



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5885

Introduced 2/16/2012, by Rep. Carol A. Sente

SYNOPSIS AS INTRODUCED:

235 ILCS 5/6-16

from Ch. 43, par. 131

Amends provisions of the Liquor Control Act of 1934 prohibiting the sale or furnishing of alcohol to, and the possession of alcohol by, persons under the age of 21. Deletes language prohibiting a parent or guardian from knowingly permitting his or her residence to be used by an invitee of the parent's child or the guardian's ward, if the invitee is underage, in a manner that constitutes a violation of those provisions. Makes changes in language making it a Class A misdemeanor for a person to permit a gathering at a residence where an underage person possesses or consumes alcohol by: extending the prohibition to include private property, public places, or premises under the person's control; providing that the offense is committed if the person reasonably should know that an underage person is possessing or consuming alcohol; deleting language requiring the person to know that the underage person leaves the residence in an intoxicated condition; requiring a fine of not less than \$500; making a violation a Class 4 felony if the violation directly or indirectly results in great bodily harm or death to any person; creating an exception for specified religious activities; and providing that a person does not commit a violation if he or she requests assistance from law enforcement to remove any person who refuses to abide by the person's performance of his or her duties or requests assistance from law enforcement to terminate the gathering because the person has been unable to prevent underage persons from consuming alcohol despite having taken all reasonable steps to do so and this assistance is requested before any other person makes a formal complaint to law enforcement about the gathering. Makes other changes.

LRB097 20566 AMC 66177 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

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

1 receipt of the alcoholic liquor by an adult who is at least 21
2 years of age. At no time while delivering alcoholic beverages
3 within this State may any representative, agent, or employee of
4 an express company, common carrier, or contract carrier that
5 carries or transports alcoholic liquor for delivery within this
6 State deliver the alcoholic liquor to a residential address
7 without the acknowledgment of the consignee and without first
8 obtaining a signature at the time of the delivery by an adult
9 who is at least 21 years of age. A signature of a person on file
10 with the express company, common carrier, or contract carrier
11 does not constitute acknowledgement of the consignee. Any
12 express company, common carrier, or contract carrier that
13 transports alcoholic liquor for delivery within this State that
14 violates this item (ii) of this subsection (a) by delivering
15 alcoholic liquor without the acknowledgement of the consignee
16 and without first obtaining a signature at the time of the
17 delivery by an adult who is at least 21 years of age is guilty
18 of a business offense for which the express company, common
19 carrier, or contract carrier that transports alcoholic liquor
20 within this State shall be fined not more than \$1,001 for a
21 first offense, not more than \$5,000 for a second offense, and
22 not more than \$10,000 for a third or subsequent offense. An
23 express company, common carrier, or contract carrier shall be
24 held vicariously liable for the actions of its representatives,
25 agents, or employees. For purposes of this Act, in addition to
26 other methods authorized by law, an express company, common

1 carrier, or contract carrier shall be considered served with
2 process when a representative, agent, or employee alleged to
3 have violated this Act is personally served. Each shipment of
4 alcoholic liquor delivered in violation of this item (ii) of
5 this subsection (a) constitutes a separate offense. (iii) No
6 person, after purchasing or otherwise obtaining alcoholic
7 liquor, shall sell, give, or deliver such alcoholic liquor to
8 another person under the age of 21 years, except in the
9 performance of a religious ceremony or service. Except as
10 otherwise provided in item (ii), any express company, common
11 carrier, or contract carrier that transports alcoholic liquor
12 within this State that violates the provisions of item (i),
13 (ii), or (iii) of this paragraph of this subsection (a) is
14 guilty of a Class A misdemeanor and the sentence shall include,
15 but shall not be limited to, a fine of not less than \$500. Any
16 person who violates the provisions of item (iii) of this
17 paragraph of this subsection (a) is guilty of a Class A
18 misdemeanor and the sentence shall include, but shall not be
19 limited to a fine of not less than \$500 for a first offense and
20 not less than \$2,000 for a second or subsequent offense. Any
21 person who knowingly violates the provisions of item (iii) of
22 this paragraph of this subsection (a) is guilty of a Class 4
23 felony if a death occurs as the result of the violation.

24 If a licensee or officer, associate, member,
25 representative, agent, or employee of the licensee, or a
26 representative, agent, or employee of an express company,

1 common carrier, or contract carrier that carries or transports
2 alcoholic liquor for delivery within this State, is prosecuted
3 under this paragraph of this subsection (a) for selling,
4 giving, or delivering alcoholic liquor to a person under the
5 age of 21 years, the person under 21 years of age who attempted
6 to buy or receive the alcoholic liquor may be prosecuted
7 pursuant to Section 6-20 of this Act, unless the person under
8 21 years of age was acting under the authority of a law
9 enforcement agency, the Illinois Liquor Control Commission, or
10 a local liquor control commissioner pursuant to a plan or
11 action to investigate, patrol, or conduct any similar
12 enforcement action.

