~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 27, 2019

**S. 342**

Introduced by Senators Rankin and Hutto

S. Printed 3/27/19--S. [SEC 3/28/19 5:53 PM]

Read the first time January 8, 2019.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 342) to enact the “Responsible Alcohol Server Training Act”; to amend Title 61 of the 1976 Code, relating to alcohol and alcoholic beverages, by adding Chapter 3, 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, page 3, by striking lines 4 through 38, and inserting therein the following:

/ (2) ‘Alcohol server’ means an individual who sells, serves, or dispenses alcohol for on‑premises consumption at permitted or licensed premises and may include a permittee, licensee, manager, or other employee of a permittee or licensee. ‘Alcohol server’ shall not include an individual employed or volunteering on a temporary basis for a one‑time special event, such as a banquet, or at an event that has a temporary permit to sell beer, wine, or alcoholic liquors by the drink.

(3) ‘Alcohol server certificate’ means an authorization issued by the department for an individual to be employed or engaged as an alcohol server for on‑premises consumption.

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

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

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

(7) ‘Employee’ means a person who is employed for at least ten hours a week by a permittee or a licensee.

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

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

(10) ‘Permittee’ means a person issued a permit by the department pursuant to Title 61 to sell, serve, or dispense beer, wine, ale, porter, or other malted beverages for on‑premises consumption. /

Amend the bill further, as and if amended, page 4, by striking lines 39 through 40, and inserting therein the following:

/ (2) A provider shall not charge an individual more than thirty-five dollars for a training program. /

Amend the bill further, as and if amended, page 6, by striking lines 7 through 9, and inserting therein the following:

/ (5) Online or computer-based training programs shall use linear navigation that requires the completion of a module before the course proceeds to the next module, with no content omitted; be interactive; have audio for content; and include a test. /

Amend the bill further, as and if amended, page 7, by striking lines 30 through 34, and inserting therein the following:

/ (D) Alcohol server certificates are valid for a period of three years from the date that the alcohol server certificate was issued. After the three‑year period, a new or recertified alcohol server certificate must be obtained pursuant to the provisions of this chapter in order for the holder to be employed as a server. /

Amend the bill further, as and if amended, page 8, by striking lines 1 through 15, and inserting therein the following:

/ Section 61‑3‑150. (A) In addition to civil and criminal penalties available for violations of the provisions of Title 61, an alcohol server who violates the provisions of this chapter, upon a final administrative determination:

(1) for a first offense, may be fined not more than fifty dollars, have his alcohol server certificate suspended for a period not to exceed fifteen days, or both;

(2) for a second offense not related to the first offense, may be fined not more than two hundred dollars, have his alcohol server certificate suspended for a period not to exceed thirty days, or both; and

(3) for a third or subsequent offense not related to earlier offenses, may be fined not more than three hundred fifty dollars, have his alcohol server certificate suspended not more than six months, or both. /

Amend the bill further, as and if amended, page 9, by striking lines 21 through 37, and inserting therein the following:

/ “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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than fifteen days; 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than thirty days for a second offense and not more than six months for a third or subsequent offense. /

Amend the bill further, as and if amended, page 10, by striking line 1, and inserting therein the following:

/ of two hours and the cost to the person may not exceed ~~fifty~~ thirty-five dollars. /

Amend the bill further, as and if amended, page 10, by striking lines 18 through 30, and inserting therein the following:

/ (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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than fifteen days; 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than thirty days for a second offense and not more than six months for a third or subsequent offense.” /

Amend the bill further, as and if amended, page 12, by striking lines 1 through 16, and inserting therein the following:

/ (C) A permittee, servant, agent, or employee of the permittee who holds an alcohol server permit and violates the provisions of items (A)(1) or (A)(2), 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than fifteen days; 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than thirty days for a second offense and not more than six months for a third or subsequent offense.” /

Amend the bill further, as and if amended, page 12, by striking lines 28 through 40, and inserting therein the following:

/ (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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than fifteen days; 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than thirty days for a second offense and not more than six months for a third or subsequent offense.” /

