

By: Israel

H.B. No. 1999

A BILL TO BE ENTITLED

1 AN ACT
2 relating to a violation regarding the purchase, possession, or
3 consumption of alcoholic beverages by a minor or the
4 misrepresentation of age by a minor; authorizing a civil penalty;
5 creating a criminal offense.

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

7 SECTION 1. Section 106.02, Alcoholic Beverage Code, is
8 amended to read as follows:

9 Sec. 106.02. PURCHASE OF ALCOHOL BY A MINOR. (a) Except as
10 provided by Subsection (b), a [A] minor may not purchase ~~[commits an~~
11 ~~offense if the minor purchases]~~ an alcoholic beverage.

12 (b) A minor may purchase an alcoholic beverage ~~[does not~~
13 ~~commit an offense]~~ if the minor purchases the [an] alcoholic
14 beverage under the immediate supervision of a commissioned peace
15 officer engaged in enforcing the provisions of this code.

16 ~~[(b) An offense under this section is punishable as provided~~
17 ~~by Section 106.071.]~~

18 SECTION 2. Section 106.025, Alcoholic Beverage Code, is
19 amended to read as follows:

20 Sec. 106.025. ATTEMPT TO PURCHASE ALCOHOL BY A MINOR. ~~[(a)]~~
21 A minor may not ~~[commits an offense if]~~, with specific intent to
22 violate ~~[commit an offense under]~~ Section 106.02 ~~[of this code]~~,
23 commit ~~[the minor does]~~ an act amounting to more than mere
24 preparation that tends but fails to effect the violation

1 ~~[commission of the offense]~~ intended.

2 ~~[(b) An offense under this section is punishable as provided~~
3 ~~by Section 106.071.]~~

4 SECTION 3. Section 106.04, Alcoholic Beverage Code, is
5 amended to read as follows:

6 Sec. 106.04. CONSUMPTION OF ALCOHOL BY A MINOR. (a) Except
7 as provided by Subsection (b), a [A] minor may not consume ~~[commits~~
8 ~~an offense if he consumes]~~ an alcoholic beverage.

9 (b) A minor may consume an ~~[It is an affirmative defense to~~
10 ~~prosecution under this section that the]~~ alcoholic beverage ~~[was~~
11 ~~consumed]~~ in the visible presence of the minor's adult parent,
12 guardian, or spouse.

13 (c) ~~[An offense under this section is punishable as provided~~
14 ~~by Section 106.071.]~~

15 ~~[(d)]~~ A minor who violates ~~[commits an offense under]~~ this
16 section and who has been previously convicted two ~~[twice]~~ or more
17 times of an offense ~~[offenses]~~ under Section 106.071 for a
18 violation of this section is not eligible for deferred disposition.
19 For the purposes of this subsection:

20 (1) an adjudication under Title 3, Family Code, that
21 the minor engaged in conduct described by this section is
22 considered a conviction of an offense under Section 106.071 for a
23 violation of this section; and

24 (2) an order of deferred disposition for an offense
25 alleged under Section 106.071 for a violation of this section is
26 considered a conviction of an offense under Section 106.071 ~~[this~~
27 ~~section]~~.

1 (d) A minor may not be assessed a civil penalty under
2 Section 106.0701 for a violation of this section or prosecuted for
3 an offense under Section 106.071 for a violation of this section if
4 the [~~(e) Subsection (a) does not apply to a~~] minor [~~who~~]:

5 (1) requested emergency medical assistance in
6 response to the possible alcohol overdose of the minor or another
7 person;

8 (2) was the first person to make a request for medical
9 assistance under Subdivision (1); and

10 (3) if the minor requested emergency medical
11 assistance for the possible alcohol overdose of another person:

12 (A) remained on the scene until the medical
13 assistance arrived; and

14 (B) cooperated with medical assistance and law
15 enforcement personnel.

