

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1277
Committee Substitute Favorable 4/12/07

Short Title: Drivers License Revocation for ABC Violation.

(Public)

Sponsors:

Referred to:

April 3, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE REVOCATION OF THE DRIVERS LICENSE OF ANY PERSON CONVICTED OF GIVING ALCOHOLIC BEVERAGES TO, OR AIDING AND ABETTING THE PURCHASE OR POSSESSION OF ALCOHOLIC BEVERAGES BY, AN UNDERAGE PERSON AND TO ALLOW FOR A LIMITED DRIVING PRIVILEGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-302 reads as rewritten:

"§ 18B-302. Sale to or purchase by underage persons.

(a) Sale. – It shall be unlawful for any person to:

- (1) Sell ~~or give~~ malt beverages or unfortified wine to anyone less than 21 years old; or
- (2) Sell ~~or give~~ fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.

(a1) Give. – It shall be unlawful for any person to:

- (1) Give malt beverages or unfortified wine to anyone less than 21 years old; or
- (2) Give fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.

(b) Purchase, Possession, or Consumption. – It shall be unlawful for:

- (1) A person less than 21 years old to purchase, to attempt to purchase, or to possess malt beverages or unfortified wine; or
- (2) A person less than 21 years old to purchase, to attempt to purchase, or to possess fortified wine, spirituous liquor, or mixed beverages; or
- (3) A person less than 21 years old to consume any alcoholic beverage.

(c) Aider and Abettor.

- (1) By Underage Person. – Any person who is under the lawful age to purchase and who aids or abets another in violation of subsection (a) or (b) of this section shall be guilty of a Class 2 misdemeanor.

1 (2) By Person over Lawful Age. – Any person who is over the lawful age
2 to purchase and who aids or abets another in violation of subsection (a)
3 or (b) of this section shall be guilty of a Class 1 misdemeanor.

4 (d) Defense. – It shall be a defense to a violation of subsection (a) of this section
5 if the seller:

6 (1) Shows that the purchaser produced a driver's license, a special
7 identification card issued under G.S. 20-37.7, a military identification
8 card, or a passport, showing his age to be at least the required age for
9 purchase and bearing a physical description of the person named on
10 the card reasonably describing the purchaser; or

11 (2) Produces evidence of other facts that reasonably indicated at the time
12 of sale that the purchaser was at least the required age.

13 (3) Shows that at the time of purchase, the purchaser utilized a biometric
14 identification system that demonstrated (i) the purchaser's age to be at
15 least the required age for the purchase and (ii) the purchaser had
16 previously registered with the seller or seller's agent a drivers license, a
17 special identification card issued under G.S. 20-377.7, a military
18 identification card, or a passport showing the purchaser's date of birth
19 and bearing a physical description of the person named on the
20 document.

21 (e) Fraudulent Use of Identification. – It shall be unlawful for any person to enter
22 or attempt to enter a place where alcoholic beverages are sold or consumed, or to obtain
23 or attempt to obtain alcoholic beverages, or to obtain or attempt to obtain permission to
24 purchase alcoholic beverages, in violation of subsection (b) of this section, by using or
25 attempting to use any of the following:

26 (1) A fraudulent or altered drivers license.

27 (2) A fraudulent or altered identification document other than a drivers
28 license.

29 (3) A drivers license issued to another person.

30 (4) An identification document other than a drivers license issued to
31 another person.

32 (5) Any other form or means of identification that indicates or symbolizes
33 that the person is not prohibited from purchasing or possessing
34 alcoholic beverages under this section.

35 (f) Allowing Use of Identification. – It shall be unlawful for any person to permit
36 the use of the person's drivers license or any other form of identification of any kind
37 issued or given to the person by any other person who violates or attempts to violate
38 subsection (b) of this section.

39 (g) Conviction Report Sent to Division of Motor Vehicles. – The court shall file a
40 conviction report with the Division of Motor Vehicles indicating the name of the person
41 convicted and any other information requested by the Division if the person is convicted
42 ~~of:~~ of any of the following:

43 (1) A violation of subsection (e) or (f) of this ~~section;~~ or section.

1 (2) A violation of ~~subdivision (e)(1)~~ subsection (c) of this section; ~~or~~
2 section.

3 (3) A violation of subsection (b) of this section, if the violation occurred
4 while the person was purchasing or attempting to purchase an
5 alcoholic beverage.

6 (4) A violation of subsection (a1) of this section.

7 Upon receipt of a conviction report, the Division shall revoke the person's license as
8 required by G.S. 20-17.3.

9 (h) Handling in Course of Employment. – Nothing in this section shall be
10 construed to prohibit an underage person from selling, transporting, possessing or
11 dispensing alcoholic beverages in the course of employment, if the employment of the
12 person for that purpose is lawful under applicable youth employment statutes and
13 Commission rules.

14 (i) Purchase, Possession, or Consumption by 19 or 20-Year Old. – A violation of
15 subdivision (b)(1) or (b)(3) of this section by a person who is 19 or 20 years old is a
16 Class 3 misdemeanor.

17 (j) Notwithstanding any other provisions of law, a law enforcement officer may
18 require any person the officer has probable cause to believe is under age 21 and has
19 consumed alcohol to submit to an alcohol screening test using a device approved by the
20 Department of Health and Human Services. The results of any screening device
21 administered in accordance with the rules of the Department of Health and Human
22 Services shall be admissible in any court or administrative proceeding. A refusal to
23 submit to an alcohol screening test shall be admissible in any court or administrative
24 proceeding.

25 (k) Notwithstanding the provisions in this section, it shall not be unlawful for a
26 person less than 21 years old to consume unfortified wine or fortified wine during
27 participation in an exempted activity under G.S. 18B-103(4), (8), or (11)."

28 **SECTION 2.** G.S. 20-17.3 reads as rewritten:

29 "**§ 20-17.3. Revocation for underage purchasers of alcohol.**

30 The Division shall revoke for one year the driver's license of any person who has
31 been convicted of violating any of the following:

32 (1) ~~G.S. 18B-302(e)(1), G.S. 18B-302(c), (e), or (f); or (f).~~

33 (2) G.S. 18B-302(b), if the violation occurred while the person was
34 purchasing or attempting to purchase an alcoholic beverage.

35 (3) G.S. 18B-302(a1).

36 If the person's license is currently suspended or revoked, then the revocation under this
37 section shall begin at the termination of that revocation. A person whose license is
38 revoked under this section for a violation of G.S. 18B-302(a1) or G.S. 18B-302(c) shall
39 be eligible for a limited driving privilege under G.S. 20-179.3."

40 **SECTION 3.** This act becomes effective December 1, 2007, and applies to
41 offenses committed on or after that date.