~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 11, 2020

**S. 891**

Introduced by Senator Shealy

S. Printed 3/11/20--S. [SEC 3/12/20 11:37 AM]

Read the first time January 14, 2020.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 891) to amend Section 61-4-90(a), Code of Laws of South Carolina, 1976, relating to the transfer of beer or wine for underage person’s consumption, 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, beginning on page 1, by striking lines 40 through 42, and continuing on page 2, by striking lines 1 through 2, as contained in SECTION 1, and inserting therein the following:

/ transfer or sale of beer and wine to a minor. If the person recruited and authorized by a law enforcement agency to test such compliance is under the age of eighteen years, then the testing must be under the direct supervision of a law enforcement agency, and the agency must have the person’s parental consent. A person who ~~violates this section~~ transfers or gives to a person under the age of twenty-one years for the purpose of consumption of beer or wine is guilty of a misdemeanor and, upon conviction: /

Amend the bill further, as and if amended, page 2, by striking lines 18 through 22, as contained in SECTION 2, and inserting therein the following:

/ transfer or sale of alcoholic liquors to a minor. If the person recruited and authorized by a law enforcement agency to test such compliance is under the age of eighteen years, then the testing must be under the direct supervision of a law enforcement agency, and the agency must have the person’s parental consent. A person who ~~violates this section~~ transfers or gives to a person under the age of twenty-one years for the purpose of consumption of alcoholic liquors is guilty of a misdemeanor and, upon conviction: /

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 14, 2020**

**State Expenditure**

This bill shifts from Sections 61-4-100(D) and 61-6-4085(D) to Sections 61-4-90(A) and 61-6-1070(A) the requirement that law enforcement agencies directly supervise and obtain parental consent for persons under the age of twenty-one whom they have recruited to test compliance with laws related to the unlawful transfer or sale of alcoholic beverages to minors. The bill also repeals in their entirety Sections 61-4-100 and 61-6-4085, which require that when a person is charged with the unlawful provision of beer or wine (Section 61-4-100) or alcoholic liquors (Section 61-6-4085) to a minor, the minor must also be charged. This act takes effect upon approval by the Governor.

**Judicial Department.** This bill will have no expenditure impact on the Judicial Department because the agency will administer policies resulting from the bill with the use of existing staff and resources.

**Commission on Prosecution Coordination.** The bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, this bill does not have an expenditure impact on the general fund, other funds, or federal funds.

**Commission on Indigent Defense.** The bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, this bill does not have an expenditure impact on the general fund, other funds, or federal funds.

**State Law Enforcement Division.** The bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, this bill does not have an expenditure impact on the general fund, other funds, or federal funds.

**State Reve**n**ue**

The bill repeals in their entirety Sections 61-4-100 and 61-6-4085, which require that when a person is charged with the unlawful provision of beer or wine (Section 61-4-100) or alcoholic liquors (Section 61-6-4085) to a minor, the minor must also be charged. In FY 2018-19 South Carolina had 1,734 minors charged with false representation of age to obtain alcohol and purchase or possession of alcohol. This change may reduce the number of minors charged and the resulting fines and fees. However, the potential revenue impact is undetermined as the number of minors who may not be charged is unknown.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 61-4-90(A), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TRANSFER OF BEER OR WINE FOR UNDERAGE PERSON’S CONSUMPTION, SO AS TO PROVIDE THAT COMPLIANCE TESTING MUST BE UNDER THE DIRECT SUPERVISION OF A LAW ENFORCEMENT AGENCY AND THE AGENCY MUST HAVE THE PERSON’S PARENTAL CONSENT; TO AMEND SECTION 61-6-4070(A), RELATING TO THE TRANSFER TO PERSON UNDER THE AGE OF TWENTY-ONE YEARS, SO AS TO PROVIDE THAT COMPLIANCE TESTING MUST BE UNDER THE DIRECT SUPERVISION OF A LAW ENFORCEMENT AGENCY AND THE AGENCY MUST HAVE THE PERSON’S PARENTAL CONSENT; TO REPEAL SECTION 61-4-100, RELATING TO CRIMINAL CHARGES BROUGHT AGAINST BOTH A SELLER AND PURCHASER; AND TO REPEAL SECTION 61-6-4085, RELATING TO CHARGES AGAINST A SELLER AND MINOR PURCHASER.

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

SECTION 1. Section 61-4-90(A) of the 1976 Code is amended to read:

“(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. The testing must be under the direct supervision of a law enforcement agency, and the agency must have the person’s parental consent. 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; 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.”

SECTION 2. Section 61‑6‑4070(A) of the 1976 Code is amended to read:

“(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. The testing must be under the direct supervision of a law enforcement agency, and the agency must have the person’s parental consent. 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; 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.”

SECTION 3. Sections 61-4-100 and 61-6-4085 are repealed.

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

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