COMMITTEE REPORT

April 22, 2009

**S. 248**

Introduced by Senators L. Martin, Shoopman, Fair, Verdin, Thomas, Lourie, Williams and Alexander

S. Printed 4/22/09--S.

Read the first time January 13, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 248) to amend the Code of Laws of South Carolina, 1976, by adding Section 61-4-95 so as to create the offense of unlawfully providing beer or wine to, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Article 1, Chapter 4, Title 61 of the 1976 Code is amended by adding:

“Section 61‑4‑95. (A) A person seventeen years of age or older who knowingly and unlawfully sells to, transfers to, distributes to, or purchases beer or wine for consumption by a person under the age of twenty‑one pursuant to the prohibitions provided in Section 61‑4‑50, 61‑4‑80, or 61‑4‑90, and that sale, transfer, distribution, or purchase is the proximate cause of great bodily injury to or the death of the person under the age of twenty‑one or another person, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(B) A person under the age of seventeen who knowingly and unlawfully sells to, transfers to, distributes to, or purchases beer or wine for consumption by a person under the age of twenty‑one pursuant to the prohibitions provided in Section 61‑4‑50, 61‑4‑80, or 61‑4‑90, and that sale, transfer, distribution, or purchase is the proximate cause of great bodily injury to or the death of the person under the age of twenty‑one or another person, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than three years, or both.

(C) Failure of a person who sells beer or wine to require identification to verify a person’s age is prima facie evidence of a violation of this section.

(D) The provisions of this section do not apply to a person who is permitted to transfer or distribute beer or wine to a person under the age of twenty-one pursuant to Section 61-4-90.”

SECTION 2. Article 13, Chapter 6, Title 61 of the 1976 Code is amended by adding:

“Section 61‑6‑4083. (A) A person seventeen years of age or older who knowingly and unlawfully sells to, transfers to, distributes to, or purchases alcoholic liquors for consumption by a person under the age of twenty‑one pursuant to the prohibitions provided in Section 61‑6‑4070, 61‑6‑4075, or 61‑6‑4080, and that sale, transfer, distribution, or purchase is the proximate cause of great bodily injury to or the death of the person under the age of twenty‑one or another person, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(B) A person under the age of seventeen who knowingly and unlawfully sells to, transfers to, distributes to, or purchases alcoholic liquors for consumption by a person under the age of twenty‑one pursuant to the prohibitions provided in Section 61‑6‑4070, 61‑6‑4075, or 61‑6‑4080, and that sale, transfer, distribution, or purchase is the proximate cause of great bodily injury to or the death of the person under the age of twenty‑one or another person, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than three years, or both.

(C) Failure of a person who sells alcoholic liquors to require identification to verify a person’s age is prima facie evidence of a violation of this section.

(D) The provisions of this section do not apply to a person who is permitted to transfer or distribute alcoholic liqours to a person under the age of twenty-one pursuant to Section 61-6-4070.”

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

LARRY A. MARTIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

Minimal (Some additional costs expected but can be absorbed)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Judicial Department and the Department of Corrections indicate this bill will have a minimal impact on the General Fund of the State, as it creates a new criminal offense for providing beer, wine or other alcoholic liquors’ to a person under the age of twenty one where there is great bodily injury or death. Both agencies can absorb this minimal impact at their current level of funding.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 61‑4‑95 SO AS TO CREATE THE OFFENSE OF UNLAWFULLY PROVIDING BEER OR WINE TO A PERSON UNDER THE AGE OF TWENTY‑ONE WHEN GREAT BODILY INJURY OR DEATH RESULTS TO THE PERSON UNDER THE AGE OF TWENTY‑ONE OR TO ANOTHER PERSON AND TO PROVIDE PENALTIES; AND BY ADDING SECTION 61‑6‑4083 SO AS TO CREATE THE OFFENSE OF UNLAWFULLY PROVIDING ALCOHOLIC LIQUORS TO A PERSON UNDER THE AGE OF TWENTY‑ONE WHEN GREAT BODILY INJURY OR DEATH RESULTS TO THE PERSON UNDER THE AGE OF TWENTY‑ONE OR TO ANOTHER PERSON AND TO PROVIDE PENALTIES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 4, Title 61 of the 1976 Code is amended by adding:

“Section 61‑4‑95. A person who knowingly and unlawfully sells to, transfers to, or purchases beer or wine for consumption by a person under the age of twenty‑one pursuant to the prohibitions provided in Section 61‑4‑50, 61‑4‑80, or 61‑4‑90, and that sale, transfer, or purchase is the proximate cause of great bodily injury to or the death of the person under the age of twenty‑one or another person, is guilty of a:

(1) misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than three years, or both, when great bodily injury results; or

(2) felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both, when death results.”

SECTION 2. Article 13, Chapter 6, Title 61 of the 1976 Code is amended by adding:

“Section 61‑6‑4083. A person who knowingly and unlawfully sells to, transfers to, or purchases alcoholic liquors for consumption by a person under the age of twenty‑one pursuant to the prohibitions provided in Sections 61‑6‑4070, 61‑6‑4075, or 61‑6‑4080, and that sale, transfer, or purchase is the proximate cause of great bodily injury to or the death of the person under the age of twenty‑one or another person, is guilty of a misdemeanor and, upon conviction, must be fined not more than:

(1) five hundred dollars or imprisoned for not more than one year, or both, when great bodily injury results; or

(2) one thousand dollars or imprisoned for not more than three years, or both, when death results.”

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. This act takes effect upon approval by the Governor.

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