16 SECTION 4. Section 106.05, Alcoholic Beverage Code, is
17 amended to read as follows:

18 Sec. 106.05. POSSESSION OF ALCOHOL BY A MINOR. (a) Except
19 as provided in Subsection (b) [~~of this section~~], a minor may not
20 possess [~~commits an offense if he possesses~~] an alcoholic beverage.

21 (b) A minor may possess an alcoholic beverage:

22 (1) while in the course and scope of the minor's
23 employment if the minor is an employee of a licensee or permittee
24 and the employment is not prohibited by this code;

25 (2) if the minor is in the visible presence of the
26 minor's [~~his~~] adult parent, guardian, or spouse, or other adult to
27 whom the minor has been committed by a court;

1 (3) if the minor is under the immediate supervision of
2 a commissioned peace officer engaged in enforcing the provisions of
3 this code; or

4 (4) if the beverage is lawfully provided to the minor
5 under Section 106.16.

6 (c) A minor may not be assessed a civil penalty under
7 Section 106.0701 for a violation of this section or prosecuted for
8 an offense under Section 106.071 for a violation of this section if
9 the [~~An offense under this section is punishable as provided by~~
10 ~~Section 106.071.~~

11 [~~(d) Subsection (a) does not apply to a~~] minor [~~who~~]:

12 (1) requested emergency medical assistance in
13 response to the possible alcohol overdose of the minor or another
14 person;

15 (2) was the first person to make a request for medical
16 assistance under Subdivision (1); and

17 (3) if the minor requested emergency medical
18 assistance for the possible alcohol overdose of another person:

19 (A) remained on the scene until the medical
20 assistance arrived; and

21 (B) cooperated with medical assistance and law
22 enforcement personnel.

23 SECTION 5. Section 106.07, Alcoholic Beverage Code, is
24 amended to read as follows:

25 Sec. 106.07. MISREPRESENTATION OF AGE BY A MINOR. [~~(a)~~] A
26 minor may not [~~commits an offense if he~~] falsely state [~~states~~] that
27 the minor [~~he~~] is 21 years of age or older or present [~~presents~~] any

1 document that indicates the minor [~~he~~] is 21 years of age or older
2 to a person engaged in selling or serving alcoholic beverages.

3 ~~[(b) An offense under this section is punishable as provided~~
4 ~~by Section 106.071.]~~

5 SECTION 6. Chapter 106, Alcoholic Beverage Code, is amended
6 by adding Sections 106.0701 and 106.0702 to read as follows:

7 Sec. 106.0701. CIVIL PENALTY FOR ALCOHOL-RELATED VIOLATION
8 BY MINOR. (a) A minor who violates Section 106.02, 106.025,
9 106.04, 106.05, or 106.07 is liable to the state for a civil penalty
10 in an amount not to exceed \$500.

11 (b) A judge of a municipal court of a municipality in which
12 or a justice of the peace of a county in which a violation described
13 by Subsection (a) is alleged to have occurred may hear and determine
14 the case.

15 (c) The attorney general or the prosecuting attorney in the
16 county in which the violation occurs may bring suit to recover the
17 civil penalty imposed under Subsection (a).

18 (d) A civil penalty collected under this section shall be
19 deposited in the state treasury to the credit of the general revenue
20 fund.

21 Sec. 106.0702. COMMUNITY SERVICE IN SATISFACTION OF
22 PENALTY. A person may discharge a civil penalty assessed under
23 Section 106.0701 by performing community service for not less than
24 20 or more than 40 hours.

25 SECTION 7. The heading to Section 106.071, Alcoholic
26 Beverage Code, is amended to read as follows:

27 Sec. 106.071. [~~PUNISHMENT FOR~~] ALCOHOL-RELATED OFFENSE BY

1 MINOR; PUNISHMENT.

2 SECTION 8. Sections 106.071(a), (b), and (c), Alcoholic
3 Beverage Code, are amended to read as follows:

4 (a) A minor commits [~~This section applies to~~] an offense if
5 the minor:

6 (1) has previously been assessed a civil penalty under
7 Section 106.0701 on at least two occasions; and

8 (2) subsequently violates Section 106.02, 106.025,
9 106.04, 106.05, or 106.07.

