



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB4568**

Introduced 1/18/2008, by Rep. Dan Brady

#### SYNOPSIS AS INTRODUCED:

235 ILCS 5/6-16

from Ch. 43, par. 131

Amends the Liquor Control Act of 1934. In a provision concerning the penalty for the sale or delivery of alcoholic liquor to another person under the age of 21, provides that anyone who violates the provision is guilty of a Class A misdemeanor and the sentence shall include, but shall not be limited to a fine of not less than \$1,000 (instead of \$500) for a first offense and not less than \$3,000 (instead of \$2,000) for a second or subsequent offense. Provides that any person who knowingly violates the provision is guilty of a Class 3 (instead of Class 4) felony if a death occurs as the result of the violation. Effective immediately.

LRB095 17882 KBJ 43962 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning liquor.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Liquor Control Act of 1934 is amended by  
5 changing Section 6-16 as follows:

6 (235 ILCS 5/6-16) (from Ch. 43, par. 131)

7 Sec. 6-16. Prohibited sales and possession.

8 (a) (i) No licensee nor any officer, associate, member,  
9 representative, agent, or employee of such licensee shall sell,  
10 give, or deliver alcoholic liquor to any person under the age  
11 of 21 years or to any intoxicated person, except as provided in  
12 Section 6-16.1. (ii) No express company, common carrier, or  
13 contract carrier nor any representative, agent, or employee on  
14 behalf of an express company, common carrier, or contract  
15 carrier that carries or transports alcoholic liquor for  
16 delivery within this State shall knowingly give or knowingly  
17 deliver to a residential address any shipping container clearly  
18 labeled as containing alcoholic liquor and labeled as requiring  
19 signature of an adult of at least 21 years of age to any person  
20 in this State under the age of 21 years. An express company,  
21 common carrier, or contract carrier that carries or transports  
22 such alcoholic liquor for delivery within this State shall  
23 obtain a signature at the time of delivery acknowledging

1 receipt of the alcoholic liquor by an adult who is at least 21  
2 years of age. At no time while delivering alcoholic beverages  
3 within this State may any representative, agent, or employee of  
4 an express company, common carrier, or contract carrier that  
5 carries or transports alcoholic liquor for delivery within this  
6 State deliver the alcoholic liquor to a residential address  
7 without the acknowledgment of the consignee and without first  
8 obtaining a signature at the time of the delivery by an adult  
9 who is at least 21 years of age. A signature of a person on file  
10 with the express company, common carrier, or contract carrier  
11 does not constitute acknowledgement of the consignee. Any  
12 express company, common carrier, or contract carrier that  
13 transports alcoholic liquor for delivery within this State that  
14 violates this item (ii) of this subsection (a) by delivering  
15 alcoholic liquor without the acknowledgement of the consignee  
16 and without first obtaining a signature at the time of the  
17 delivery by an adult who is at least 21 years of age is guilty  
18 of a business offense for which the express company, common  
19 carrier, or contract carrier that transports alcoholic liquor  
20 within this State shall be fined not more than \$1,001 for a  
21 first offense, not more than \$5,000 for a second offense, and  
22 not more than \$10,000 for a third or subsequent offense. An  
23 express company, common carrier, or contract carrier shall be  
24 held vicariously liable for the actions of its representatives,  
25 agents, or employees. For purposes of this Act, in addition to  
26 other methods authorized by law, an express company, common

1 carrier, or contract carrier shall be considered served with  
2 process when a representative, agent, or employee alleged to  
3 have violated this Act is personally served. Each shipment of  
4 alcoholic liquor delivered in violation of this item (ii) of  
5 this subsection (a) constitutes a separate offense. (iii) No  
6 person, after purchasing or otherwise obtaining alcoholic  
7 liquor, shall sell, give, or deliver such alcoholic liquor to  
8 another person under the age of 21 years, except in the  
9 performance of a religious ceremony or service. Except as  
10 otherwise provided in item (ii), any express company, common  
11 carrier, or contract carrier that transports alcoholic liquor  
12 within this State that violates the provisions of item (i),  
13 (ii), or (iii) of this paragraph of this subsection (a) is  
14 guilty of a Class A misdemeanor and the sentence shall include,  
15 but shall not be limited to, a fine of not less than \$500. Any  
16 person who violates the provisions of item (iii) of this  
17 paragraph of this subsection (a) is guilty of a Class A  
18 misdemeanor and the sentence shall include, but shall not be  
19 limited to a fine of not less than \$1,000 ~~\$500~~ for a first  
20 offense and not less than \$3,000 ~~\$2,000~~ for a second or  
21 subsequent offense. Any person who knowingly violates the  
22 provisions of item (iii) of this paragraph of this subsection  
23 (a) is guilty of a Class 3 ~~4~~ felony if a death occurs as the  
24 result of the violation.

