



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3446

Introduced 2/26/2015, by Rep. Daniel V. Beiser - Frank J. Mautino - Patrick J. Verschoore - Lawrence M. Walsh, Jr.

SYNOPSIS AS INTRODUCED:

235 ILCS 5/6-16
230 ILCS 40/40

from Ch. 43, par. 131

Amends the Liquor Control Act of 1934. Provides that a licensee may bring a civil action against a person under the age of 21 who (1) procures or attempts to procure alcoholic liquor from the licensee or (2) possesses or consumes alcoholic liquor on the licensee's premises. Provides that the court shall award the licensee damages in the amount of \$1,000 plus the costs of the action, including reasonable attorney fees. Provides that a licensee may bring a civil action against the person under the age of 21 regardless of whether that person has been convicted of, or received a citation for, engaging in that conduct, but the licensee has the burden of proving, by a preponderance of the evidence, that the person engaged in that conduct. Authorizes the licensee to bring the action against the parent or guardian of a person under the age of 18 who is not an emancipated minor. Requires a licensee to provide notice of the licensee's intent to bring the civil action to the person under the age of 21 or the person's parent or guardian, if applicable. Amends the Video Gaming Act. Provides that a licensee may bring a civil action against a person under the age of 21 who uses or plays or attempts to use or play a video gaming terminal on the licensee's premises. Contains similar provisions concerning damages, the burden of proof, civil actions against a parent of a person under the age of 18, and notice.

LRB099 05866 RPS 25914 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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) It is unlawful for any parent or guardian to
19 knowingly permit his or her residence, any other private
20 property under his or her control, or any vehicle, conveyance,
21 or watercraft under his or her control to be used by an invitee
22 of the parent's child or the guardian's ward, if the invitee is
23 under the age of 21, in a manner that constitutes a violation
24 of this Section. A parent or guardian is deemed to have
25 knowingly permitted his or her residence, any other private
26 property under his or her control, or any vehicle, conveyance,

1 or watercraft under his or her control to be used in violation
2 of this Section if he or she knowingly authorizes or permits
3 consumption of alcoholic liquor by underage invitees. Any
4 person who violates this subsection (a-1) is guilty of a Class
5 A misdemeanor and the person's sentence shall include, but
6 shall not be limited to, a fine of not less than \$500. Where a
7 violation of this subsection (a-1) directly or indirectly
8 results in great bodily harm or death to any person, the person
9 violating this subsection shall be guilty of a Class 4 felony.
10 Nothing in this subsection (a-1) shall be construed to prohibit
11 the giving of alcoholic liquor to a person under the age of 21
12 years in the performance of a religious ceremony or service in
13 observation of a religious holiday.

14 For the purposes of this subsection (a-1) where the
15 residence or other property has an owner and a tenant or
16 lessee, the trier of fact may infer that the residence or other
17 property is occupied only by the tenant or lessee.

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

21 (c) Any person shall be guilty of a Class A misdemeanor
22 where he or she knowingly authorizes or permits a residence
23 which he or she occupies to be used by an invitee under 21
24 years of age and:

25 (1) the person occupying the residence knows that any
26 such person under the age of 21 is in possession of or is

1 consuming any alcoholic beverage; and

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

4 For the purposes of this subsection (c) where the residence
5 has an owner and a tenant or lessee, the trier of fact may
6 infer that the residence is occupied only by the tenant or
7 lessee. The sentence of any person who violates this subsection
8 (c) shall include, but shall not be limited to, a fine of not
9 less than \$500. Where a violation of this subsection (c)
10 directly or indirectly results in great bodily harm or death to
11 any person, the person violating this subsection (c) shall be
12 guilty of a Class 4 felony. Nothing in this subsection (c)
13 shall be construed to prohibit the giving of alcoholic liquor
14 to a person under the age of 21 years in the performance of a
15 religious ceremony or service in observation of a religious
16 holiday.

17 A person shall not be in violation of this subsection (c)
18 if (A) he or she requests assistance from the police department
19 or other law enforcement agency to either (i) remove any person
20 who refuses to abide by the person's performance of the duties
21 imposed by this subsection (c) or (ii) terminate the activity
22 because the person has been unable to prevent a person under
23 the age of 21 years from consuming alcohol despite having taken
24 all reasonable steps to do so and (B) this assistance is
25 requested before any other person makes a formal complaint to
26 the police department or other law enforcement agency about the

1 activity.

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

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

17 (f) A licensee may bring a civil action against a person
18 under the age of 21 years who:

19 (1) procures or attempts to procure alcoholic liquor
20 from the licensee; or

21 (2) possesses or consumes alcoholic liquor on the
22 licensee's premises.

23 If judgment is entered in favor of the licensee, the court
24 shall award damages to the licensee in the amount of \$1,000
25 plus the costs of the action, including reasonable attorney's
26 fees. A licensee may bring an action under this subsection (f)

1 regardless of whether the person under the age of 21 has been
2 convicted of, or received a citation for, engaging in the
3 conduct specified in paragraph (1) or (2) of this subsection
4 (f), but the licensee has the burden of proving, by a
5 preponderance of the evidence, that the person engaged in the
6 conduct specified in paragraph (1) or (2) of this subsection
7 (f).

8 If the person is under the age of 18 years and is not an
9 emancipated minor, a licensee may bring the civil action under
10 this subsection (f) against the parent or guardian of that
11 person.

12 A licensee may not bring a civil action under this
13 subsection (f) unless the licensee has first provided notice of
14 the licensee's intent to bring a civil action under this
15 subsection (f) to the person under the age of 21 or, if
16 applicable, that person's parent or guardian. The notice shall
17 be mailed to the last-known address of the person under the age
18 of 21 years or, if applicable, the parent or guardian of a
19 person under the age of 18 years at least 15 days prior to
20 filing the action and shall include a demand for the relief
21 described in this subsection (f). The State Commission may, by
22 rule, prescribe a form for this notice.

23 (Source: P.A. 97-1049, eff. 1-1-13; 98-1017, eff. 1-1-15.)

24 Section 10. The Video Gaming Act is amended by changing
25 Section 40 as follows:

1 (230 ILCS 40/40)

2 Sec. 40. Video gaming terminal use by minors prohibited.

3 (a) No licensee shall cause or permit any person under the
4 age of 21 years to use or play a video gaming terminal. Any
5 licensee who knowingly permits a person under the age of 21
6 years to use or play a video gaming terminal is guilty of a
7 business offense and shall be fined an amount not to exceed
8 \$5,000.

9 (b) A licensee may bring a civil action against a person
10 under the age of 21 years who uses or plays or attempts to use
11 or play a video gaming terminal on the licensee's premises. If
12 judgment is entered in favor of the licensee, the court shall
13 award damages to the licensee in the amount of \$1,000 plus the
14 costs of the action, including reasonable attorney's fees.

15 If the person is under the age of 18 years and is not an
16 emancipated minor, a licensee may bring the civil action under
17 this subsection (b) against the parent or guardian of that
18 person.

19 A licensee may not bring a civil action under this
20 subsection (b) unless the licensee has first provided notice of
21 the licensee's intent to bring a civil action under this
22 subsection (b) to the person under the age of 21 or, if
23 applicable, that person's parent or guardian. The notice shall
24 be mailed to the last-known address of the person under the age
25 of 21 years or, if applicable, the parent or guardian of a

1 person under the age of 18 years at least 15 days prior to
2 filing the action and shall include a demand for the relief
3 described in this subsection (b). The Board may, by rule,
4 prescribe a form for this notice.

5 (Source: P.A. 96-34, eff. 7-13-09.)