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**S. 126**

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Summary: Responsible Alcohol Server Education

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

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12/13/2016 Senate Referred to Committee on **Judiciary**

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1/18/2017 Senate Referred to Subcommittee: Shealy (ch), Hutto, Senn

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**VERSIONS OF THIS BILL**

[12/13/2016](file:///p:\pprever\2017-18\126_20161213.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS SOUTH CAROLINA, 1976, BY ADDING CHAPTER 3 TO TITLE 61 SO AS TO PROVIDE FOR MANDATORY RESPONSIBLE ALCOHOL SERVER EDUCATION FOR PERSONS EMPLOYED BY PERMITTEES AND LICENSEES WHO ARE AUTHORIZED TO SELL, SERVE, TRANSFER, OR DISPENSE BEER, WINE OR ALCOHOLIC LIQUORS FOR CONSUMPTION ON‑PREMISES AND OFF‑PREMISES, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF REVENUE TO APPROVE ALCOHOL SERVER EDUCATION COURSES AND WHAT THE COURSE MUST INCLUDE, TO PROVIDE THAT THE PERMITTEE OR LICENSEE TO MAINTAIN COPIES OF EACH SERVER PERMIT AND TO MAKE THEM AVAILABLE UPON REQUEST, TO AUTHORIZE THE DIRECTOR TO ISSUE PERMITS TO APPLICANTS WHO COMPLETE THE PROGRAM AND ESTABLISH WHEN THE PERMIT EXPIRES, TO PROVIDE PENALTIES FOR A LICENSE HOLDER WHO SELLS, SERVES, TRANSFERS, OR DISPENSES BEER, WINE, OR ALCOHOLIC LIQUORS TO A PERSON UNDER THE AGE OF TWENTY‑ONE, TO REQUIRE A PERMITTEE OR LICENSEE TO SUBMIT PROOF THAT THEY AND EACH MANAGER AND SERVER HELD A VALID LICENSE DURING THE PRIOR PERMIT OR LICENSE PERIOD AND TO ESTABLISH THAT CONTESTED CASES MUST BE HELD IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURES ACT; TO AMEND SECTION 61‑2‑60, RELATING TO THE PROMULGATION OF REGULATIONS, SO AS TO AUTHORIZE THE SOUTH CAROLINA DEPARTMENT OF REVENUE TO PROMULGATE REGULATIONS GOVERNING THE DEVELOPMENT, IMPLEMENTATION, AND ENFORCEMENT OF RESPONSIBLE ALCOHOL SERVER EDUCATION COURSES; TO AMEND SECTION 61‑4‑50, RELATING TO SALES OF BEER, ALE, PORTER AND WINE TO UNDERAGE PERSONS, SO AS TO ESTABLISH THAT A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION MUST COMPLETE TRAINING AND OBTAIN A NEW SERVER PERMIT; AND TO AMEND SECTION 61‑6‑4080, RELATING TO SALES OF ALCOHOLIC LIQUORS TO UNDERAGE PERSONS, SO AS TO ESTABLISH THAT A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION MUST COMPLETE TRAINING AND OBTAIN A NEW SERVER PERMIT.

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

SECTION 1. Title 61 of the 1976 Code is amended by adding:

“CHAPTER 3

Responsible Alcohol Server Education

Section 61‑3‑100. This chapter shall be cited as ‘Alli’s Law’.

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

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

(2) ‘Director’ means the Director of the Department of Revenue or a designee.

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

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

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

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

(7) ‘Program’ means an alcohol server education course and examination approved by the department through its director or designee that is administered by providers.

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

(9) ‘Server’ means an individual who sells, serves, transfers, or dispenses beer, wine, or alcoholic liquors for consumption on or off permitted or licensed premises, and may include a permittee, licensee, manager, or other employee of a permittee or licensee.

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

Section 61‑3‑120. No individual may be employed as a manager or server on a permitted or licensed premises unless and until the individual, within sixty calendar days of employment, obtains 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 alcohol server education and obtain a server permit pursuant to the provisions of this chapter.

Section 61‑3‑130. (A) The director is authorized to approve programs offered by providers.

