

House Bill 896

By: Representatives Dunahoo of the 30th, Chandler of the 105th, Barr of the 103rd, Kelley of the 16th, and Rogers 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 persons under
6 21 years of age to consume alcoholic beverages; to provide for related matters; to repeal
7 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 under 21 years of age;

16 (B)(i) No person who exercises control over property, a vehicle, or a vessel shall with
17 criminal negligence furnish, cause to be furnished, or permit the furnishing of any
18 alcoholic beverage, regardless of the source of such alcoholic beverage, directly or
19 indirectly, to any person under 21 years of age.

20 (ii) A person shall not be guilty of a violation of this subparagraph if the conduct
21 upon which the alleged criminal responsibility is based was committed by an accused
22 who:

23 (I) Took reasonable action to prevent such violation, including, but not limited to,
24 controlling access to alcoholic beverages, controlling the quantity of alcoholic
25 beverages, supervising and monitoring the consumption of alcoholic beverages, and
26 complying with subsection (d) of this Code section; or

27 (II) Took immediate and effective action to stop such violation or requested
 28 assistance from law enforcement upon learning of such violation."

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

39 **SECTION 2.**

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

43 "(a) The custodial parent or parents shall have a right of action against any person who
 44 shall sell, ~~or furnish, serve, or permit the furnishing of~~ alcoholic beverages, directly or
 45 through negligence, to that parent's underage child for the child's use without the
 46 permission of the child's parent."

47 **SECTION 3.**

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

50 "51-1-40.

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

56 (b) A person who sells, furnishes, ~~or serves, or permits the furnishing of~~ alcoholic
 57 beverages to a person of lawful drinking age shall not thereby become liable for injury,
 58 death, or damage caused by or resulting from the intoxication of such person, including
 59 injury or death to other persons; provided, however, that a person who willfully,
 60 knowingly, and unlawfully or through negligence sells, furnishes, ~~or serves, or permits the~~
 61 furnishing of alcoholic beverages to a person who is not of lawful drinking age, ~~knowing~~

62 ~~that such person will soon be driving a motor vehicle~~, or who knowingly or through
 63 negligence sells, furnishes, ~~or serves~~, or permits the furnishing of alcoholic beverages to
 64 a person who is in a state of noticeable intoxication, ~~knowing that such person will soon~~
 65 ~~be driving a motor vehicle~~, may become liable for injury or damage caused by or resulting
 66 from the intoxication of such minor or person when the sale, furnishing, ~~or serving~~, or
 67 permitting the furnishing is the proximate cause of such injury or damage. Nothing
 68 contained in this Code section shall authorize ~~the~~ a consumer of any alcoholic beverage
 69 who was 21 years of age or older to recover from the provider of such alcoholic beverage
 70 for injuries or damages suffered by ~~the~~ such consumer.

71 (c) In determining whether the sale, furnishing, ~~or serving~~, or permitting the furnishing of
 72 alcoholic beverages to a person not of legal drinking age is done willfully, knowingly, and
 73 unlawfully or with negligence as provided in subsection (b) of this Code section, evidence
 74 that the person selling, furnishing, ~~or serving~~, or permitting the furnishing of alcoholic
 75 beverages had been ~~furnished with~~ shown and acted in reliance on identification as defined
 76 in subsection (d) of Code Section 3-3-23 showing that the person to whom the alcoholic
 77 beverages were sold, furnished, ~~or served~~, or permitted to be furnished was 21 years of age
 78 or older shall constitute rebuttable proof that the alcoholic beverages were not sold,
 79 furnished, ~~or served~~, or permitted to be furnished willfully, knowingly, and unlawfully or
 80 with negligence.

81 ~~(d) No person who owns, leases, or otherwise lawfully occupies a premises, except a~~
 82 ~~premises licensed for the sale of alcoholic beverages, shall be liable to any person who~~
 83 ~~consumes alcoholic beverages on the premises in the absence of and without the consent~~
 84 ~~of the owner, lessee, or lawful occupant or to any other person, or to the estate or survivors~~
 85 ~~of either, for any injury or death suffered on or off the premises, including damage to~~
 86 ~~property, caused by the intoxication of the person who consumed the alcoholic beverages."~~

87 SECTION 4.

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