

JAN 21 2011

A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR VIOLATIONS INVOLVING MINORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that minors faced with a
2 medical emergency as a result of excess drinking of alcohol,
3 particularly in groups, often hesitate to call for help because
4 of the fear of facing legal charges related to alcohol
5 possession and use by a minor. Providing immunity under these
6 limited circumstances has proven to be an effective means of
7 saving lives by encouraging young people to call for help. This
8 Act helps to ensure the timely receipt of medical treatment by
9 minors who need it.

10 The purpose of this Act is to provide minors with immunity
11 from prosecution for the consumption, purchase, or possession of
12 liquor under limited circumstances where a minor summons medical
13 treatment for another minor who requires medical treatment as a
14 result of consuming liquor.

15 SECTION 2. Section 281-101.5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§281-101.5 Prohibitions involving minors; penalty;**
18 **immunity.** (a) Any adult who provides or purchases liquor for



1 consumption or use by a person under twenty-one years of age
2 shall be guilty of the offense under section 712-1250.5.

3 (b) No minor shall consume or purchase liquor and no minor
4 shall consume or have liquor in the minor's possession or
5 custody in any public place, public gathering, or public
6 amusement, at any public beach or public park, or in any motor
7 vehicle on a public highway; provided that notwithstanding any
8 other law to the contrary, this subsection shall not apply to:

9 (1) Possession or custody of liquor by a minor in the
10 course of delivery, pursuant to the direction of the
11 minor's employer lawfully engaged in business
12 necessitating the delivery;

13 (2) Possession, custody, or consumption of liquor by a
14 minor in connection with the minor's authorized
15 participation in religious ceremonies requiring such
16 possession, custody, or consumption; or

17 (3) Any person between the ages of eighteen and twenty,
18 who is participating in a controlled purchase as part
19 of a law enforcement activity or a study authorized by
20 the department of health to determine the level of
21 incidence of liquor sales to minors.



1 (c) No minor shall falsify any identification or use any
2 false identification or identification of another person or of a
3 fictitious person for the purpose of buying or attempting to buy
4 liquor or for the purpose of obtaining employment to sell or
5 serve liquor on licensed premises.

6 (d) Any person under age eighteen who violates this
7 section shall be subject to the jurisdiction of the family
8 court. Any person age eighteen to twenty-one who violates
9 subsection (b) or (c) shall be guilty of a petty misdemeanor.
10 The court shall order that any person under twenty-one years of
11 age found to be in violation of this section shall have, in
12 addition to any other disposition or sentencing provision
13 permitted by law, the person's license to operate a motor
14 vehicle, or the person's ability to obtain a license to operate
15 a motor vehicle, suspended as follows:

16 (1) For licensed drivers, the driver's license shall be
17 suspended for not less than one hundred and eighty
18 days with exceptions to allow, at the discretion of
19 the sentencing court, driving to and from school,
20 school-sponsored activities, and employment;

21 (2) For persons with a provisional license, the
22 provisional license shall be suspended for not less



1 than one hundred and eighty days with exceptions to
2 allow, at the discretion of the sentencing court,
3 driving to and from school, school-sponsored
4 activities, and employment;

5 (3) For persons with an instruction permit, the
6 instruction permit shall be suspended for not less
7 than one hundred [~~and~~] eighty days with exceptions to
8 allow, at the discretion of the sentencing court,
9 driving to and from school, school-sponsored
10 activities, and employment; or

11 (4) For persons not licensed to drive, eligibility to
12 obtain a driver's license, provisional license, or
13 instruction permit shall be suspended until the age of
14 seventeen or for one hundred and eighty days, at the
15 discretion of the court; and

16 (5) Chapter 571 notwithstanding, in any case where a
17 person under the age of eighteen violates this
18 section, the family court judge may suspend the
19 driver's license, provisional license, or instruction
20 permit, or suspend the eligibility to obtain a
21 driver's license, provisional license, or instruction
22 permit in accordance with this section;



1 provided that the requirement to provide proof of financial
2 responsibility pursuant to section 287-20 shall not be based
3 upon a sentence imposed under paragraphs (1) and (2). In
4 addition, all persons, whether or not licensed, found to be in
5 violation of this section shall be sentenced to seventy-five
6 hours of community service work, and an eight to twelve hour
7 program of alcohol education and counseling the costs of which
8 shall be borne by the offender or the offender's parent or
9 guardian.

10 (e) Notwithstanding any other provision of this section,
11 if a minor:

12 (1) Summons medical treatment for another minor who
13 requires the medical treatment as a result of
14 consuming liquor;

15 (2) Remains on the scene with the minor who is in need of
16 medical treatment until the medical treatment is
17 administered to the minor; and

18 (3) Cooperates with medical assistance and law enforcement
19 personnel on the scene,

20 then the minor summoning medical treatment and the minor who has
21 received medical treatment shall be immune from prosecution
22 under subsections (b) and (d). The immunity from prosecution



1 conferred under this subsection may also apply to one or two
 2 other minors acting in concert with the minor summoning medical
 3 treatment, if the other minors comply with paragraphs (2) and
 4 (3).

5 [~~e~~] (f) As used in this section, "consume" or
 6 "consumption" includes the ingestion of liquor."

7 SECTION 3. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 4. This Act does not affect rights and duties that
 10 matured, penalties that were incurred, and proceedings that were
 11 begun before its effective date.

12 SECTION 5. This Act shall take effect upon its approval.
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INTRODUCED BY:



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Report Title:

Intoxicating Liquor; Minors; Immunity From Prosecution

Description:

Establishes an immunity from prosecution for consumption of intoxicating liquor by a minor if the minor summons medical treatment for another minor who requires such treatment as a result of consuming liquor. Also provides that immunity may be provided to the intoxicated minor and one or two other minors assisting the summoning minor.

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