Amend the bill further, as and if amended, page 13, by striking lines 10 through 22, and inserting therein the following:

/ (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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than fifteen days; 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than thirty days for a second offense and not more than six months for a third or subsequent offense.” /

Amend the bill further, as and if amended, page 13, by striking lines 31 through 43, and inserting therein the following:

/ (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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than fifteen days; 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than thirty days for a second offense and not more than six months for a third or subsequent offense. /

Amend the bill further, as and if amended, page 14, by striking line 7, and inserting therein the following:

/ of two hours and the cost to the person may not exceed ~~fifty~~ thirty-five dollars. /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 8, 2019**

**State Expenditure**

The bill enacts the Responsible Alcohol Server Training Act (training act) and makes related amendments to other beer, wine, and alcoholic liquor laws. The training act prohibits an individual from employment as a manager or alcohol server on a premises licensed or permitted for the sale of alcohol on-premises unless and until the individual obtains, within 60 calendar days of employment, an alcohol server permit. If a permittee or licensee is a manager or server on the permitted or licensed premises, then the permittee or licensee must also complete an approved training program on responsible alcohol service and obtain a server permit. Each permittee or licensee must maintain on its premises copies of the server permits of the permittee or licensee, each manager, and each server then employed by the permittee or licensee. Failure to produce an alcohol server certificate for an alcohol server employed for 60 calendar days subjects the permittee or licensee to fines and penalties. DOR, in collaboration with DAODAS and SLED, is authorized to approve training programs offered by providers. An authorized provider must pay an annual fee in an amount determined by DOR, not to exceed $500. The provider fee is deposited to the Responsible Alcohol Server Training Fund, a revolving fund to assist with the cost of implementation and enforcement of the training act’s provisions. DOR must issue a server certificate valid for 3 years to each applicant who completes an approved responsible alcohol server education program or recertification program. An applicant must apply for the alcohol server certificate within 6 months of completing the program. DOR may charge a fee, not to exceed $15 for the issuance of the server certificate. The fees charged to issue and renew an alcohol server certificate are deposited to the Responsible Alcohol Server Training Fund.

The bill includes administrative penalties for alcohol servers who violate provisions of the training act. The administrative penalties are tiered depending on the number of prior offenses. The penalties range from a fine of not more than $50, or the suspension of the server certificate for a period of not more than 30 days, or both, for a first offense, to a fine of not more than $350, or suspension of the certificate for not more than a year, or both, for a second or subsequent offense. Fines collected pursuant to these provisions are deposited to the Responsible Alcohol Server Training Fund.

DOR may also suspend or revoke the server certificate of a person who repeatedly violates the provisions of the training act within a 3 year period, or in the alternative, require the offender to attend and successfully complete the full server training program or recertification program. DOR and SLED are responsible for enforcing the training act, and DOR must make certificate suspension and revocation information accessible for licensees and permittees.

The bill requires the suspension of an alcohol server’s certificate, if the server is convicted of selling or providing beer, wine, or alcoholic liquors to a person under the age of 21. The period of suspension varies depending on the number of prior convictions. If the offender does not hold an alcohol server’s certificate and sells beer, wine, or alcoholic liquors to a person under 21, the bill requires the offender to complete alcohol server training and obtain the alcohol server certificate.

The bill also provides criminal penalties for holders of permits to sell beer or wine and their agents, when they hold alcohol server certificates and knowingly sell beer or wine to a person under 21 or an intoxicated person. The penalties are a fine of not less than $200 nor more than $300, or imprisonment for not more than 30 days, or both, for a first offense, and a fine of not less than $400 nor more than $500, or imprisonment for not more than 30 days, or both, for a second or subsequent offense. In addition, server certificates must be suspended. Criminal penalties are also provided for persons who sell alcoholic liquors to intoxicated persons. The penalties are the same as provided for such sales of beer or wine, including suspension of a server’s certificate.