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

(1) the effect that alcohol has on the body and behavior, including the effect on an individual’s ability to operate a motor vehicle when intoxicated;

(2) the effect that alcohol has on an individual when used in combination with legal or illegal drugs;

(3) state laws concerning the permitting and licensing of sellers of beer, wine, and alcoholic liquors, liquor liability issues, impaired driving, or driving under the influence of alcohol or drugs;

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

(5) methods of identifying false or invalid driver’s licenses and other documents used as evidence of age and identity to prevent the sale of beer, wine, or alcoholic liquors to persons under the age of twenty‑one years;

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

(7) other topics related to alcohol server education designated by the department to be included.

Section 61‑3‑140. (A) 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 the department, the division, or their agents or employees.

(B) 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 Chapter 2 Title 61.

Section 61‑3‑150. (A) The director shall issue a server permit to each applicant that completes an approved responsible alcohol server education program and provides other information as may be required by the department. 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 no more than thirty calendar days.

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

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

(D) The department may charge a fee for the issuance of the server permit.

(E) Server permits are valid for a period of two years from the date that the server permit was issued.

(F) Upon expiration of a server permit, the individual to whom the server permit was issued must obtain recertification in accordance with regulations set by the department.

Section 61‑3‑160. (A) In addition to other penalties available under Title 61, the following penalties may be imposed for sales, service, transfer, or dispensing to persons under the age of twenty‑one years, intoxicated persons, or any person to whom beer, wine, or alcoholic liquors may not legally be sold, in violation of the provisions in Title 61:

(1) for a first offense of selling, serving, transferring or dispensing beer, wine, or alcoholic liquor to a person under the age of twenty‑one years or an intoxicated person in violation of the provisions of Title 61, upon conviction, the server must be penalized in accordance with the fines and penalties of those provisions, and additionally the server permit of the server must be suspended for a period of not more than thirty days;

(2) for a second offense that arises separately from the incident related to the first offense of selling, serving, transferring or dispensing beer, wine, or alcoholic liquor to a person under the age of twenty‑one years or an intoxicated person in violation of the provisions of Title 61, upon conviction, the server must be penalized in accordance with the fines and penalties of those provisions, and additionally the server permit of the server must be suspended for a period of one calendar year;

(3) for a third or subsequent offense that arises separately from the incidents related to the first or second offenses of selling, serving, transferring or dispensing beer, wine, or alcoholic liquor to a person under the age of twenty‑one years or an intoxicated person in violation of the provisions of Title 61, upon conviction, the server permit of the server must be permanently revoked.

(B) No individual whose server permit is suspended or revoked pursuant to the provisions of this chapter is authorized to sell, serve, transfer, or dispense beer, wine, or alcoholic liquor on permitted or licensed premises during the period of suspension or revocation.

(C) No individual whose server permit is suspended is authorized to sell, serve, transfer, or dispense beer, wine, or alcoholic liquors on permitted or licensed premises on or after the date of suspension unless and until the individual obtains a new server permit pursuant to the provisions of this chapter.

(D) The provisions of this chapter shall not be interpreted to waive the liability of a permittee or licensee that may arise pursuant to the provisions of Title 61.

Section 61‑3‑170. As a requirement for application or renewal of a permit or license pursuant to Chapter 4 or 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 beer, wine, or alcoholic liquors were sold, served, or dispensed.

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 61‑2‑60 of the 1976 Code is amended to read:

“Section 61‑2‑60. The department and the division are authorized to promulgate regulations necessary to carry out the duties imposed upon them by law for the proper administration and enforcement of, and consistent with this title including, but not limited to:

(1) regulations for the application and issuance of alcoholic liquor licenses, permits, and certificates;

(2) regulations to prevent the unlawful manufacture, bottling, sale, distribution, transportation, and importation of alcoholic liquors;

(3) regulations necessary to effect an equitable distribution of alcoholic liquors in this State;

(4) regulations for the analysis of alcoholic liquors sold in this State and for a procedure for obtaining the samples for this purpose;

(5) regulations governing the administration and enforcement of provisions relating to producers and wholesalers of beer and wine;

(6) regulations for application for and issuance of beer licenses, permits, or brewers’ certificates of approval and the sale, distribution, promotion, and shipment of beer into and within the State;

(7) regulations for the operation of breweries and commercial wineries; ~~and~~

(8) regulations governing the enforcement of provisions relating to brewpubs; and

(9) regulations governing the development, implementation, and enforcement of responsible alcohol server education courses.”

SECTION 3. 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 4. 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 5. 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 6. 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 7. This act takes effect on July 1, 2017, 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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