

House Bill 542

By: Representatives Dunahoo of the 30th, Barr of the 103rd, Chandler of the 105th, Hawkins of the 27th, and Dubnik of the 29th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 3-3-23 and Chapter 1 of Title 51 of the Official Code of Georgia
2 Annotated, relating to furnishing to, purchase of, or possession by persons under 21 years of
3 age of alcoholic beverages and general provisions relating to torts, respectively, so as to
4 provide for a social host's criminal responsibility and civil liability; to provide for exceptions;
5 to expand criminal responsibility and civil liability for providing or allowing individuals
6 under 21 years of age to consume alcoholic beverages; to provide for related matters; to
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 3-3-23 of the Official Code of Georgia Annotated, relating to furnishing to,
11 purchase of, or possession by persons under 21 years of age of alcoholic beverages, is
12 amended by revising paragraph (1) of subsection (a) and subsection (d) as follows:

13 "(1)(A) No person knowingly, directly or through another person, shall furnish, cause
14 to be furnished, or permit any person in such person's employ to furnish any alcoholic
15 beverage to any ~~person~~ individual under 21 years of age;

16 (B)(i) No person shall organize or help organize any social gathering which it knew
17 or should have known would furnish, cause to be furnished, or allow the furnishing
18 of any alcoholic beverage to any individual under 21 years of age.

19 (ii) No person shall knowingly allow any social gathering to be organized on any
20 property or in any vehicle or vessel that such person owns, rents, or borrows or over
21 which such person otherwise exercises any control which it knew or should have
22 known would furnish, cause to be furnished, or allow the furnishing of any alcoholic
23 beverage to any individual under 21 years of age.

24 (iii) A person shall not be guilty of a violation of this subparagraph if the person:

25 (I) Took reasonable action to prevent such violation, including, but not limited to,
26 controlling access to alcoholic beverages, controlling the quantity of alcoholic

27 beverages, supervising and monitoring the consumption of alcoholic beverages,
 28 verifying the age of individuals who appear to be under 21 years of age, and
 29 complying with subsection (d) of this Code section; or

30 (II) Took immediate and effective action to stop such violation as soon as it was
 31 discovered as well as reporting such violation to the appropriate law enforcement
 32 agency.

33 (iv) A county, municipality, or other political subdivision of this state may adopt
 34 ordinances, resolutions, regulations, and policies to regulate the conduct described in
 35 this subparagraph so long as they are consistent with the police powers granted to
 36 such jurisdiction.

37 (v) This subparagraph shall not apply to an owner or landlord of a multifamily
 38 property in which a tenant is involved in the furnishing of alcoholic beverages,
 39 provided that the owner or landlord, as applicable, was not involved in the organizing
 40 of the social gathering and did not participate in or affirmatively allow the social
 41 gathering knowing that consumption of alcoholic beverages would likely occur;"

42 "(d) The prohibition contained in paragraph (1) of subsection (a) of this Code section shall
 43 not apply ~~with respect to sale of alcoholic beverages by a person when such~~ when the
 44 person has been furnished with proper identification showing that the person individual to
 45 whom the alcoholic beverage is sold or furnished is 21 years of age or older. For purposes
 46 of this subsection, the term 'proper identification' means any document issued by a
 47 governmental agency containing a description of the person, such person's individual, such
 48 individual's photograph, or both, and giving such person's individual's date of birth and
 49 includes, without being limited to, a passport, military identification card, driver's license,
 50 or an identification card authorized under Code Sections 40-5-100 through 40-5-104.
 51 'Proper identification' shall not include a birth certificate and shall not include any traffic
 52 citation and complaint form."

53 **SECTION 2.**

54 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
 55 provisions relating to torts, is amended by revising subsection (a) of Code Section 51-1-18,
 56 relating to furnishing alcoholic beverages to minor children, as follows:

57 "(a) The custodial parent or parents shall have a right of action against any person who
 58 shall sell, ~~or furnish, serve, or allow the furnishing of~~ alcoholic beverages, under
 59 circumstances under which it knew or should have known that alcoholic beverages would
 60 be sold, furnished, served, or allowed to be furnished, to that parent's underage child for
 61 the child's use without the permission of the child's parent."