**Department of Alcohol and Other Drug Abuse Services**. Currently, DAODAS approves alcohol retailer and server education as required by state law. In addition, DAODAS developed a server education curricula known as Palmetto Retailers Education Program (PREP). PREP is delivered through a community-based system of thirty-two county alcohol and drug abuse authorities. DAODAS provides resources to the local alcohol and drug abuse authorities, to include training manuals, state affiliated trainers, marketing pamphlets, certificates, and a percentage of an agency FTE to support the delivery of PREP. The costs to DAODAS are approximately $10,000 currently and funded through the federal Substance Abuse Prevention and Treatment Block Grant (SAPT). Any increase in resource costs as a result of more demand for the course will be managed within DAODAS’ federal funds.

As a state agency, DAODAS is exempt from paying DOR the $500 provider fee. However, if the thirty-two county alcohol and drug abuse authorities are not considered exempt from the provider fee, expenditures for each of those organizations would increase $500 annually beginning in FY 2019-20. Local alcohol and drug abuse authorities currently use funding collected through the charged fees for the PREP course to support local material distribution, space rental, and FTE training expenses. DAODAS estimates that the cost to local alcohol and drug abuse authorities per year in order to continue to participate in the server education programming if they are found non-exempt, to be $16,000. The department indicates it may need to subsidize the $500 fee charged to local provider agencies, which would increase DAODAS costs. DAODAS’ increased cost, if any, would be charged to and managed within the federal SAPT block grant. The bill would not have an expenditure impact on the general fund or other funds for DAODAS. The agency indicates that any expenses associated with subsidizing the $500 provider fee charged to local provider agencies would be managed within the federal SAPT block grant. Therefore, this bill will have no expenditure impact on the general fund, other funds, or federal funds for DAODAS.

**Department of Revenue.** The department indicates this bill will have an expenditure impact of $225,000 to the general fund in FY 2019-20 for salary and fringe benefits for 3 FTEs and 5 temporary employees to administer the new requirements.

**South Carolina Law Enforcement Division**. SLED indicates this bill will have no expenditure impact on the general fund, other funds, or federal funds. The agency can accomplish enforcement during their normal inspection processes and will not require additional staff.

**State Revenue**

The bill allows DOR to charge providers of alcohol server training programs a fee not to exceed $500 annually. State agencies are exempt from payment of the $500 alcohol server training program provider fee. The revenue from this $500 fee must be deposited into the Responsible Alcohol Server Training Fund to assist in the costs associated with implementation and enforcement of alcohol server training. DOR may also charge a fee for the issuance of alcohol server certificates in an amount not to exceed $15. The alcohol server certificates are valid for a period of 3 years. DOR may impose administrative fines, not to exceed $350, against any person that violates the provisions of the training act. The revenue generated from the $15 fee and the administrative fines must be deposited into the Responsible Alcohol Server Training Fund. Additionally, the bill provides for the suspension of alcohol server permits due to various violations of selling or providing alcohol to individuals who are intoxicated or under the age of 21.

Based upon data provided by DOR, there are currently six approved providers for alcohol server training programs, with only one provider being a state agency. For this analysis, we assume that DOR will charge the full $500 fee for providers. Therefore, revenue of the Responsible Alcohol Server Training Fund will increase by $2,500 for this portion of the bill.

Based upon data obtained from the Occupational Employment Statistics report from the U.S. Bureau of Labor Statistics, there are approximately 35,000 servers in South Carolina. For this analysis, we assume that DOR will charge the maximum $15 fee per server. Therefore, revenue of the Responsible Alcohol Server Training Fund will increase by $525,000 for this portion of the bill.

Since the bill creates a new administrative fine for which there is no historical data, the revenue impact on the Responsible Alcohol Server Training Fund for this portion of the bill is undetermined. Revenue from fines imposed for criminal convictions is also undetermined for lack of data and judicial discretion in sentencing. Criminal fines are distributed to the general fund, specified state agencies and programs, and local governments. DAODAS does not currently receive any revenue from the local alcohol and drug abuse authorities who deliver PREP and does not anticipate charging for resources provided to the county authorities, if the training is made mandatory by this bill. Therefore, the bill is not expected to have a state revenue impact for DAODAS.

