



Adopted in House Comm. on Jan 12, 2006

09400HB1295ham001

LRB094 09936 LJB 53896 a

1 AMENDMENT TO HOUSE BILL 1295

2 AMENDMENT NO. _____. Amend House Bill 1295 by replacing
3 everything after the enacting clause with the following:

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

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

1 otherwise provided in item (ii), any express company, common
2 carrier, or contract carrier that transports alcoholic liquor
3 within this State that violates the provisions of item (i),
4 (ii), or (iii) of this paragraph of this subsection (a) is
5 guilty of a Class A misdemeanor and the sentence shall include,
6 but shall not be limited to, a fine of not less than \$500. Any
7 person who violates the provisions of item (iii) of this
8 paragraph of this subsection (a) is guilty of a Class A
9 misdemeanor and the sentence shall include, but shall not be
10 limited to a fine of not less than \$500 for a first offense and
11 not less than \$2,000 for a second or subsequent offense. Any
12 person who knowingly violates the provisions of item (iii) of
13 this paragraph of this subsection (a) is guilty of a Class 4
14 felony if a death occurs as the result of the violation.

15 If a licensee or officer, associate, member,
16 representative, agent, or employee of the licensee, or a
17 representative, agent, or employee of an express company,
18 common carrier, or contract carrier that carries or transports
19 alcoholic liquor for delivery within this State, is prosecuted
20 under this paragraph of this subsection (a) for selling,
21 giving, or delivering alcoholic liquor to a person under the
22 age of 21 years, the person under 21 years of age who attempted
23 to buy or receive the alcoholic liquor may be prosecuted
24 pursuant to Section 6-20 of this Act, unless the person under
25 21 years of age was acting under the authority of a law
26 enforcement agency, the Illinois Liquor Control Commission, or
27 a local liquor control commissioner pursuant to a plan or
28 action to investigate, patrol, or conduct any similar
29 enforcement action.

30 For the purpose of preventing the violation of this
31 Section, any licensee, or his agent or employee, or a
32 representative, agent, or employee of an express company,
33 common carrier, or contract carrier that carries or transports
34 alcoholic liquor for delivery within this State, shall refuse

1 to sell, deliver, or serve alcoholic beverages to any person
2 who is unable to produce adequate written evidence of identity
3 and of the fact that he or she is over the age of 21 years, if
4 requested by the licensee, agent, employee, or representative.

5 Adequate written evidence of age and identity of the person
6 is a document issued by a federal, state, county, or municipal
7 government, or subdivision or agency thereof, including, but
8 not limited to, a motor vehicle operator's license, a
9 registration certificate issued under the Federal Selective
10 Service Act, or an identification card issued to a member of
11 the Armed Forces. Proof that the defendant-licensee, or his
12 employee or agent, or the representative, agent, or employee of
13 the express company, common carrier, or contract carrier that
14 carries or transports alcoholic liquor for delivery within this
15 State demanded, was shown and reasonably relied upon such
16 written evidence in any transaction forbidden by this Section
17 is an affirmative defense in any criminal prosecution therefor
18 or to any proceedings for the suspension or revocation of any
19 license based thereon. It shall not, however, be an affirmative
20 defense if the agent or employee accepted the written evidence
21 knowing it to be false or fraudulent. If a false or fraudulent
22 Illinois driver's license or Illinois identification card is
23 presented by a person less than 21 years of age to a licensee
24 or the licensee's agent or employee for the purpose of
25 ordering, purchasing, attempting to purchase, or otherwise
26 obtaining or attempting to obtain the serving of any alcoholic
27 beverage, the law enforcement officer or agency investigating
28 the incident shall, upon the conviction of the person who
29 presented the fraudulent license or identification, make a
30 report of the matter to the Secretary of State on a form
31 provided by the Secretary of State.

32 However, no agent or employee of the licensee or employee
33 of an express company, common carrier, or contract carrier that
34 carries or transports alcoholic liquor for delivery within this

1 State shall be disciplined or discharged for selling or
2 furnishing liquor to a person under 21 years of age if the
3 agent or employee demanded and was shown, before furnishing
4 liquor to a person under 21 years of age, adequate written
5 evidence of age and identity of the person issued by a federal,
6 state, county or municipal government, or subdivision or agency
7 thereof, including but not limited to a motor vehicle
8 operator's license, a registration certificate issued under
9 the Federal Selective Service Act, or an identification card
10 issued to a member of the Armed Forces. This paragraph,
11 however, shall not apply if the agent or employee accepted the
12 written evidence knowing it to be false or fraudulent.

