COMMITTEE REPORT

March 21, 2012

**S. 163**

Introduced by Senators Shoopman, Rose, Verdin and Fair

S. Printed 3/21/12--S.

Read the first time January 11, 2011.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 163) to amend the Code of Laws of South Carolina, 1976, by adding Section 61‑4‑95 so as to create the offenses of unlawfully providing beer or wine to a person, etc., respectfully

**REPORT:**

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

C. BRADLEY HUTTO for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

A Cost to the General Fund (See Below)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Department of Public Safety and the Department of Probation, Parole and Pardon Services state that this bill will have no fiscal impact on the General Fund of the State, or on federal and/or other funds.

The Judicial Department

The department states that this bill will have a minimal impact on the General Fund of the State, which the agency can absorb at their current level of funding.

The Department of Corrections

The department indicates that this bill will have a potential significant fiscal impact on the General Fund of the State due to the addition of the new criminal offenses in Section 61-4-95 and the addition of the offenses in Section 61-6-4083. Due to the lack of empirical data on this new offense the agency is unable to provide an accurate estimate as to what the fiscal impact to the agency may be.

*Approved By:*

Brenda Hart

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 OFFENSES 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 OFFENSES 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) A person twenty‑one 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 twenty‑one 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:

(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.

(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 twenty‑one 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 twenty‑one 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:

(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.

(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.

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