

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE BILL 1277  
Committee Substitute Favorable 4/12/07  
Committee Substitute #2 Favorable 5/9/07  
Senate Judiciary II (Criminal) Committee Substitute Adopted 7/16/07

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 (1) By Underage Person. – Any person who is under the lawful age to  
2 purchase and who aids or abets another in violation of subsection  
3 ~~(a)(a), (a1),~~ or (b) of this section shall be guilty of a Class 2  
4 misdemeanor.
- 5 (2) By Person over Lawful Age. – Any person who is over the lawful age  
6 to purchase and who aids or abets another in violation of subsection  
7 ~~(a)(a), (a1),~~ or (b) of this section shall be guilty of a Class 1  
8 misdemeanor.
- 9 (d) Defense. – It shall be a defense to a violation of subsection (a) of this section  
10 if the seller:
- 11 (1) Shows that the purchaser produced a driver's license, a special  
12 identification card issued under G.S. 20-37.7, a military identification  
13 card, or a passport, showing his age to be at least the required age for  
14 purchase and bearing a physical description of the person named on  
15 the card reasonably describing the purchaser; or
- 16 (2) Produces evidence of other facts that reasonably indicated at the time  
17 of sale that the purchaser was at least the required age.
- 18 (3) Shows that at the time of purchase, the purchaser utilized a biometric  
19 identification system that demonstrated (i) the purchaser's age to be at  
20 least the required age for the purchase and (ii) the purchaser had  
21 previously registered with the seller or seller's agent a drivers license, a  
22 special identification card issued under G.S. 20-377.7, a military  
23 identification card, or a passport showing the purchaser's date of birth  
24 and bearing a physical description of the person named on the  
25 document.
- 26 (e) Fraudulent Use of Identification. – It shall be unlawful for any person to enter  
27 or attempt to enter a place where alcoholic beverages are sold or consumed, or to obtain  
28 or attempt to obtain alcoholic beverages, or to obtain or attempt to obtain permission to  
29 purchase alcoholic beverages, in violation of subsection (b) of this section, by using or  
30 attempting to use any of the following:
- 31 (1) A fraudulent or altered drivers license.
- 32 (2) A fraudulent or altered identification document other than a drivers  
33 license.
- 34 (3) A drivers license issued to another person.
- 35 (4) An identification document other than a drivers license issued to  
36 another person.
- 37 (5) Any other form or means of identification that indicates or symbolizes  
38 that the person is not prohibited from purchasing or possessing  
39 alcoholic beverages under this section.
- 40 (f) Allowing Use of Identification. – It shall be unlawful for any person to permit  
41 the use of the person's drivers license or any other form of identification of any kind  
42 issued or given to the person by any other person who violates or attempts to violate  
43 subsection (b) of this section.

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

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

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

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

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

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

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

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

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

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

33 **SECTION 2.** G.S. 18B-302.1(a) reads as rewritten:

34 "(a) A violation of ~~G.S. 18B-302(a)~~ G.S. 18B-302(a) or (a1) is a Class 1  
35 misdemeanor. Notwithstanding the provisions of G.S. 15A-1340.23, if the court  
36 imposes a sentence that does not include an active punishment, the court must include  
37 among the conditions of probation a requirement that the person pay a fine of at least  
38 two hundred fifty dollars (\$250.00) as authorized by G.S. 15A-1343(b)(9) and a  
39 requirement that the person complete at least 25 hours of community service, as  
40 authorized by G.S. 15A-1343(b1)(6). If the person has a previous conviction of this  
41 offense in the four years immediately preceding the date of the current offense, and the  
42 court imposes a sentence that does not include an active punishment, the court must  
43 include among the conditions of probation a requirement that the person pay a fine of at  
44 least five hundred dollars (\$500.00) as authorized by G.S. 15A-1343(b)(9) and a

1 requirement that the person complete at least 150 hours of community service, as  
2 authorized by G.S. 15A-1343(b1)(6). Conviction for a violation of G.S. 18B-302(a1)  
3 shall not result in the assessment of insurance points."

4 **SECTION 3.** G.S. 20-17.3 reads as rewritten:

5 "**§ 20-17.3. Revocation for underage purchasers of alcohol.**

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

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

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

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

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

16 **SECTION 4.** This act becomes effective December 1, 2007, and applies to  
17 offenses committed on or after that date.