



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB1295

Introduced 02/09/05, by Rep. Paul D. Froehlich - Daniel J. Burke

SYNOPSIS AS INTRODUCED:

235 ILCS 5/6-16

from Ch. 43, par. 131

Amends the Liquor Control Act of 1934. Provides that any licensee, employee of an express company, common carrier, or contract carrier may confiscate suspected false or fraudulent evidence of age or identity for submission to law enforcement personnel to make a determination of the validity of the identification and have no criminal or civil liability for the confiscation of evidence of age or identity that he or she reasonably believed was false or fraudulent.

LRB094 09936 LJB 40194 b

1 AN ACT concerning liquor.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Liquor Control Act of 1934 is amended by
5 changing Section 6-16 as follows:

6 (235 ILCS 5/6-16) (from Ch. 43, par. 131)

7 Sec. 6-16. Prohibited sales and possession.

8 (a) (i) No licensee nor any officer, associate, member,
9 representative, agent, or employee of such licensee shall sell,
10 give, or deliver alcoholic liquor to any person under the age
11 of 21 years or to any intoxicated person, except as provided in
12 Section 6-16.1. (ii) No express company, common carrier, or
13 contract carrier nor any representative, agent, or employee on
14 behalf of an express company, common carrier, or contract
15 carrier that carries or transports alcoholic liquor for
16 delivery within this State shall knowingly give or knowingly
17 deliver to a residential address any shipping container clearly
18 labeled as containing alcoholic liquor and labeled as requiring
19 signature of an adult of at least 21 years of age to any person
20 in this State under the age of 21 years. An express company,
21 common carrier, or contract carrier that carries or transports
22 such alcoholic liquor for delivery within this State shall
23 obtain a signature at the time of delivery acknowledging
24 receipt of the alcoholic liquor by an adult who is at least 21
25 years of age. At no time while delivering alcoholic beverages
26 within this State may any representative, agent, or employee of
27 an express company, common carrier, or contract carrier that
28 carries or transports alcoholic liquor for delivery within this
29 State deliver the alcoholic liquor to a residential address
30 without the acknowledgment of the consignee and without first
31 obtaining a signature at the time of the delivery by an adult
32 who is at least 21 years of age. A signature of a person on file

1 with the express company, common carrier, or contract carrier
2 does not constitute acknowledgement of the consignee. Any
3 express company, common carrier, or contract carrier that
4 transports alcoholic liquor for delivery within this State that
5 violates this item (ii) of this subsection (a) by delivering
6 alcoholic liquor without the acknowledgement of the consignee
7 and without first obtaining a signature at the time of the
8 delivery by an adult who is at least 21 years of age is guilty
9 of a business offense for which the express company, common
10 carrier, or contract carrier that transports alcoholic liquor
11 within this State shall be fined not more than \$1,001 for a
12 first offense, not more than \$5,000 for a second offense, and
13 not more than \$10,000 for a third or subsequent offense. An
14 express company, common carrier, or contract carrier shall be
15 held vicariously liable for the actions of its representatives,
16 agents, or employees. For purposes of this Act, in addition to
17 other methods authorized by law, an express company, common
18 carrier, or contract carrier shall be considered served with
19 process when a representative, agent, or employee alleged to
20 have violated this Act is personally served. Each shipment of
21 alcoholic liquor delivered in violation of this item (ii) of
22 this subsection (a) constitutes a separate offense. (iii) No
23 person, after purchasing or otherwise obtaining alcoholic
24 liquor, shall sell, give, or deliver such alcoholic liquor to
25 another person under the age of 21 years, except in the
26 performance of a religious ceremony or service. Except as
27 otherwise provided in item (ii), any express company, common
28 carrier, or contract carrier that transports alcoholic liquor
29 within this State that violates the provisions of item (i),
30 (ii), or (iii) of this paragraph of this subsection (a) is
31 guilty of a Class A misdemeanor and the sentence shall include,
32 but shall not be limited to, a fine of not less than \$500. Any
33 person who violates the provisions of item (iii) of this
34 paragraph of this subsection (a) is guilty of a Class A
35 misdemeanor and the sentence shall include, but shall not be
36 limited to a fine of not less than \$500 for a first offense and

1 not less than \$2,000 for a second or subsequent offense. Any
2 person who knowingly violates the provisions of item (iii) of
3 this paragraph of this subsection (a) is guilty of a Class 4
4 felony if a death occurs as the result of the violation.