Based upon data from DOR and DAODAS, there are currently six approved providers. One of the six is DAODAS, which is exempt from paying the $500 provider fee. DAODAS developed the server education curricula know as PREP. Under the PREP program, there are thirty-two county providers. If the thirty-two county providers are exempt from paying the $500 provider fee, revenue of the Responsible Alcohol Server Training Fund will increase by $2,500 for this section of the bill. If the thirty-two county providers are required to pay the $500 provider fee, revenue of the Responsible Alcohol server Training Fund will increase by $18,500 for this section of the bill.

**Local Expenditure**

The bill authorizes a monetary fine or imprisonment of no more than 30 days for violations of selling or providing alcohol to individuals under 21 years of age pursuant to various code sections. The increase in law enforcement or detention in local facilities is dependent upon the number of violations. Therefore, the increase in expenses for local governments is undetermined.

**Local Revenue**

The bill authorizes a monetary fine or imprisonment of no more than 30 days for violations of selling or providing alcohol to individuals under 21 years of age pursuant to various code sections. The revenue impact on local governments is dependent upon the number of convictions and is undetermined. Existing law provides for the retention of part or all of the revenue generated from fines, assessments, and surcharges by the local jurisdiction processing the case.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO ENACT THE “RESPONSIBLE ALCOHOL SERVER TRAINING ACT”; TO AMEND TITLE 61 OF THE 1976 CODE, RELATING TO ALCOHOL AND ALCOHOLIC BEVERAGES, BY ADDING CHAPTER 3, TO PROVIDE FOR THE ESTABLISHMENT, IMPLEMENTATION, AND ENFORCEMENT OF A MANDATORY ALCOHOL SERVER TRAINING AND EDUCATION PROGRAM, TO REQUIRE SERVERS OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION IN LICENSED OR PERMITTED BUSINESSES TO OBTAIN ALCOHOL SERVER CERTIFICATES, TO PROVIDE GUIDANCE FOR THE CURRICULA OF THE TRAINING PROGRAMS, TO PROVIDE FOR THE DEPARTMENT OF REVENUE TO BE RESPONSIBLE FOR APPROVAL OF THE TRAINING PROGRAMS AND IMPLEMENTATION OF THE ALCOHOL SERVER CERTIFICATES, TO REQUIRE FEES FROM PROVIDERS OF TRAINING PROGRAMS AND FROM APPLICANTS FOR ALCOHOL SERVER CERTIFICATES TO COVER THE COSTS OF THE MANDATORY TRAINING AND ENFORCEMENT, TO REQUIRE COORDINATION AMONG THE DEPARTMENT OF REVENUE, THE STATE LAW ENFORCEMENT DIVISION, AND OTHER STATE AND LOCAL AGENCIES FOR THE IMPLEMENTATION AND ENFORCEMENT OF THESE PROVISIONS, AND TO PROVIDE FOR FINES AND PENALTIES FOR VIOLATIONS OF THESE PROVISIONS; TO AMEND SECTION 61-2-60 OF THE 1976 CODE, RELATING TO THE PROMULGATION OF REGULATIONS, TO AUTHORIZE THE DEPARTMENT OF REVENUE TO PROMULGATE REGULATIONS GOVERNING THE DEVELOPMENT, IMPLEMENTATION, EDUCATION, AND ENFORCEMENT OF RESPONSIBLE ALCOHOL SERVER TRAINING PROVISIONS; AND TO AMEND SECTION 61-4-50, SECTION 61-4-90(A), SECTION 61-4-580, SECTION 61-6-2220, SECTION 61-6-4070(A), AND SECTION 61-6-4080 OF THE 1976 CODE, ALL RELATING TO THE UNLAWFUL SALE OF ALCOHOL, TO PROVIDE FOR FINES AND PENALTIES FOR VIOLATIONS OF CERTAIN PROVISIONS.

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

SECTION 1. (A) 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 residents of South Carolina;

(2) responsible alcohol 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 responsible alcohol server training program should be provided to licensees, 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 responsible alcohol server training program will promote highway safety and the public health and welfare of the residents of South Carolina.

