



Rep. Daniel V. Beiser

Filed: 3/17/2015

09900HB3446ham001

LRB099 05866 RPS 32642 a

1 AMENDMENT TO HOUSE BILL 3446

2 AMENDMENT NO. _____. Amend House Bill 3446 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

1 deliver to a residential address any shipping container clearly
2 labeled as containing alcoholic liquor and labeled as requiring
3 signature of an adult of at least 21 years of age to any person
4 in this State under the age of 21 years. An express company,
5 common carrier, or contract carrier that carries or transports
6 such alcoholic liquor for delivery within this State shall
7 obtain a signature at the time of delivery acknowledging
8 receipt of the alcoholic liquor by an adult who is at least 21
9 years of age. At no time while delivering alcoholic beverages
10 within this State may any representative, agent, or employee of
11 an express company, common carrier, or contract carrier that
12 carries or transports alcoholic liquor for delivery within this
13 State deliver the alcoholic liquor to a residential address
14 without the acknowledgment of the consignee and without first
15 obtaining a signature at the time of the delivery by an adult
16 who is at least 21 years of age. A signature of a person on file
17 with the express company, common carrier, or contract carrier
18 does not constitute acknowledgement of the consignee. Any
19 express company, common carrier, or contract carrier that
20 transports alcoholic liquor for delivery within this State that
21 violates this item (ii) of this subsection (a) by delivering
22 alcoholic liquor without the acknowledgement of the consignee
23 and without first obtaining a signature at the time of the
24 delivery by an adult who is at least 21 years of age is guilty
25 of a business offense for which the express company, common
26 carrier, or contract carrier that transports alcoholic liquor

1 within this State shall be fined not more than \$1,001 for a
2 first offense, not more than \$5,000 for a second offense, and
3 not more than \$10,000 for a third or subsequent offense. An
4 express company, common carrier, or contract carrier shall be
5 held vicariously liable for the actions of its representatives,
6 agents, or employees. For purposes of this Act, in addition to
7 other methods authorized by law, an express company, common
8 carrier, or contract carrier shall be considered served with
9 process when a representative, agent, or employee alleged to
10 have violated this Act is personally served. Each shipment of
11 alcoholic liquor delivered in violation of this item (ii) of
12 this subsection (a) constitutes a separate offense. (iii) No
13 person, after purchasing or otherwise obtaining alcoholic
14 liquor, shall sell, give, or deliver such alcoholic liquor to
15 another person under the age of 21 years, except in the
16 performance of a religious ceremony or service. Except as
17 otherwise provided in item (ii), any express company, common
18 carrier, or contract carrier that transports alcoholic liquor
19 within this State that violates the provisions of item (i),
20 (ii), or (iii) of this paragraph of this subsection (a) is
21 guilty of a Class A misdemeanor and the sentence shall include,
22 but shall not be limited to, a fine of not less than \$500. Any
23 person who violates the provisions of item (iii) of this
24 paragraph of this subsection (a) is guilty of a Class A
25 misdemeanor and the sentence shall include, but shall not be
26 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

1 and of the fact that he or she is over the age of 21 years, if
2 requested by the licensee, agent, employee, or representative.

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

1 presented the fraudulent license or identification, make a
2 report of the matter to the Secretary of State on a form
3 provided by the Secretary of State.

4 However, no agent or employee of the licensee or employee
5 of an express company, common carrier, or contract carrier that
6 carries or transports alcoholic liquor for delivery within this
7 State shall be disciplined or discharged for selling or
8 furnishing liquor to a person under 21 years of age if the
9 agent or employee demanded and was shown, before furnishing
10 liquor to a person under 21 years of age, adequate written
11 evidence of age and identity of the person issued by a federal,
12 state, county or municipal government, or subdivision or agency
13 thereof, including but not limited to a motor vehicle
14 operator's license, a registration certificate issued under
15 the Federal Selective Service Act, or an identification card
16 issued to a member of the Armed Forces. This paragraph,
17 however, shall not apply if the agent or employee accepted the
18 written evidence knowing it to be false or fraudulent.