25 If a licensee or officer, associate, member,  
26 representative, agent, or employee of the licensee, or a

1 representative, agent, or employee of an express company,  
2 common carrier, or contract carrier that carries or transports  
3 alcoholic liquor for delivery within this State, is prosecuted  
4 under this paragraph of this subsection (a) for selling,  
5 giving, or delivering alcoholic liquor to a person under the  
6 age of 21 years, the person under 21 years of age who attempted  
7 to buy or receive the alcoholic liquor may be prosecuted  
8 pursuant to Section 6-20 of this Act, unless the person under  
9 21 years of age was acting under the authority of a law  
10 enforcement agency, the Illinois Liquor Control Commission, or  
11 a local liquor control commissioner pursuant to a plan or  
12 action to investigate, patrol, or conduct any similar  
13 enforcement action.

14 For the purpose of preventing the violation of this  
15 Section, any licensee, or his agent or employee, or a  
16 representative, agent, or employee of an express company,  
17 common carrier, or contract carrier that carries or transports  
18 alcoholic liquor for delivery within this State, shall refuse  
19 to sell, deliver, or serve alcoholic beverages to any person  
20 who is unable to produce adequate written evidence of identity  
21 and of the fact that he or she is over the age of 21 years, if  
22 requested by the licensee, agent, employee, or representative.

23 Adequate written evidence of age and identity of the person  
24 is a document issued by a federal, state, county, or municipal  
25 government, or subdivision or agency thereof, including, but  
26 not limited to, a motor vehicle operator's license, a

1 registration certificate issued under the Federal Selective  
2 Service Act, or an identification card issued to a member of  
3 the Armed Forces. Proof that the defendant-licensee, or his  
4 employee or agent, or the representative, agent, or employee of  
5 the express company, common carrier, or contract carrier that  
6 carries or transports alcoholic liquor for delivery within this  
7 State demanded, was shown and reasonably relied upon such  
8 written evidence in any transaction forbidden by this Section  
9 is an affirmative defense in any criminal prosecution therefor  
10 or to any proceedings for the suspension or revocation of any  
11 license based thereon. It shall not, however, be an affirmative  
12 defense if the agent or employee accepted the written evidence  
13 knowing it to be false or fraudulent. If a false or fraudulent  
14 Illinois driver's license or Illinois identification card is  
15 presented by a person less than 21 years of age to a licensee  
16 or the licensee's agent or employee for the purpose of  
17 ordering, purchasing, attempting to purchase, or otherwise  
18 obtaining or attempting to obtain the serving of any alcoholic  
19 beverage, the law enforcement officer or agency investigating  
20 the incident shall, upon the conviction of the person who  
21 presented the fraudulent license or identification, make a  
22 report of the matter to the Secretary of State on a form  
23 provided by the Secretary of State.

24 However, no agent or employee of the licensee or employee  
25 of an express company, common carrier, or contract carrier that  
26 carries or transports alcoholic liquor for delivery within this

1 State shall be disciplined or discharged for selling or  
2 furnishing liquor to a person under 21 years of age if the  
3 agent or employee demanded and was shown, before furnishing  
4 liquor to a person under 21 years of age, adequate written  
5 evidence of age and identity of the person issued by a federal,  
6 state, county or municipal government, or subdivision or agency  
7 thereof, including but not limited to a motor vehicle  
8 operator's license, a registration certificate issued under  
9 the Federal Selective Service Act, or an identification card  
10 issued to a member of the Armed Forces. This paragraph,  
11 however, shall not apply if the agent or employee accepted the  
12 written evidence knowing it to be false or fraudulent.

13 Any person who sells, gives, or furnishes to any person  
14 under the age of 21 years any false or fraudulent written,  
15 printed, or photostatic evidence of the age and identity of  
16 such person or who sells, gives or furnishes to any person  
17 under the age of 21 years evidence of age and identification of  
18 any other person is guilty of a Class A misdemeanor and the  
19 person's sentence shall include, but shall not be limited to, a  
20 fine of not less than \$500.