(B) It is therefore declared to be the policy of this State to promote the safety, health, and welfare of its residents by the establishment and operation of a responsible alcohol server training program pursuant to the provisions of Chapter 3, Title 61.

SECTION 2. This act shall be referred to as the “Responsible Alcohol Server Training Act”.

SECTION 3. Title 61 of the 1976 Code is amended by adding:

“CHAPTER 3

Responsible Alcohol Server Training Act

Section 61‑3‑100. For the purposes of this chapter, the following definitions apply:

(1) ‘Alcohol’ means beer, wine, alcoholic liquors, or any other type of alcoholic beverage that contains any amount of alcohol and is used as a beverage for human consumption.

(2) ‘Alcohol server’ means an individual who sells, serves, transfers, or dispenses alcohol for on‑premises consumption at permitted or licensed premises and may include a permittee, licensee, manager, or other employee of a permittee or licensee. ‘Alcohol server’ shall not include an individual employed or volunteering on a temporary basis for a one‑time special event, such as a banquet, or at an event that has a temporary permit to sell beer, wine, or alcoholic liquors by the drink.

(3) ‘Alcohol server certificate’ means an authorization issued by the department for an individual to be employed or engaged as an alcohol server for on‑premises consumption.

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

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

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

(7) ‘Employee’ means a person who is employed for at least ten hours a week by a permittee or a licensee.

(8) ‘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 consumption, if the licensee remains open to sell, serve, transfer, or dispense alcoholic liquors or alcoholic liquor by the drink for on-premises consumption after five o’clock p.m.

(9) ‘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 on‑premises consumption at the permitted or licensed premises.

(10) ‘Permittee’ means a person issued a permit by the department pursuant to Title 61 to sell, serve, transfer, or dispense beer, wine, ale, porter, or other malted beverages for on‑premises consumption, if the permittee remains open to sell, serve, transfer, or dispense beer, wine, ale, porter, or other malted beverages for on‑premises consumption after five o’clock p.m.

(11) ‘Program’ means an alcohol server training and education course and examination approved by the department with input from DAODAS and the division that is administered by authorized providers.

(12) ‘Provider’ means an individual, partnership, corporation, or other legal entity authorized by the department that offers and administers a program.

Section 61‑3‑110. (A) An individual shall not be employed as an alcohol server or a manager on permitted or licensed premises unless and until that individual obtains, within sixty calendar days of employment, an alcohol server certificate pursuant to the provisions of this chapter. If a permittee or licensee functions or is employed as an alcohol server or manager on the permitted or licensed premises, then the permittee or licensee must also complete training on responsible alcohol server training and obtain an alcohol server certificate pursuant to the provisions of this chapter. An alcohol server shall not be mentally or physically impaired by alcohol, drugs, or controlled substances while serving alcohol.

(B) Each permittee or licensee shall maintain at all times on its permitted or licensed premises copies of the alcohol server certificates of the permittee or licensee, if applicable, and the alcohol server certificates of each manager and each alcohol server then employed by the permittee or licensee. Copies of the alcohol server certificate must be made available, upon request, to the department, the division, or the agents and employees of each. For the purposes of enforcement of the provisions of this chapter, a permittee or licensee shall also make available to the department or the division, when requested, the hire date of an alcohol server.

(C) Failure to produce a copy of an alcohol server certificate when an alcohol server has been employed for sixty calendar days is prima facie evidence that an alcohol server certificate has not been issued and shall subject the permittee or licensee to fines and penalties in accordance with this chapter.

Section 61‑3‑120. (A)(1) The department, in collaboration with DAODAS and the division, is authorized to approve alcohol server training programs, based on best evidence practice standards, offered by providers. A program that has not received approval within ninety days from submission shall be considered denied. A provider may appeal denial pursuant to Section 61-2-260 and the South Carolina Administrative Procedures Act.

(2) 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;

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

(f) life consequences, such as the loss of education scholarships, to minors relating to the unlawful use, transfer, or sale of alcoholic beverages;

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

(3) information on blood alcohol concentration and factors that change or alter blood alcohol concentration;

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

(5) information on recognizing the signs of intoxication and methods for preventing intoxication;

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

(7) methods of identifying and refusing to serve or sell alcoholic beverages to individuals under twenty-one years of age and intoxicated individuals;

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

(9) other topics related to alcohol server education and training designated by the department, in collaboration with DAODAS and the division, to be included.

