

CHAPTER 94

SENATE BILL No. 197

AN ACT concerning alcoholic beverages; concerning minors; relating to certain retailer's licenses; amending K.S.A. 41-303 and K.S.A. 2003 Supp. 21-3610 and 41-727 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2003 Supp. 21-3610 is hereby amended to read as follows: 21-3610. (a) Furnishing alcoholic liquor or cereal malt beverage to a minor is directly or indirectly, selling to, buying for, giving or furnishing any alcoholic liquor or cereal malt beverage to any minor.

(b) ~~Except as provided by subsections (d) and (e),~~ Furnishing alcoholic liquor or cereal malt beverage to a minor is a class B person misdemeanor for which the minimum fine is \$200.

(c) As used in this section, terms have the meanings provided by K.S.A. 41-102, 41-2601 and 41-2701, and amendments thereto.

(d) It shall be a defense to a prosecution under this section if: (1) The defendant is a licensed retailer, club, drinking establishment or caterer or holds a temporary permit, or an employee thereof; (2) the defendant sold the alcoholic liquor or cereal malt beverage to the minor with reasonable cause to believe that the minor was 21 or more years of age or of legal age for the consumption of alcoholic liquor or cereal malt beverage; and (3) to purchase the alcoholic liquor or cereal malt beverage, the person exhibited to the defendant a driver's license, Kansas non-driver's identification card or other official or apparently official document, containing a photograph of the minor and purporting to establish that such minor was 21 or more years of age or of legal age for the consumption of alcoholic liquor or cereal malt beverage.

(e) This section shall not apply to the furnishing of cereal malt beverage by a parent or legal guardian to such parent's child or such guardian's ward *when such furnishing is permitted and supervised by the child or ward's parent or legal guardian.*

Sec. 2. K.S.A. 2003 Supp. 41-303 is hereby amended to read as follows: 41-303. (a) The director may license the sale of alcoholic liquor at retail in the original package on premises not located in an incorporated city for use or consumption off the premises, if such premises are located in any township having a population of more than 5,000. No such license shall be granted to any applicant unless the applicant possesses all the qualifications required of other applicants for retailers' licenses except the qualification of residence within a city. In the event that any license has been issued under the provisions of this section in a township having a population of more than 5,000, and thereafter such township population decreases or has decreased to 5,000 or less, such licenses shall continue to be valid and the licensees shall be eligible for renewal of such licenses at the appropriate time if they are otherwise qualified.

No such license shall be granted to any applicant under this section unless the board of county commissioners of the county in which such township is located adopts a resolution approving the issuance of such license. A certified copy of such resolution shall accompany the application for a license authorized by this section.

In the event that any license has been issued under the provisions of this section in a township having a population of more than 5,000, and thereafter the premises so licensed are annexed to a city wherein retail liquor licenses may be issued, such licenses shall continue to be valid and the licensees shall be eligible for renewal of such licenses at the appropriate time even though the licensees shall not reside in the cities to which the areas are annexed if the licensees are otherwise qualified and if they reside in the township in which the premises were originally located or in the city to which the premises have been annexed.

(b) *Any retail license issued prior to the effective date of this act for premises not located in an incorporated city or in a township having a population of more than 5,000 shall continue to be valid and such premises shall continue to be eligible for licensure if the board of county commissioners of the county in which the premises are located has adopted a resolution approving the issuance of such license. A certified copy of such resolution shall accompany the application for a license authorized by this subsection.*

Sec. 3. K.S.A. 2003 Supp. 41-727 is hereby amended to read as follows: 41-727. (a) Except with regard to serving of alcoholic liquor or cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a, 41-2610, 41-2652, 41-2704 and 41-2727, and amendments thereto, and subject to any rules and regulations adopted pursuant to such statutes, no person under 21 years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage except as authorized by law.

(b) Violation of this section by a person 18 or more years of age but less than 21 years of age is a class C misdemeanor for which the minimum fine is \$200.

(c) Any person less than 18 years of age who violates this section is a juvenile offender under the Kansas juvenile justice code. Upon adjudication thereof and as a condition of disposition, the court shall require the offender to pay a fine of not less than \$200 nor more than \$500.

(d) In addition to any other penalty provided for a violation of this section: (1) The court may order the offender to do either or both of the following:

(A) Perform 40 hours of public service; or

(B) attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans; and

(2) *upon a first conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 30 days. The court shall order that for any offender who has not been issued a driver's license by the division prior to sentencing of the offender for a violation of this section, the division shall not issue such offender a driver's license for 30 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 30 days whether or not that person has a driver's license.*

(3) *Upon a second conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 90 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 90 days whether or not that person has a driver's license.*

(4) *Upon a third or subsequent conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for one year. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for one year whether or not that person has a driver's license.*

(e) This section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian.

(f) Any city ordinance or county resolution prohibiting the acts prohibited by this section shall provide a minimum penalty which is not less than the minimum penalty prescribed by this section.

(g) This section shall be part of and supplemental to the Kansas liquor control act.

New Sec. 4. (a) Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage is intentionally permitting a person's residence or any land, building, structure or room owned, occupied or procured by such person to be used by an invitee of such person or an invitee of such person's child or ward, in a manner that results in the possession or consumption therein of alcoholic liquor or cereal malt beverages by persons under the age of 18.

(b) Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage is a class B person misdemeanor, for which the minimum fine is \$200.

(c) As used in this section, terms have the meanings provided by K.S.A. 41-102, and amendments thereto, except for the purposes of this section, "minor" means a person under the age of 18.

(d) This section shall be a part of and supplemental to the Kansas criminal code.

Sec. 5. K.S.A. 41-303 and K.S.A. 2003 Supp. 21-3610 and 41-727 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 16, 2004.