62 **SECTION 3.**

63 Said chapter is further amended by revising Code Section 51-1-40, relating to the liability
64 for acts of intoxicated persons, as follows:

65 "51-1-40.

66 (a) The General Assembly finds and declares that the consumption of alcoholic beverages,
67 rather than the sale ~~or, the~~ furnishing ~~or, the~~ serving, or allowing the furnishing of such
68 beverages, is the proximate cause of any injury, including death and property damage,
69 inflicted by an intoxicated ~~person~~ individual upon himself, herself, or ~~upon~~ another person,
70 except as otherwise provided in ~~subsection (b)~~ of this Code section.

71 (b) A person who sells, furnishes, ~~or~~ serves, or allows the furnishing of alcoholic
72 beverages to a ~~person~~ an individual of lawful drinking age shall not thereby become liable
73 for injury, death, or damage caused by or resulting from the intoxication of such ~~person~~
74 individual, including injury or death to other persons; provided, however, that a person who
75 ~~willfully, knowingly, and unlawfully~~ sells, furnishes, ~~or~~ serves, or allows the furnishing of
76 alcoholic beverages to a ~~person~~ an individual who is not of lawful drinking age, ~~knowing~~
77 ~~that such person will soon be driving a motor vehicle~~ or who violates subparagraph
78 (a)(1)(B) of Code Section 3-3-23, including any ordinance, resolution, regulation, or policy
79 enacted pursuant thereto, or who knowingly sells, furnishes, ~~or~~ serves, or allows the
80 furnishing of alcoholic beverages to a ~~person~~ an individual who is in a state of noticeable
81 intoxication, knowing that such ~~person~~ individual will soon be driving a motor vehicle,
82 may become liable for injury or damage caused by or resulting from the ~~intoxication of~~
83 ~~such minor or person~~ unlawful alcohol consumption of such individual or the intoxication
84 of such individual when the sale, the furnishing, ~~or~~ the serving, or allowing the furnishing
85 is the proximate cause of such injury or damage. Nothing contained in this Code section
86 shall authorize ~~the~~ a consumer of any alcoholic beverage who is 21 years of age or older
87 to recover from the provider of such alcoholic beverage for injuries or damages suffered
88 by ~~the~~ such consumer.

89 (c) In determining whether the sale, the furnishing, ~~or~~ the serving, or allowing the
90 furnishing of alcoholic beverages to a ~~person~~ an individual not of legal drinking age is done
91 willfully, knowingly, and unlawfully or under circumstances that would excite suspicions
92 of an ordinarily prudent person as provided in subsection (b) of this Code section, evidence
93 that the person selling, furnishing, ~~or~~ serving, or allowing the furnishing of alcoholic
94 beverages had been ~~furnished with~~ shown and acted in reliance on identification as defined
95 in subsection (d) of Code Section 3-3-23 showing that the ~~person~~ individual to whom the
96 alcoholic beverages were sold, furnished, ~~or~~ served, or allowed to be furnished was 21
97 years of age or older shall constitute rebuttable proof that the alcoholic beverages were not

98 sold, furnished, ~~or served,~~ or allowed to be furnished willfully, knowingly, and unlawfully
99 or under circumstances that would excite suspicions of an ordinarily prudent person.
100 (d) Except as otherwise provided in subsection (a) of Code Section 51-1-18, no ~~No~~ person
101 who owns, leases, or otherwise lawfully occupies a premises, except a premises licensed
102 for the sale of alcoholic beverages, shall be liable to any ~~person~~ individual who consumes
103 alcoholic beverages on the premises in the absence of and without the consent of the
104 owner, lessee, or lawful occupant or to any other person, or to the estate or survivors of
105 either, for any injury or death suffered on or off the premises, including damage to
106 property, caused by the intoxication of the ~~person~~ individual who consumed the alcoholic
107 beverages."

108

SECTION 4.

109 All laws and parts of laws in conflict with this Act are repealed.