(C) The department shall approve only online or classroom designed training programs that meet each of the following criteria:

(1) A program must cover the content specified in subsection (B). If a program does not include law enforcement information in its general course material, then specific South Carolina law enforcement information must be provided in a South Carolina training supplement document.

(2) The content in a program must clearly identify and focus on the knowledge, skills, and abilities needed to responsibly serve alcoholic beverages and must be developed using best practices in instructional design and exam development to ensure that the program is fair and legally defensible.

(3) A program may be offered online or through classroom instruction.

(4) Classroom training must be at least four hours, be available in English and Spanish, and include a test.

(5) Online or computer-based training programs shall be forced linear, with no content omitted; be interactive; have audio for content; and include a test.

(6) Training and testing shall be conducted by any means available, including, but not limited to, online, computer, classroom, and live trainers. All tests must be monitored by a manager or proctor. A passing grade for a test, as provided by the program, is required.

(7) Training certificates are issued by the provider only after training is complete and a test has been passed successfully.

(8) Within ten business days after a training is completed, each provider must give to the department a report of all individuals who have successfully completed the training and testing. The provider must also maintain these records for at least five years following the end of the training program for purposes of verifying certification validity by the department or the division.

(D) The department, in collaboration with DAODAS and the division, may suspend or revoke the authorization of a provider that the department determines has violated the provisions of this chapter. If a provider’s authorization is suspended or revoked, then that provider must cease operations in this State immediately and refund any money paid to it by individuals enrolled in that provider’s program at the time of the suspension or revocation.

Section 61‑3‑130. (A) The provider of a program that is authorized by the department shall pay a fee, in an amount to be determined by the department, not to exceed five hundred dollars per year, renewable each year. State agency providers are exempt from payment. Each fee shall be deposited into the Responsible Alcohol Server Training Fund to assist with the costs associated with implementation and enforcement of the provisions of this chapter.

(B) The Responsible Alcohol Server Training Fund is a revolving fund, and no funds deposited therein shall revert to the general fund of the state treasury.

(C) On or before the second Tuesday of each year, the department, with the assistance of the division, shall make a report of all income and expenditures made from the Responsible Alcohol Server Training Fund as of December thirty‑first 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 of the Senate; posted on the websites of the department and the division; and recorded in the journals of each body of the General Assembly at the beginning of each legislative year.

Section 61‑3‑140. (A)(1) The department shall issue an alcohol server certificate to each applicant who completes an approved program or a recertification program and who provides other information as may be required by the department in an application form that is available on the department’s website. A person must apply for an alcohol server certificate within six months of completing a program. The department, if circumstances warrant the issuance of a temporary alcohol server certificate, may issue a temporary alcohol server certificate that is valid for a period of not more than thirty calendar days.

(2) The department, in collaboration with DAODAS and the division, may issue an alcohol server certificate to an individual from out of the State who applies for an alcohol server certificate if the individual has an alcohol server certificate from a nationally recognized or comparable, state-recognized alcohol server certification program that the department, DAODAS, and the division find meets or exceeds the programs offered in this State.

(B) Alcohol server certificates shall not be issued to graduates of programs that are not approved by the department.

(C) An alcohol server certificate is the property of the individual to whom it is issued and is transferrable among employers.

(D) Alcohol server certificates are valid for a period of five years from the date that the alcohol server certificate was issued. After the five‑year period, a new or recertified alcohol server certificate must be obtained pursuant to the provisions of this chapter in order for the holder to be employed as a server.

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

(F) The department shall charge a fee, not to exceed fifteen dollars, for the issuance and renewal of an alcohol server certificate. These fees shall be deposited in the Responsible Alcohol Server Training Fund.