10 (b) Except as provided by Subsection (c), an offense under
11 Subsection (a) [~~to which this section applies~~] is a Class C
12 misdemeanor.

13 (c) If it is shown at the trial of the defendant that the
14 defendant is a minor who is not a child and who has been previously
15 convicted at least twice of an offense under Subsection (a) [~~to~~
16 ~~which this section applies~~], the offense is punishable by:

17 (1) a fine of not less than \$250 or more than \$2,000;

18 (2) confinement in jail for a term not to exceed 180
19 days; or

20 (3) both the fine and confinement.

21 SECTION 9. Section 106.115(a), Alcoholic Beverage Code, as
22 effective September 1, 2017, is amended to read as follows:

23 (a) On the placement of a minor on deferred disposition for
24 an offense under Section 49.02, Penal Code, or under Section
25 106.071 [~~106.02, 106.025, 106.04, 106.041, 106.05, or 106.07~~], the
26 court shall require the defendant to attend an alcohol awareness
27 program approved by the Texas Department of Licensing and

1 Regulation under this section, a drug education program approved by
2 the Department of State Health Services in accordance with Section
3 521.374, Transportation Code, or a drug and alcohol driving
4 awareness program approved by the Texas Education Agency. On
5 conviction of a minor of an offense under one or more of those
6 sections, the court, in addition to assessing a fine as provided by
7 those sections, shall require a defendant who has not been
8 previously convicted of an offense under one of those sections to
9 attend an alcohol awareness program, a drug education program, or a
10 drug and alcohol driving awareness program described by this
11 subsection. If the defendant has been previously convicted once or
12 more of an offense under one or more of those sections, the court
13 may require the defendant to attend an alcohol awareness program, a
14 drug education program, or a drug and alcohol driving awareness
15 program described by this subsection. If the defendant is younger
16 than 18 years of age, the court may require the parent or guardian
17 of the defendant to attend the program with the defendant. The
18 Texas Department of Licensing and Regulation or Texas Commission of
19 Licensing and Regulation, as appropriate:

20 (1) is responsible for the administration of the
21 certification of approved alcohol awareness programs;

22 (2) may charge a nonrefundable application fee for:

23 (A) initial certification of the approval; or

24 (B) renewal of the certification;

25 (3) shall adopt rules regarding alcohol awareness
26 programs approved under this section; and

27 (4) shall monitor, coordinate, and provide training to

1 a person who provides an alcohol awareness program.

2 SECTION 10. Articles 45.049(g) and (h), Code of Criminal
3 Procedure, are amended to read as follows:

4 (g) This subsection applies only to a defendant who is
5 charged with a traffic offense or an offense under Section 106.071,
6 Alcoholic Beverage Code, involving a violation of Section 106.05,
7 Alcoholic Beverage Code, and is a resident of this state. If under
8 Article 45.051(b)(10), Code of Criminal Procedure, the judge
9 requires the defendant to perform community service as a condition
10 of the deferral, the defendant is entitled to elect whether to
11 perform the required governmental entity or nonprofit organization
12 community service in:

13 (1) the county in which the court is located; or

14 (2) the county in which the defendant resides, but
15 only if the entity or organization agrees to:

16 (A) supervise the defendant in the performance of
17 the defendant's community service work; and

18 (B) report to the court on the defendant's
19 community service work.