5 If a licensee or officer, associate, member,
6 representative, agent, or employee of the licensee, or a
7 representative, agent, or employee of an express company,
8 common carrier, or contract carrier that carries or transports
9 alcoholic liquor for delivery within this State, is prosecuted
10 under this paragraph of this subsection (a) for selling,
11 giving, or delivering alcoholic liquor to a person under the
12 age of 21 years, the person under 21 years of age who attempted
13 to buy or receive the alcoholic liquor may be prosecuted
14 pursuant to Section 6-20 of this Act, unless the person under
15 21 years of age was acting under the authority of a law
16 enforcement agency, the Illinois Liquor Control Commission, or
17 a local liquor control commissioner pursuant to a plan or
18 action to investigate, patrol, or conduct any similar
19 enforcement action.

20 For the purpose of preventing the violation of this
21 Section, any licensee, or his agent or employee, or a
22 representative, agent, or employee of an express company,
23 common carrier, or contract carrier that carries or transports
24 alcoholic liquor for delivery within this State, shall refuse
25 to sell, deliver, or serve alcoholic beverages to any person
26 who is unable to produce adequate written evidence of identity
27 and of the fact that he or she is over the age of 21 years, if
28 requested by the licensee, agent, employee, or representative.

29 Adequate written evidence of age and identity of the person
30 is a document issued by a federal, state, county, or municipal
31 government, or subdivision or agency thereof, including, but
32 not limited to, a motor vehicle operator's license, a
33 registration certificate issued under the Federal Selective
34 Service Act, or an identification card issued to a member of
35 the Armed Forces. Proof that the defendant-licensee, or his
36 employee or agent, or the representative, agent, or employee of

1 the express company, common carrier, or contract carrier that
2 carries or transports alcoholic liquor for delivery within this
3 State demanded, was shown and reasonably relied upon such
4 written evidence in any transaction forbidden by this Section
5 is an affirmative defense in any criminal prosecution therefor
6 or to any proceedings for the suspension or revocation of any
7 license based thereon. It shall not, however, be an affirmative
8 defense if the agent or employee accepted the written evidence
9 knowing it to be false or fraudulent. If a false or fraudulent
10 Illinois driver's license or Illinois identification card is
11 presented by a person less than 21 years of age to a licensee
12 or the licensee's agent or employee for the purpose of
13 ordering, purchasing, attempting to purchase, or otherwise
14 obtaining or attempting to obtain the serving of any alcoholic
15 beverage, the law enforcement officer or agency investigating
16 the incident shall, upon the conviction of the person who
17 presented the fraudulent license or identification, make a
18 report of the matter to the Secretary of State on a form
19 provided by the Secretary of State.

20 However, no agent or employee of the licensee or employee
21 of an express company, common carrier, or contract carrier that
22 carries or transports alcoholic liquor for delivery within this
23 State shall be disciplined or discharged for selling or
24 furnishing liquor to a person under 21 years of age if the
25 agent or employee demanded and was shown, before furnishing
26 liquor to a person under 21 years of age, adequate written
27 evidence of age and identity of the person issued by a federal,
28 state, county or municipal government, or subdivision or agency
29 thereof, including but not limited to a motor vehicle
30 operator's license, a registration certificate issued under
31 the Federal Selective Service Act, or an identification card
32 issued to a member of the Armed Forces. This paragraph,
33 however, shall not apply if the agent or employee accepted the
34 written evidence knowing it to be false or fraudulent.

35 Any person who sells, gives, or furnishes to any person
36 under the age of 21 years any false or fraudulent written,

1 printed, or photostatic evidence of the age and identity of
2 such person or who sells, gives or furnishes to any person
3 under the age of 21 years evidence of age and identification of
4 any other person is guilty of a Class A misdemeanor and the
5 person's sentence shall include, but shall not be limited to, a
6 fine of not less than \$500.