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

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

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

25 (a-1) It is unlawful for any parent or guardian to
26 knowingly permit his or her residence, any other private

1 property under his or her control, or any vehicle, conveyance,
2 or watercraft under his or her control to be used by an invitee
3 of the parent's child or the guardian's ward, if the invitee is
4 under the age of 21, in a manner that constitutes a violation
5 of this Section. A parent or guardian is deemed to have
6 knowingly permitted his or her residence, any other private
7 property under his or her control, or any vehicle, conveyance,
8 or watercraft under his or her control to be used in violation
9 of this Section if he or she knowingly authorizes or permits
10 consumption of alcoholic liquor by underage invitees. Any
11 person who violates this subsection (a-1) is guilty of a Class
12 A misdemeanor and the person's sentence shall include, but
13 shall not be limited to, a fine of not less than \$500. Where a
14 violation of this subsection (a-1) directly or indirectly
15 results in great bodily harm or death to any person, the person
16 violating this subsection shall be guilty of a Class 4 felony.
17 Nothing in this subsection (a-1) shall be construed to prohibit
18 the giving of alcoholic liquor to a person under the age of 21
19 years in the performance of a religious ceremony or service in
20 observation of a religious holiday.

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

25 (b) Except as otherwise provided in this Section whoever
26 violates this Section shall, in addition to other penalties

1 provided for in this Act, be guilty of a Class A misdemeanor.

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

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

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

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

24 A person shall not be in violation of this subsection (c)
25 if (A) he or she requests assistance from the police department
26 or other law enforcement agency to either (i) remove any person

1 who refuses to abide by the person's performance of the duties
2 imposed by this subsection (c) or (ii) terminate the activity
3 because the person has been unable to prevent a person under
4 the age of 21 years from consuming alcohol despite having taken
5 all reasonable steps to do so and (B) this assistance is
6 requested before any other person makes a formal complaint to
7 the police department or other law enforcement agency about the
8 activity.

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

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

24 (f) A licensee may bring a civil action against a person
25 who is over the age of 18 years but under the age of 21 years
26 who:

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

3 (2) possesses or consumes alcoholic liquor on the
4 licensee's premises.

5 If judgment is entered in favor of the licensee, the court
6 shall award damages to the licensee in the amount of \$1,000
7 plus the costs of the action, including reasonable attorney's
8 fees. A licensee may bring an action under this subsection (f)
9 regardless of whether the person who is over the age of 18
10 years but under the age of 21 years has been convicted of, or
11 received a citation for, engaging in the conduct specified in
12 paragraph (1) or (2) of this subsection (f), but the licensee
13 has the burden of proving, by a preponderance of the evidence,
14 that the person engaged in the conduct specified in paragraph
15 (1) or (2) of this subsection (f).

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

25 This subsection (f) does not apply to enforcement actions
26 conducted pursuant to Section 6-16.1 of this Act.

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

2 Section 10. The Video Gaming Act is amended by changing
3 Section 40 as follows:

4 (230 ILCS 40/40)

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

6 (a) No licensee shall cause or permit any person under the
7 age of 21 years to use or play a video gaming terminal. Any
8 licensee who knowingly permits a person under the age of 21
9 years to use or play a video gaming terminal is guilty of a
10 business offense and shall be fined an amount not to exceed
11 \$5,000.

12 (b) A licensee may bring a civil action against a person
13 who is over the age of 18 years but under the age of 21 years
14 who uses or plays or attempts to use or play a video gaming
15 terminal on the licensee's premises. If judgment is entered in
16 favor of the licensee, the court shall award damages to the
17 licensee in the amount of \$1,000 plus the costs of the action,
18 including reasonable attorney's fees.

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 who is over the age of 18 years
23 but under the age of 21 years. The notice shall be mailed to
24 the last-known address of that person at least 15 days prior to

1 filing the action and shall include a demand for the relief
2 described in this subsection (b). The Board may, by rule,
3 prescribe a form for this notice.
4 (Source: P.A. 96-34, eff. 7-13-09.)".