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Summary: Alli's Law; Responsible Alcoholic Beverage Server Training Act

**HISTORY OF LEGISLATIVE ACTIONS**

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**VERSIONS OF THIS BILL**

[2/5/2015](file:///p:\pprever\2015-16\428_20150205.docx)

**A** **BILL**

TO AMEND TITLE 61, RELATING TO ALCOHOL AND ALCOHOLIC BEVERAGES, BY ADDING CHAPTER 3, SO AS TO PROVIDE FOR THE ESTABLISHMENT, IMPLEMENTATION, AND ENFORCEMENT OF A RESPONSIBLE ALCOHOLIC BEVERAGE SERVER TRAINING AND EDUCATION PROGRAM; TO REQUIRE ALL SERVERS OF ALCOHOLIC BEVERAGES IN LICENSED OR PERMITTED BUSINESSES TO OBTAIN TRAINING AND SERVER PERMITS; TO PROVIDE GUIDANCE FOR THE CURRICULA OF THE TRAINING PROGRAMS; TO PROVIDE FOR THE DEPARTMENT OF ALCOHOL AND OTHER SUBSTANCE ABUSE TO BE RESPONSIBLE FOR APPROVAL OF THE TRAINING PROGRAMS AND IMPLEMENTATION OF THE SERVER PERMITS; TO REQUIRE FEES FROM PROVIDERS OF TRAINING PROGRAMS AND FROM APPLICANTS FOR SERVER PERMITS TO COVER COSTS OF MANDATORY TRAINING; TO REQUIRE COORDINATION AMONG THE DEPARTMENT OF ALCOHOL AND OTHER SUBSTANCE ABUSE, THE DEPARTMENT OF REVENUE, THE STATE LAW ENFORCEMENT DIVISION, AND OTHER STATE AND LOCAL AGENCIES FOR THE IMPLEMENTATION AND ENFORCEMENT OF THESE PROVISIONS; TO PROVIDE FOR FINES AND PENALTIES FOR VIOLATIONS OF THESE PROVISIONS; TO AUTHORIZE THE DEPARTMENT OF ALCOHOL AND OTHER SUBSTANCE ABUSE TO PROMULGATE REGULATIONS NECESSARY TO ESTABLISH, IMPLEMENT, AND ENFORCE THESE PROVISIONS; AND TO AMEND SECTION 61‑4‑50 AND SECTION 61‑6‑4080, RELATING TO MERCHANT ALCOHOL EDUCATION PROGRAMS, SO AS TO INCLUDE REFERENCES TO THE RESPONSIBLE ALCOHOLIC BEVERAGE SERVER TRAINING PROGRAMS.

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

SECTION 1. It is determined and declared as a matter of legislative findings that:

(1) Service and consumption of alcoholic beverages in an irresponsible manner has a significant adverse impact on highway safety, personal health, and individual welfare, and is not in the best interests of the citizens of South Carolina;

(2) Responsible alcoholic beverage server training programs have proven to be an effective means of addressing, in a positive and constructive manner, inappropriate service of alcoholic beverages by permitted and licensed establishments;

(3) Any mandatory training program should be provided to licensees and permittees and their employees at a reasonable cost so as to encourage their full support and participation while creating an incentive for the program to be taken seriously; and

(4) The establishment of a mandatory responsible alcoholic beverage server training program will promote highway safety and the public health and welfare of the citizens of South Carolina.

Therefore, it is declared to be the policy of this state to promote the safety, health, and welfare of its citizens by the establishment and operation of a mandatory responsible alcoholic beverage server training program pursuant to the provisions of this chapter.

SECTION 2. Title 61 of the 1976 Code is amended by adding:

“Chapter 3

South Carolina Responsible Alcoholic Beverage Server Training Act

Section 61‑3‑100. This chapter may be referred to as ‘Alli’s Law.’

Section 61‑3‑110. For purposes of this chapter, the following definitions apply:

(1) ‘Alcoholic beverages’ means beer, wine, or alcoholic liquors, which contains any amount of alcohol and is used as a beverage for human consumption.

(2) ‘DAODAS’ means the South Carolina Department of Alcohol and Other Drug Abuse Services.

(3) ‘Department’ means the South Carolina Department of Revenue.

(4) ‘Director’ means the director of the Department of Alcohol and Other Drug Abuse or a designee of the director.

(5) ‘Division’ means the South Carolina Law Enforcement Division.

(6) ‘Employee’ means a person who has been employed by the holder of a permit or license for at least thirty days and who works in a permitted or licensed establishment at least ten hours a week.

(7) ‘Licensee’ means a person issued a license by the department pursuant to Title 61 to sell, serve, transfer, or dispense alcoholic liquors or alcoholic liquor by the drink for on‑premises or off‑premises consumption.