7 Any person under the age of 21 years who presents or offers
8 to any licensee, his agent or employee, any written, printed or
9 photostatic evidence of age and identity that is false,
10 fraudulent, or not actually his or her own for the purpose of
11 ordering, purchasing, attempting to purchase or otherwise
12 procuring or attempting to procure, the serving of any
13 alcoholic beverage, who falsely states in writing that he or
14 she is at least 21 years of age when receiving alcoholic liquor
15 from a representative, agent, or employee of an express
16 company, common carrier, or contract carrier, or who has in his
17 or her possession any false or fraudulent written, printed, or
18 photostatic evidence of age and identity, is guilty of a Class
19 A misdemeanor and the person's sentence shall include, but
20 shall not be limited to, the following: a fine of not less than
21 \$500 and at least 25 hours of community service. If possible,
22 any community service shall be performed for an alcohol abuse
23 prevention program.

24 Any licensee or his or her agent, employee, or
25 representative, or the agent or employee of an express company,
26 common carrier, or contract carrier who has reason to suspect a
27 person has presented him or her with false or fraudulent
28 written, printed, or photostatic evidence of age and identity
29 has the authority to confiscate the written, printed, or
30 photostatic evidence of age and identity for submission to law
31 enforcement personnel to make a determination of the validity
32 of the identification presented. The licensee or his or her
33 agent, employee, or representative, or the agent or employee of
34 an express company, common carrier, or contract carrier shall
35 have no criminal or civil liability for confiscating written,
36 printed, or photostatic evidence of age and identity he or she

1 reasonably believes may be false or fraudulent.

2 Any person under the age of 21 years who has any alcoholic
3 beverage in his or her possession on any street or highway or
4 in any public place or in any place open to the public is
5 guilty of a Class A misdemeanor. This Section does not apply to
6 possession by a person under the age of 21 years making a
7 delivery of an alcoholic beverage in pursuance of the order of
8 his or her parent or in pursuance of his or her employment.

9 (a-1) It is unlawful for any parent or guardian to permit
10 his or her residence to be used by an invitee of the parent's
11 child or the guardian's ward, if the invitee is under the age
12 of 21, in a manner that constitutes a violation of this
13 Section. A parent or guardian is deemed to have permitted his
14 or her residence to be used in violation of this Section if he
15 or she knowingly authorizes, enables, or permits such use to
16 occur by failing to control access to either the residence or
17 the alcoholic liquor maintained in the residence. Any person
18 who violates this subsection (a-1) is guilty of a Class A
19 misdemeanor and the person's sentence shall include, but shall
20 not be limited to, a fine of not less than \$500. Nothing in
21 this subsection (a-1) shall be construed to prohibit the giving
22 of alcoholic liquor to a person under the age of 21 years in
23 the performance of a religious ceremony or service.

24 (b) Except as otherwise provided in this Section whoever
25 violates this Section shall, in addition to other penalties
26 provided for in this Act, be guilty of a Class A misdemeanor.

27 (c) Any person shall be guilty of a Class A misdemeanor
28 where he or she knowingly permits a gathering at a residence
29 which he or she occupies of two or more persons where any one
30 or more of the persons is under 21 years of age and the
31 following factors also apply:

32 (1) the person occupying the residence knows that any
33 such person under the age of 21 is in possession of or is
34 consuming any alcoholic beverage; and

35 (2) the possession or consumption of the alcohol by the
36 person under 21 is not otherwise permitted by this Act; and

1 (3) the person occupying the residence knows that the
2 person under the age of 21 leaves the residence in an
3 intoxicated condition.

4 For the purposes of this subsection (c) where the residence
5 has an owner and a tenant or lessee, there is a rebuttable
6 presumption that the residence is occupied only by the tenant
7 or lessee.

8 (d) Any person who rents a hotel or motel room from the
9 proprietor or agent thereof for the purpose of or with the
10 knowledge that such room shall be used for the consumption of
11 alcoholic liquor by persons under the age of 21 years shall be
12 guilty of a Class A misdemeanor.

13 (e) Except as otherwise provided in this Act, any person
14 who has alcoholic liquor in his or her possession on public
15 school district property on school days or at events on public
16 school district property when children are present is guilty of
17 a petty offense, unless the alcoholic liquor (i) is in the
18 original container with the seal unbroken and is in the
19 possession of a person who is not otherwise legally prohibited
20 from possessing the alcoholic liquor or (ii) is in the
21 possession of a person in or for the performance of a religious
22 service or ceremony authorized by the school board.

23 (Source: P.A. 92-380, eff. 1-1-02; 92-503, eff. 1-1-02; 92-507,
24 eff. 1-1-02; 92-651, eff. 7-11-02; 92-687, eff. 1-1-03.)