Section 61‑3‑150. (A) In addition to civil and criminal penalties available for violations of the provisions of Title 61, an alcohol server who violates the provisions of this chapter, upon a final administrative determination:

(1) for a first offense, may be fined not more than fifty dollars, have his alcohol server certificate suspended for a period not to exceed thirty days, or both;

(2) for a second offense not related to the first offense, may be fined not more than two hundred dollars, have his alcohol server certificate suspended for a period not to exceed six months, or both; and

(3) for a third or subsequent offense not related to earlier offenses, may be fined not more than three hundred fifty dollars, have his alcohol server certificate suspended not more than one calendar year, or both.

(B) Fines collected pursuant to this chapter shall be deposited in the Responsible Alcohol Server Training Fund.

(C) The department may issue an administrative order to suspend or revoke the certificate of an alcohol server who repeatedly violates the provisions of this chapter within a three-year period of time. In lieu of suspension or revocation of an alcohol server certificate, the department may require that the individual who has violated the provisions of this chapter attend and successfully complete either the full program or a recertification program.

(D) An individual whose alcohol server certificate is suspended or revoked is prohibited from serving in a South Carolina business permitted or licensed pursuant to Title 61 for such period as stated in the suspension or revocation order and until the individual obtains a new alcohol server certificate pursuant to the provisions of this chapter. The department shall make the information on suspended or revoked alcohol server certificates accessible for licensees and permittees to verify when necessary.

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

Section 61‑3‑170. The division and the department are responsible for enforcement of the provisions of this chapter. The department is responsible for bringing administrative actions for violations of the provisions of this chapter or related regulations, and those actions shall proceed according to the provisions of Section 61‑2‑260 and the South Carolina Administrative Procedures Act.”

SECTION 4. Section 61‑2‑60 of the 1976 Code is amended by adding an appropriately numbered new item to read:

“( ) regulations governing the development, implementation, education, and enforcement of responsible alcohol server training provisions.”

SECTION 5. 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than thirty days; 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not less than six months and not more than one calendar year from the date of conviction.

(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 who does not hold an alcohol server certificate ~~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. A person who violates the provisions of this section who does hold an alcohol server certificate, upon conviction, is required to complete alcohol server training pursuant to Chapter 3, Title 61 and to obtain a new alcohol server certificate.”

SECTION 6. Section 61‑4‑90(A) of the 1976 Code is amended to read:

“Section 61-4-90. (A) It is unlawful for a person to transfer or give to a person under the age of twenty‑one years for the purpose of consumption of beer or wine in the State, unless the person under the age of twenty‑one is recruited and authorized by a law enforcement agency to test a person’s compliance with laws relating to the unlawful transfer or sale of beer and wine to a minor. A person who violates this section 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than thirty days; 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not less than six months and not more than one calendar year from the date of conviction.”

SECTION 7. Section 61‑4‑580 of the 1976 Code is amended to read:

“Section 61‑4‑580. (A) No holder of a permit authorizing the sale of beer or wine or a servant, agent, or employee of the permittee may knowingly commit any of the following acts upon the licensed premises covered by the holder’s permit:

(1) sell beer or wine to a person under twenty‑one years of age;

(2) sell beer or wine to an intoxicated person;

(3) permit gambling or games of chance except game promotions including contests, games of chance, or sweepstakes in which the elements of chance and prize are present and which comply with the following:

(a) the game promotion is conducted or offered in connection with the sale, promotion, or advertisement of a consumer product or service, or to enhance the brand or image of a supplier of consumer products or services;

(b) no purchase payment, entry fee, or proof of purchase is required as a condition of entering the game promotion or receiving a prize;

(c) all materials advertising the game promotion clearly disclose that no purchase or payment is necessary to enter and provide details on the free method of participation; and

(d) this subsection is not an exception or limitation to Section 12‑21‑2710 or other provisions of the South Carolina Code of Laws in which gambling or games of chance are unlawful and prohibited;

(4) permit lewd, immoral, or improper entertainment, conduct, or practices. This includes, but is not limited to, entertainment, conduct, or practices where a person is in a state of undress so as to expose the human male or female genitals, pubic area, or buttocks cavity with less than a full opaque covering;