(8) ‘Manager’ means an individual employed by a permittee or licensee who manages, directs, or controls the sale, service, transfer, or dispensing of alcoholic beverages for consumption on or off the permitted or licensed premises.

(9) ‘Permittee’ means a person issued a permit by the department pursuant to Title 61 to sell, serve, transfer, or dispense wine or beer for on‑premises or off‑premises consumption.

(10) ‘Program’ means an alcoholic beverage server education course and examination approved by DAODAS through its director or designee that is administered by providers.

(11) ‘Provider’ means an individual, partnership, corporation, or other legal entity certified by DAODAS through its director or designee that provides and administers a program.

(12) ‘Server’ means an individual who sells, serves, transfers, or dispenses alcoholic beverages for consumption on or off permitted or licensed premises, and may include a permittee, licensee, manager, or other employee of a permittee or licensee. ‘Server’ shall not include an individual employed or volunteering on a temporary basis for a one‑time special event, such as a banquet.

(13) ‘Server Permit’ means an authorization issued by the director or DAODAS for an individual to be employed or engaged as a server.

Section 61‑3‑120. (A) No individual shall be employed as a manager or server on permitted or licensed premises unless and until that individual obtains, within sixty calendar days of employment, a server permit pursuant to the provisions of this chapter. If a permittee or licensee is a manager or server on the permitted or licensed premises, then the permittee or licensee must also complete training on responsible alcoholic beverage server education and obtain a server permit pursuant to the provisions of this chapter.

(B) Each permittee or licensee shall maintain at all times on its permitted or licensed premises copies of the server permits of the permittee or licensee, if applicable, and the server permits of each manager and each server then employed by the permittee or licensee. Copies of the server permit must be made available upon request to DAODAS, the department, the division, or their agents or employees.

(C) Failure to produce a copy of a server permit is prima facie evidence that a server permit has not been issued and shall subject the permittee or licensee to fines and penalties in accordance with this chapter.

(D) Administrative fines, not to exceed one thousand dollars, may be imposed by the director against any person that intentionally violates the provisions of this chapter or related regulations.

(E) The director may suspend or revoke the server permit of any person whom the director determines, after a hearing, has violated the provisions of this chapter. If a person’s server permit is suspended or revoked, that person shall not be allowed to serve alcohol in a South Carolina establishment permitted or licensed pursuant to Title 61 during the period of suspension or revocation, for such period as stated in the suspension or revocation order. In addition, instead of suspension or revocation of a server permit, the director may require that a person that has completed the course attend and successfully complete either the full program or the recertification program.

(F) The division, in cooperation with the director, DAODAS, and the department, shall be responsible for enforcement of the provisions of this chapter. Charges for violations or the provisions of this chapter or related regulations shall be brought to the director, who shall be responsible for bringing legal actions for fines and penalties pursuant to the provisions of this chapter and related regulations.

Section 61‑3‑130. (A) The director is authorized to approve responsible alcoholic beverage server training programs offered by providers, including those offered by DAODAS. A provider shall not charge an individual more than fifty dollars for a training program.

(B) The curricula of each program must include the following subjects:

(1) state laws and regulations pertaining to:

(a) the sale and service of alcoholic beverages,

(b) the permitting and licensing of sellers of alcoholic beverages,

(c) impaired driving or driving under the influence of alcohol or drugs,

(d) liquor liability issues, and

(e) carrying of concealed weapons by authorized permit holders into businesses selling and serving alcoholic beverages;

(2) the effect that alcohol has on the body and human behavior, including, but not limited to the effect on an individual’s ability to operate a motor vehicle when intoxicated;

(3) the effect that alcohol has on an individual when taken in combination with commonly used prescription or nonprescription drugs or with illegal drugs;

(4) methods of recognizing problem drinkers and techniques for intervening with and refusing to serve problem drinkers;

(5) methods of identifying and refusing to serve or sell alcoholic beverages to an underage or intoxicated person;

(6) methods for properly and effectively checking the identification of an individual, for identifying an illegal identification of an individual, and for handling situations involving individuals who have provided illegal identification;

(7) the incidence of alcohol‑related birth defects and prevention of fetal alcohol syndrome; and

(8) other topics related to alcoholic beverage server education designated by the director to be included.

(C) In establishing, implementing, certifying, or otherwise approving any training program, the director shall consult with and seek comment from the department, the division, industry groups, permit holders, and license holders affected by the programs as well as other affected state and local agencies.

(D) The director may suspend or revoke the authorization of a program provider that the director determines, after a hearing, has violated the provisions of this chapter. If a provider’s authorization is suspended or revoked, that provider must cease operations in this state immediately and refund any money paid to it by individuals who are enrolled in that provider’s program at the time of the suspension or revocation.