21 Any person under the age of 21 years who presents or offers  
22 to any licensee, his agent or employee, any written, printed or  
23 photostatic evidence of age and identity that is false,  
24 fraudulent, or not actually his or her own for the purpose of  
25 ordering, purchasing, attempting to purchase or otherwise  
26 procuring or attempting to procure, the serving of any

1 alcoholic beverage, who falsely states in writing that he or  
2 she is at least 21 years of age when receiving alcoholic liquor  
3 from a representative, agent, or employee of an express  
4 company, common carrier, or contract carrier, or who has in his  
5 or her possession any false or fraudulent written, printed, or  
6 photostatic evidence of age and identity, is guilty of a Class  
7 A misdemeanor and the person's sentence shall include, but  
8 shall not be limited to, the following: a fine of not less than  
9 \$500 and at least 25 hours of community service. If possible,  
10 any community service shall be performed for an alcohol abuse  
11 prevention program.

12 Any person under the age of 21 years who has any alcoholic  
13 beverage in his or her possession on any street or highway or  
14 in any public place or in any place open to the public is  
15 guilty of a Class A misdemeanor. This Section does not apply to  
16 possession by a person under the age of 21 years making a  
17 delivery of an alcoholic beverage in pursuance of the order of  
18 his or her parent or in pursuance of his or her employment.

19 (a-1) It is unlawful for any parent or guardian to  
20 knowingly permit his or her residence to be used by an invitee  
21 of the parent's child or the guardian's ward, if the invitee is  
22 under the age of 21, in a manner that constitutes a violation  
23 of this Section. A parent or guardian is deemed to have  
24 knowingly permitted his or her residence to be used in  
25 violation of this Section if he or she knowingly authorizes,  
26 enables, or permits consumption of alcoholic liquor by underage



1 invitees. Any person who violates this subsection (a-1) is  
2 guilty of a Class A misdemeanor and the person's sentence shall  
3 include, but shall not be limited to, a fine of not less than  
4 \$500. Where a violation of this subsection (a-1) directly or  
5 indirectly results in great bodily harm or death to any person,  
6 the person violating this subsection shall be guilty of a Class  
7 4 felony. Nothing in this subsection (a-1) shall be construed  
8 to prohibit the giving of alcoholic liquor to a person under  
9 the age of 21 years in the performance of a religious ceremony  
10 or service in observation of a religious holiday.

11 (b) Except as otherwise provided in this Section whoever  
12 violates this Section shall, in addition to other penalties  
13 provided for in this Act, be guilty of a Class A misdemeanor.

14 (c) Any person shall be guilty of a Class A misdemeanor  
15 where he or she knowingly permits a gathering at a residence  
16 which he or she occupies of two or more persons where any one  
17 or more of the persons is under 21 years of age and the  
18 following factors also apply:

19 (1) the person occupying the residence knows that any  
20 such person under the age of 21 is in possession of or is  
21 consuming any alcoholic beverage; and

22 (2) the possession or consumption of the alcohol by the  
23 person under 21 is not otherwise permitted by this Act; and

24 (3) the person occupying the residence knows that the  
25 person under the age of 21 leaves the residence in an  
26 intoxicated condition.

1           For the purposes of this subsection (c) where the residence  
2 has an owner and a tenant or lessee, there is a rebuttable  
3 presumption that the residence is occupied only by the tenant  
4 or lessee.

5           (d) Any person who rents a hotel or motel room from the  
6 proprietor or agent thereof for the purpose of or with the  
7 knowledge that such room shall be used for the consumption of  
8 alcoholic liquor by persons under the age of 21 years shall be  
9 guilty of a Class A misdemeanor.

10          (e) Except as otherwise provided in this Act, any person  
11 who has alcoholic liquor in his or her possession on public  
12 school district property on school days or at events on public  
13 school district property when children are present is guilty of  
14 a petty offense, unless the alcoholic liquor (i) is in the  
15 original container with the seal unbroken and is in the  
16 possession of a person who is not otherwise legally prohibited  
17 from possessing the alcoholic liquor or (ii) is in the  
18 possession of a person in or for the performance of a religious  
19 service or ceremony authorized by the school board.

20          (Source: P.A. 95-563, eff. 8-31-07.)

21          Section 99. Effective date. This Act takes effect upon  
22 becoming law.