

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1277
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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)."

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

4 "**§ 20-17.3. Revocation for underage purchasers of alcohol.**

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

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

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

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

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

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