(5) permit any act, the commission of which tends to create a public nuisance or which constitutes a crime under the laws of this State;

(6) sell, offer for sale, or possess any beverage or alcoholic liquors the sale or possession of which is prohibited on the licensed premises under the laws of this State;

(7) conduct, operate, organize, promote, advertise, run, or participate in a ‘drinking contest’ or ‘drinking game’. For purposes of this item, ‘drinking contest’ or ‘drinking game’ includes, but is not limited to, a contest, game, event, or other endeavor which encourages or promotes the consumption of beer or wine by participants at extraordinary speed or in increased quantities or in more potent form. ‘Drinking contest’ or ‘drinking game’ does not include a contest, game, event, or endeavor in which beer or wine is not used or consumed by participants as part of the contest, game, event, or endeavor, but instead is used solely as a reward or prize. ~~Selling beer or wine in the regular course of business is not considered a violation of this section; or~~

(B) Selling beer or wine in the regular course of business is not considered a violation of this section. ~~a~~ A violation of any provision of this section is a ground for the revocation or suspension of the holder’s permit to sell beer or wine.

(C) A permittee, servant, agent, or employee of the permittee who holds an alcohol server permit and violates the provisions of items (A)(1) or (A)(2), 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than thirty days; 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not less than six months and not more than one calendar year from the date of conviction.”

SECTION 8. Section 61‑6‑2220 of the 1976 Code is amended to read:

“Section 61‑6‑2220. A person or establishment licensed to sell alcoholic liquors or liquor by the drink pursuant to this article ~~may~~ shall not sell these beverages to persons in an intoxicated condition; these sales are considered violations of the provisions ~~thereof~~ of Chapter 6, Title 61 ~~and subject to the penalties contained herein~~. 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than thirty days; 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not less than six months and not more than one calendar year from the date of conviction.”

SECTION 9. Section 61‑6‑4070(A) of the 1976 Code is amended to read:

“Section 61‑6‑4070. (A) It is unlawful for a person to transfer or give to a person under the age of twenty‑one years for the purpose of consumption of alcoholic liquors in the State unless the person under the age of twenty‑one is recruited and authorized by a law enforcement agency to test a person’s compliance with laws relating to the unlawful transfer or sale of alcoholic liquors to a minor. A person who violates this section 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than thirty days; 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not less than six months and not more than one calendar year from the date of conviction.”

SECTION 10. 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not more than thirty days; 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. In addition to criminal penalties, a person convicted who holds an alcohol server certificate pursuant to Chapter 3, Title 61 must have his alcohol server certificate suspended for not less than six months and not more than one calendar year from the date of conviction.

(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 who does not hold an alcohol server certificate ~~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. A person who violates the provisions of this section who does hold an alcohol server certificate, upon conviction, is required to complete alcohol server training pursuant to Chapter 3, Title 61 and to obtain a new alcohol server certificate.”

SECTION 11. If any section, subsection, paragraph, item, subitem, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, then such holding shall not affect the constitutionality or validity of the remaining portions of the act, 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 12. The repeal or amendment by this act of any law, whether temporary, permanent, 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 13. The State, through the South Carolina Department of Alcohol and Other Drug Abuse Services, shall provide alcohol server training at minimal costs to any participant for the first three years after the effective date of this act. The alcohol education training shall meet or exceed the requirements of Section 61-3-120, as added by this act, and shall be provided quarterly at no fewer than seven locations across the State. An individual who completes this training successfully is eligible to apply for an alcohol server certificate pursuant to the requirements of Section 61-3-140, as added by this act.

SECTION 14. The provisions of Chapter 3, Title 61 and SECTION 4 take effect upon signature of the Governor, but the implementation and enforcement of the provisions of Chapter 3, Title 61 and the provisions of SECTIONS 5, 6, 7, 8, 9, and 10 become effective one year after the signature of the Governor. A person applying for a new permit or license under Title 61 one year after the signature of the Governor must comply with all provisions of this act at the time of the application. A person renewing a permit or license under Title 61 one year after the signature of the Governor must comply with the provisions of this act at the time of renewal.

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