Section 61‑3‑140. (A) A provider of a program that is authorized by the director shall pay a fee, in an amount to be determined by the director, not to exceed five hundred dollars. Each fee shall be deposited into the South Carolina Responsible Alcoholic Beverage Server Training Program Fund to assist in the costs associated with implementation and enforcement of the provisions of this chapter.

(B) The Fund is a revolving fund and no funds deposited therein shall revert to the General Fund of the state treasury.

(C) The director shall, on or before the second Tuesday of each year, make a report of all income and expenditures made from the South Carolina Responsible Alcoholic Beverage Server Training Program Fund as of December thirty‑one of the previous year. A copy of the report shall be given to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate, placed on the DAODAS website, and recorded in the journals of each body of the General Assembly at the beginning of each legislative year.

Section 61‑3‑150. (A) The director shall issue a server permit to each applicant that completes an approved responsible alcoholic beverage server training program or a recertification program and who provides other information as may be required by the director, in an application form that is available on the DAODAS website. A person must apply for a server permit within six months of completing a program. The director, in the event that circumstances warrant the issuance of a temporary server permit, may issue a temporary server permit that is valid for a period of not more than thirty calendar days.

(B) Server permits shall not be issued to graduates of programs that are not approved by the director.

(C) A server permit is the property of the individual to whom it is issued.

(D) Server permits shall be valid for a period of three years from the date that the server permit was issued. After that date, a new server permit must be obtained in order for the holder to be employed as a server.

(E) Upon expiration of a server permit, the individual to whom the server permit was issued may obtain recertification in accordance with regulations promulgated by DAODAS and approved by the General Assembly.

(F) The director may charge a fee, not to exceed fifteen dollars, for the issuance of a server permit.

Section 61‑3‑160. As a requirement for application or renewal of a permit or license under Chapter 4, Title 61 or Chapter 6, Title 61, a permittee or licensee must submit to the department proof that the permittee or licensee, if applicable, and each manager and server employed by the permitee or licensee during the upcoming or prior permit or license period have or have held valid server permits at all times that alcoholic beverages were sold, served, or dispensed.

Section 61‑3‑170. The director and DAODAS are authorized to promulgate regulations necessary to carry out the duties imposed upon them by this chapter, including, but not limited to, regulations governing the establishment, implementation, and enforcement of responsible alcoholic beverage server training programs.

Section 61‑3‑180. Contested case hearings arising under the provisions of this chapter must be held in accordance with the provisions of Section 61‑2‑260 and the South Carolina Administrative Procedures Act.”

SECTION 2. Section 61‑4‑50 of the 1976 Code is amended to read:

“Section 61‑4‑50. (A) It is unlawful for a person to sell beer, ale, porter, wine, or other similar malt or fermented beverage to a person under twenty‑one years of age. A person who makes a sale in violation of this section, upon conviction:

(1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and

(2) for a second or subsequent offense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both.

(B) Failure of a person to require identification to verify a person’s age is prima facie evidence of the violation of this section.

(C) A person who violates the provisions of this section ~~also is required to successfully complete a DAODAS approved merchant alcohol enforcement education program. The program must be a minimum of two hours and the cost to the person may not exceed fifty dollars~~, upon conviction, is required to complete training and to obtain a new server permit pursuant to the provisions of Chapter 3, Title 61.”

SECTION 3. Section 61‑6‑4080 of the 1976 Code is amended to read:

“Section 61‑6‑4080. (A) A person engaged in the sale of alcoholic liquors who knowingly sells the alcoholic liquors to a person under the age of twenty‑one is guilty of a misdemeanor and, upon conviction:

(1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and

(2) for a second or subsequent offense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both.

(B) Failure of a person to require identification to verify a person’s age is prima facie evidence of a violation of this section.

(C) A person who violates the provisions of this section ~~also is required to successfully complete a DAODAS approved merchant alcohol enforcement education program. The program must be a minimum of two hours and the cost to the person may not exceed fifty dollars~~, upon conviction, is required to complete training and obtain a new server permit pursuant to the provisions of Chapter 3, Title 61.”

SECTION 4. If any section, subsection, paragraph, item, subitem, subparagraph, sentence, clause, phrase, or word of Chapter 3, Title 61 of the 1976 Code as added by this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the chapter, the General Assembly hereby declaring that it would have passed each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 5. 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 6. This act takes effect on July 1, 2016, and any person applying for a new permit or license under Title 61 after this date must comply with the provisions of this act at the time of the application. A person renewing a permit or license under Title 61 after this date must comply with the provisions of this act at the time of the renewal.

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