20 (h) This subsection applies only to a defendant charged with
21 an offense under Section 106.071, Alcoholic Beverage Code,
22 involving a violation of Section 106.05, Alcoholic Beverage Code,
23 who, under Subsection (g), elects to perform the required community
24 service in the county in which the defendant resides. The community
25 service must comply with Sections 106.071(d) and (e), Alcoholic
26 Beverage Code, except that if the educational programs or services
27 described by Section 106.071(e) are not available in the county of

1 the defendant's residence, the court may order community service
2 that it considers appropriate for rehabilitative purposes.

3 SECTION 11. Section 53.03(g), Family Code, is amended to
4 read as follows:

5 (g) Prosecution may not be deferred for a child alleged to
6 have engaged in conduct that:

7 (1) is an offense under Section 49.04, 49.05, 49.06,
8 49.07, or 49.08, Penal Code; or

9 (2) is a third or subsequent offense under Section
10 106.071, Alcoholic Beverage Code, involving a violation of Section
11 106.04 or 106.041, Alcoholic Beverage Code.

12 SECTION 12. Section 38.02(e), Penal Code, is amended to
13 read as follows:

14 (e) If conduct that constitutes an offense under this
15 section also constitutes a violation of [~~an offense under~~] Section
16 106.07, Alcoholic Beverage Code, the actor may only be, as
17 applicable:

18 (1) assessed a civil penalty under Section 106.0701,
19 Alcoholic Beverage Code; or

20 (2) prosecuted [~~only~~] under Section 106.071,
21 Alcoholic Beverage Code [~~106.07~~].

22 SECTION 13. Section 49.02(e), Penal Code, is amended to
23 read as follows:

24 (e) An offense under this section committed by a person
25 younger than 21 years of age is punishable in the same manner as if
26 the minor committed an offense under [~~to which~~] Section 106.071,
27 Alcoholic Beverage Code [~~, applies~~].

1 SECTION 14. Section 521.342(a), Transportation Code, is
2 amended to read as follows:

3 (a) Except as provided by Section 521.344, the license of a
4 person who was under 21 years of age at the time of the offense,
5 other than an offense classified as a misdemeanor punishable by
6 fine only, is automatically suspended on conviction of:

7 (1) an offense under Section 49.04, 49.045, or 49.07,
8 Penal Code, committed as a result of the introduction of alcohol
9 into the body;

10 (2) an offense under the Alcoholic Beverage Code,
11 other than an offense under [~~to which~~] Section 106.071 of that code
12 [~~applies~~], involving the manufacture, delivery, possession,
13 transportation, or use of an alcoholic beverage;

14 (3) a misdemeanor offense under Chapter 481, Health
15 and Safety Code, for which Subchapter P does not require the
16 automatic suspension of the license;

17 (4) an offense under Chapter 483, Health and Safety
18 Code, involving the manufacture, delivery, possession,
19 transportation, or use of a dangerous drug; or

20 (5) an offense under Chapter 485, Health and Safety
21 Code, involving the manufacture, delivery, possession,
22 transportation, or use of an abusable volatile chemical.

23 SECTION 15. Section 521.451(c), Transportation Code, is
24 amended to read as follows:

25 (c) If conduct that constitutes an offense under Subsection
26 (a) also constitutes a violation of [~~an offense under~~] Section
27 106.07, Alcoholic Beverage Code, the actor may only be, as

1 applicable:

2 (1) assessed a civil penalty under Section 106.0701,
3 Alcoholic Beverage Code; or

4 (2) prosecuted [~~only~~] under Section 106.071 [~~106.07~~],
5 Alcoholic Beverage Code.

6 SECTION 16. The changes in law made by this Act apply only
7 to an offense committed or conduct that occurs on or after the
8 effective date of this Act. An offense committed or conduct that
9 occurs before the effective date of this Act is governed by the law
10 in effect on the date the offense was committed or the conduct
11 occurred, and the former law is continued in effect for that
12 purpose. For purposes of this section, an offense was committed or
13 conduct occurred before the effective date of this Act if any
14 element of the offense or conduct occurred before that date.

15 SECTION 17. This Act takes effect September 1, 2017.