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

22 Adequate written evidence of age and identity of the person
23 is a document issued by a federal, state, county, or municipal
24 government, or subdivision or agency thereof, including, but
25 not limited to, a motor vehicle operator's license, a
26 registration certificate issued under the Federal Selective

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

23 However, no agent or employee of the licensee or employee
24 of an express company, common carrier, or contract carrier that
25 carries or transports alcoholic liquor for delivery within this
26 State shall be disciplined or discharged for selling or

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

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

20 Any person under the age of 21 years who presents or offers
21 to any licensee, his agent or employee, any written, printed or
22 photostatic evidence of age and identity that is false,
23 fraudulent, or not actually his or her own for the purpose of
24 ordering, purchasing, attempting to purchase or otherwise
25 procuring or attempting to procure, the serving of any
26 alcoholic beverage, who falsely states in writing that he or

1 she is at least 21 years of age when receiving alcoholic liquor
2 from a representative, agent, or employee of an express
3 company, common carrier, or contract carrier, or who has in his
4 or her possession any false or fraudulent written, printed, or
5 photostatic evidence of age and identity, is guilty of a Class
6 A misdemeanor and the person's sentence shall include, but
7 shall not be limited to, the following: a fine of not less than
8 \$500 and at least 25 hours of community service. If possible,
9 any community service shall be performed for an alcohol abuse
10 prevention program.

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

18 (a-1) (Blank). ~~It is unlawful for any parent or guardian to~~
19 ~~knowingly permit his or her residence to be used by an invitee~~
20 ~~of the parent's child or the guardian's ward, if the invitee is~~
21 ~~under the age of 21, in a manner that constitutes a violation~~
22 ~~of this Section. A parent or guardian is deemed to have~~
23 ~~knowingly permitted his or her residence to be used in~~
24 ~~violation of this Section if he or she knowingly authorizes,~~
25 ~~enables, or permits consumption of alcoholic liquor by underage~~
26 ~~invitees. Any person who violates this subsection (a 1) is~~

1 ~~guilty of a Class A misdemeanor and the person's sentence shall~~
2 ~~include, but shall not be limited to, a fine of not less than~~
3 ~~\$500. Where a violation of this subsection (a 1) directly or~~
4 ~~indirectly results in great bodily harm or death to any person,~~
5 ~~the person violating this subsection shall be guilty of a Class~~
6 ~~4 felony. Nothing in this subsection (a 1) shall be construed~~
7 ~~to prohibit the giving of alcoholic liquor to a person under~~
8 ~~the age of 21 years in the performance of a religious ceremony~~
9 ~~or service in observation of a religious holiday.~~

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

13 (c) Any person shall be guilty of a Class A misdemeanor
14 where he or she ~~knowingly~~ permits, allows, or hosts a gathering
15 of 2 or more persons at a residence which he or she occupies or
16 any other private property, public place, or premises under his
17 or her control ~~which he or she occupies of two or more persons~~
18 where any one or more of the persons is under 21 years of age
19 and ~~the following factors also apply:~~

20 (1) the person occupying the residence or controlling
21 the private property, public place, or premises knows or
22 reasonably should know that any such person under the age
23 of 21 is in possession of or is consuming any alcoholic
24 beverage; and

25 (2) the possession or consumption of the alcohol by the
26 person under 21 is not otherwise permitted by this Act. †

1 ~~and~~

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

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

9 In addition to being guilty of a Class A misdemeanor, the
10 sentence of any person who violates this subsection (c) shall
11 include, but shall not be limited to, a fine of not less than
12 \$500. Where a violation of this subsection (c) directly or
13 indirectly results in great bodily harm or death to any person,
14 the person violating this subsection (c) shall be guilty of a
15 Class 4 felony.

16 Nothing in this subsection (c) shall be construed to
17 prohibit the giving of alcoholic liquor to a person under the
18 age of 21 years in the performance of a religious ceremony or
19 service in observation of a religious holiday.

20 A person shall not be in violation of this subsection (c)
21 if (A) he or she requests assistance from the police department
22 or other law enforcement agency to either (i) remove any person
23 who refuses to abide by the person's performance of the duties
24 imposed by this subsection (c) or (ii) terminate the gathering
25 because the person has been unable to prevent persons under the
26 age of 21 years from consuming alcohol despite having taken all

1 reasonable steps to do so and (B) this assistance is requested
2 before any other person makes a formal complaint to the police
3 department or other law enforcement agency about the gathering.

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

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

19 (Source: P.A. 95-563, eff. 8-31-07.)