registration forms must be made available to law enforcement during regular business hours. The keg registration requirement may also require deposits, define the minimum gallonage for kegs subject to these requirements, prohibit the defacing of the keg labels, prohibit the use of false identification in the keg registration process, and prohibit the possession of unlabeled kegs.

If the legislature chooses to regulate the direct shipment of alcoholic beverages to consumers, the legislature should:

Underage Drinking and Alcohol Abuse on University and College Campuses

- Require age verification procedures for the point of delivery, point of sale, or both, that, at minimum, require that an adult provide proof of age with a valid photographic identification at the time of delivery;
- Require that containers of wine shipped directly to consumers must be conspicuously labeled with words that identify them as containing alcohol and require the signature of a person 21 years of age or older before delivery can be made;
- Impose specific shipping requirements on common carriers, including requiring that the common carrier must require that the recipient of wine provide proof of age, and that the recipient of the wine must sign an acknowledgment of receipt. The common carrier should also be required to refuse delivery if the recipient refuses to provide proof of age.

The following recommendations are directed to the state agencies:

- The Office of Drug Control and the Department of Business and Professional Regulation, should, in collaboration with other state agencies, review the benefits and feasibility of initiating a toll-free underage drinking tip line for citizens to anonymously report house parties involving underage drinking, plans to purchase alcohol for underage persons, and retailers who are willing to sell alcohol or drugs to underage persons. This tip line should be available to receive calls after regular business hours and on weekends. This review should include determining the appropriate state agency to operate the tip line and the feasibility of seeking federal funding.
- The division should attempt to obtain federal grant money to provide additional law enforcement agents dedicated to enforcement of underage drinking prohibitions, and to provide additional staffing for the ICARE program. The division should, in its 2007 Budget Request, request additional funding for the ICARE program.
- The division should promote compliance with the Responsible Vendor Act on its website and provide retail vendors with guidance on how to comply with its provisions.

The state universities and community colleges should review the enforcement, prevention, and intervention efforts and practices of the other schools in this state and nationally relating to underage and responsible alcohol use in order to determine the best practices for each institution of higher learning.

The alcoholic beverage industry should work with the local coalitions to establish Hospitality Resource Panels in cities and counties around the state, especially in communities where colleges and universities are located.