

29.3 [SELLING] [GIVING] [SERVING] [PERMITTING SERVICE OF] [PERMITTING CONSUMPTION OF] AN ALCOHOLIC BEVERAGE [TO] [BY] A PERSON LESS THAN 21 YEARS OF AGE ON LICENSED PREMISES

§ 562.11(1)(a)1, Fla. Stat.

To prove the crime of (crime charged), the State must prove the following two elements beyond a reasonable doubt:

Give 1a or 1b as applicable.

- 1. a. (Defendant) [sold] [gave] [served] [permitted service of] an alcoholic beverage to (name of person) on licensed premises.**

b. (Defendant) permitted (name of person) to consume an alcoholic beverage on licensed premises.
- 2. At the time, (name of person) was less than 21 years of age.**

Definitions. Give if applicable.

§ 561.01(4), Fla. Stat.

An “alcoholic beverage” means distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume. The percentage of alcohol by volume shall be determined by measuring the volume of the standard ethyl alcohol in the beverage and comparing it with the volume of the remainder of the ingredients as though the remainder ingredients were distilled water.

§ 561.01(9), Fla. Stat.

“Sold” means any transfer of an alcoholic beverage for a consideration, any gift of an alcoholic beverage in connection with, or as a part of, a transfer of property other than an alcoholic beverage for a consideration, or the serving of an alcoholic beverage by a club licensed under the Beverage Law.

§ 561.01(11), Fla. Stat.

“Licensed premises” means not only rooms where alcoholic beverages are stored or sold by the licensee, but also all other rooms in the building which are so closely connected therewith as to admit of free passage from drink parlor to other rooms over which the licensee has some dominion or control and shall also include all of the area embraced within the sketch, appearing on or attached to the application for the license involved and designated as such on said sketch, in addition to that included or designated by general law. The area embraced within the sketch may include a sidewalk or other outside area which is contiguous to the licensed premises.

Lesser Included Offenses

[SELLING] [GIVING] [SERVING] [PERMITTING SERVICE OF] [PERMITTING CONSUMPTION OF] AN ALCOHOLIC BEVERAGE [TO] [BY] A PERSON LESS THAN 21 YEARS OF AGE ON LICENSED PREMISES — § 562.11(1)(a)1

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1

Comments

Florida courts have interpreted this statute as applying only to business establishments. *United Servs. Auto. Ass'n v. Butler*, 359 So. 2d 498 (Fla. 4th DCA 1978). It is yet to be determined whether the statute applies only to licensees of the business establishment.

This instruction was adopted in 2014.