13 Any person who sells, gives, or furnishes to any person
14 under the age of 21 years any false or fraudulent written,
15 printed, or photostatic evidence of the age and identity of
16 such person or who sells, gives or furnishes to any person
17 under the age of 21 years evidence of age and identification of
18 any other person is guilty of a Class A misdemeanor and the
19 person's sentence shall include, but shall not be limited to, a
20 fine of not less than \$500.

21 Any person under the age of 21 years who presents or offers
22 to any licensee, his agent or employee, any written, printed or
23 photostatic evidence of age and identity that is false,
24 fraudulent, or not actually his or her own for the purpose of
25 ordering, purchasing, attempting to purchase or otherwise
26 procuring or attempting to procure, the serving of any
27 alcoholic beverage, who falsely states in writing that he or
28 she is at least 21 years of age when receiving alcoholic liquor
29 from a representative, agent, or employee of an express
30 company, common carrier, or contract carrier, or who has in his
31 or her possession any false or fraudulent written, printed, or
32 photostatic evidence of age and identity, is guilty of a Class
33 A misdemeanor and the person's sentence shall include, but
34 shall not be limited to, the following: a fine of not less than

1 \$500 and at least 25 hours of community service. If possible,
2 any community service shall be performed for an alcohol abuse
3 prevention program.

4 Any licensee or his or her agent, employee, or
5 representative who has reason to suspect a person has presented
6 him or her with false or fraudulent written, printed, or
7 photostatic evidence of age and identity has the authority to
8 confiscate the written, printed, or photostatic evidence of age
9 and identity for submission to law enforcement personnel to
10 make a determination of the validity of the identification
11 presented. The licensee or his or her agent, employee, or
12 representative shall have no criminal or civil liability,
13 except for willful or wanton misconduct, for confiscating
14 written, printed, or photostatic evidence of age and identity
15 he or she reasonably believes may be false or fraudulent.

16 Any person under the age of 21 years who has any alcoholic
17 beverage in his or her possession on any street or highway or
18 in any public place or in any place open to the public is
19 guilty of a Class A misdemeanor. This Section does not apply to
20 possession by a person under the age of 21 years making a
21 delivery of an alcoholic beverage in pursuance of the order of
22 his or her parent or in pursuance of his or her employment.

23 (a-1) It is unlawful for any parent or guardian to permit
24 his or her residence to be used by an invitee of the parent's
25 child or the guardian's ward, if the invitee is under the age
26 of 21, in a manner that constitutes a violation of this
27 Section. A parent or guardian is deemed to have permitted his
28 or her residence to be used in violation of this Section if he
29 or she knowingly authorizes, enables, or permits such use to
30 occur by failing to control access to either the residence or
31 the alcoholic liquor maintained in the residence. Any person
32 who violates this subsection (a-1) is guilty of a Class A
33 misdemeanor and the person's sentence shall include, but shall
34 not be limited to, a fine of not less than \$500. Nothing in

1 this subsection (a-1) shall be construed to prohibit the giving
2 of alcoholic liquor to a person under the age of 21 years in
3 the performance of a religious ceremony or service.

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

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

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

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

17 (3) the person occupying the residence knows that the
18 person under the age of 21 leaves the residence in an
19 intoxicated condition.

20 For the purposes of this subsection (c) where the residence
21 has an owner and a tenant or lessee, there is a rebuttable
22 presumption that the residence is occupied only by the tenant
23 or lessee.

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

29 (e) Except as otherwise provided in this Act, any person
30 who has alcoholic liquor in his or her possession on public
31 school district property on school days or at events on public
32 school district property when children are present is guilty of
33 a petty offense, unless the alcoholic liquor (i) is in the
34 original container with the seal unbroken and is in the

1 possession of a person who is not otherwise legally prohibited
2 from possessing the alcoholic liquor or (ii) is in the
3 possession of a person in or for the performance of a religious
4 service or ceremony authorized by the school board.

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