

ACT 203

S.B. NO. 706

A Bill for an Act Relating to Intoxicating Liquor Violations Involving Minors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 281-101.5, Hawaii Revised Statutes, is amended to read as follows:

“§281-101.5 Prohibitions involving minors; penalty. (a) ~~Ne]~~ Any adult ~~[shall provide or purchase]~~ who provides or purchases liquor for consumption or use by a person under twenty-one years of age[-] shall be guilty of the offense under section 712-1250.5.

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

- (1) Possession or custody of liquor by a minor in the course of delivery, pursuant to the direction of the minor's employer lawfully engaged in business necessitating the delivery;
- (2) Possession or custody of liquor by a minor in connection with the minor's authorized participation in religious ceremonies requiring the possession or custody; or
- (3) Any person between the ages of eighteen and twenty, who is participating in a controlled purchase as part of a law enforcement activity or a study authorized by the department of health to determine the level of incidence of liquor sales to minors.

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

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

- (1) For licensed drivers, the driver's license shall be suspended for not less than one hundred and eighty days with exceptions to allow, at the discretion of the sentencing court, driving to and from school, school-sponsored activities, and employment;
- (2) For persons with a provisional license, the provisional license shall be suspended for not less than one hundred and eighty days with exceptions to allow, at the discretion of the sentencing court, driving to and from school, school-sponsored activities, and employment;
- (3) For persons with an instruction permit, the instruction permit shall be suspended for not less than one hundred and eighty days with exceptions to allow, at the discretion of the sentencing court, driving to and from school, school-sponsored activities, and employment; or
- (4) For persons not licensed to drive, eligibility to obtain a driver's license, provisional license, or instruction permit shall be suspended until the age of seventeen or for one hundred and eighty days, at the discretion of the court; and
- (5) Chapter 571 notwithstanding, in any case where a person under the age of eighteen violates this section, the family court judge may suspend the driver's license, provisional license, or instruction permit, or suspend the eligibility to obtain a driver's license, provisional license, or instruction permit in accordance with this section;

provided that the requirement to provide proof of financial responsibility pursuant to section 287-20 shall not be based upon a sentence imposed under paragraphs (1) and (2). In addition, all persons whether or not licensed, found to be in violation of this section shall be sentenced to seventy-five hours of community service work, and an

eight to twelve hour program of alcohol education and counseling the costs of which shall be borne by the offender or the offender's parent or guardian."

SECTION 2. Section 712-1250.5, Hawaii Revised Statutes, is amended to read as follows:

"§712-1250.5 Promoting intoxicating liquor to a [minor] person under the age of twenty-one.¹ (1) A person, including any licensee as defined in section 281-1, commits the offense of promoting intoxicating liquor to a [minor] person under the age of twenty-one if [he] the person knowingly:

- (a) Sells or offers for sale, influences the sale, serves, delivers, or gives to a person intoxicating liquor, and the person receiving the intoxicating liquor is a [minor; or] person under the age of twenty-one; or
- (b) Permits a person to possess intoxicating liquor while on property under his control, and the person possessing the intoxicating liquor is a [minor.] person under the age of twenty-one.
- (2) It is a defense to a prosecution for promoting intoxicating liquor to a [minor that:] person under the age of twenty-one that:

- (a) The intoxicating liquor provided to the [minor] person under the age of twenty-one was an ingredient in a medicine prescribed by a licensed physician for medical treatment of the [minor;] person under the age of twenty-one; [or]
- (b) The intoxicating liquor was provided to the [minor] person under the age of twenty-one as part of a ceremony of a recognized religion; [or]
- (c) The defendant provided the intoxicating liquor to the [minor] person under the age of twenty-one with the belief, which was reasonable under the circumstances, that the [minor] person under the age of twenty-one had attained the age of twenty-one; [or]
- (d) The defendant provided the intoxicating liquor to the [minor] person under the age of twenty-one with the express consent of the parent or legal guardian and with the belief, which was reasonable under the circumstances, that the [minor] person under the age of twenty-one would not consume any portion of the substance; [or]
- (e) The defendant provided the intoxicating liquor to the [minor] person under the age of twenty-one with the express consent of the parent or legal guardian and with the belief, which was reasonable under the circumstances, that the [minor] person under the age of twenty-one would consume the substance only in the presence of the parent or legal guardian; or
- (f) The intoxicating liquor was possessed by the [minor] person under the age of twenty-one to be sold or served as allowed by law.

(3) The fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character, nature, and quantity of the intoxicating liquor possessed, distributed, or sold.

The fact that the defendant distributed or sold intoxicating liquor to a [minor] person under the age of twenty-one is prima facie evidence that the defendant knew the transferee was a [minor] person under the age of twenty-one, except as provided in subsection (2)(c).

[(4) For the purposes of this section, "minor" means any person below the age of twenty-one years.]

[(5)] (4) Promoting intoxicating liquor to a [minor] person under the age of twenty-one is a misdemeanor."

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

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

SECTION 5. This Act shall take effect on January 1, 2007.

(Approved June 19, 2006.)

Note

1. Period should not be underscored.