

By: Eissler

H.B. No. 36

A BILL TO BE ENTITLED

AN ACT

relating to the sale or service of an alcoholic beverage to a person on the person's 21st birthday; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 106, Alcoholic Beverage Code, is amended by adding Section 106.031 to read as follows:

Sec. 106.031. SALE OR SERVICE OF ALCOHOL TO PERSON ON PERSON'S 21ST BIRTHDAY. (a) The holder of a license or permit that allows the sale of alcoholic beverages for on-premises consumption commits an offense if, on the licensed or permitted premises, the license or permit holder with criminal negligence sells, serves, dispenses, or delivers an alcoholic beverage to a person on the date of the person's 21st birthday before:

(1) 7 a.m. if the person's birthday occurs on a day other than Sunday; or

(2) noon if the person's birthday occurs on Sunday.

(b) A license or permit holder who sells, serves, dispenses, or delivers an alcoholic beverage to a person on the person's 21st birthday before the time prescribed by Subsection (a) does not commit an offense if the person falsely represents that the person's 21st birthday occurred on a date before the date on which the sale or service occurs by displaying an apparently valid Texas driver's license or identification card issued by the Texas Department of Public Safety containing a physical description

1 consistent with the person's appearance for the purpose of inducing
2 the license or permit holder to sell or serve the person an
3 alcoholic beverage.

4 (c) An offense under this section is a Class A misdemeanor.

5 SECTION 2. Section 106.13(a), Alcoholic Beverage Code, is
6 amended to read as follows:

7 (a) Except as provided in Subsections (b) and (c) [~~of this~~
8 ~~section~~], the commission or administrator may cancel or suspend for
9 not more than 90 days a retail license or permit or a private club
10 registration permit if it is found, on notice and hearing, that the
11 licensee or permittee with criminal negligence sold, served,
12 dispensed, or delivered an alcoholic beverage to a minor, sold,
13 served, dispensed, or delivered an alcoholic beverage to a person
14 21 years of age earlier than the time prescribed by Section 106.031,
15 or with criminal negligence permitted a minor to violate Section
16 106.04 or 106.05 [~~of this code~~] on the licensed premises.

17 SECTION 3. Section 106.14(a), Alcoholic Beverage Code, is
18 amended to read as follows:

19 (a) For purposes of this chapter and any other provision of
20 this code relating to the sales, service, dispensing, or delivery
21 of alcoholic beverages to a person who is not a member of a private
22 club on the club premises, a minor, a person who is 21 years of age
23 on the person's 21st birthday, or an intoxicated person or the
24 consumption of alcoholic beverages by a person who is not a member
25 of a private club on the club premises, a minor, or an intoxicated
26 person, the actions of an employee shall not be attributable to the
27 employer if:

1 (1) the employer requires its employees to attend a
2 commission-approved seller training program;

3 (2) the employee has actually attended such a training
4 program; and

5 (3) the employer has not directly or indirectly
6 encouraged the employee to violate such law.

7 SECTION 4. This Act takes effect September 1, 2005.