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Senate Bill 1

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1985 Wisconsin Act 47

AN ACT to amend 48.344 (2) (c), 125.02 (intro.), 125.07 (3) (a) (intro.), 125.07 (4) (a) 3, 125.07 (4) (c) 3 and 125.08 (3) (b) 1; and to create 48.344 (2m), 125.035, 125.037, 125.07 (4) (cd), 125.08 (3) (b) 4 and (c) and 125.115 of the statutes, relating to civil and criminal liability relating to alcohol beverages and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 48.344 (2) (c) of the statutes is amended to read:

48.344 (2) (c) For a violation committed within 12 months of 2 or more previous violations, a forfeiture of not more than ~~\$150~~ \$500, revocation of the child's operating privilege as provided under s. 343.30 (6) (b) 3 or the child's participation in a supervised work program under s. 48.34 (9).

SECTION 2. 48.344 (2m) of the statutes is created to read:

48.344 (2m) For purposes of sub. (2), all violations arising out of the same incident or occurrence shall be counted as a single violation.

SECTION 3. 125.02 (intro.) of the statutes is amended to read:

125.02 Definitions. (intro.) ~~As used~~ Except as otherwise provided, in this chapter:

SECTION 4. 125.035 of the statutes is created to read:

125.035 Civil liability exemption: furnishing alcohol beverages. (1) In this section, "person" has the meaning given in s. 990.01 (26).

(2) A person is immune from civil liability arising out of the act of procuring alcohol beverages for or selling, dispensing or giving away alcohol beverages to another person.

(3) Subsection (2) does not apply if the person procuring, selling, dispensing or giving away alcohol bev-

erages causes their consumption by force or by representing that the beverages contain no alcohol.

(4) (a) In this subsection, "provider" means a person, including a licensee or permittee, who procures alcohol beverages for or sells, dispenses or gives away alcohol beverages to an underage person in violation of s. 125.07 (1) (a).

(b) Subsection (2) does not apply if the provider knew or should have known that the underage person was under the legal drinking age and if the alcohol beverages provided to the underage person were a substantial factor in causing injury to a 3rd party. In determining whether a provider knew or should have known that the underage person was under the legal drinking age, all relevant circumstances surrounding the procuring, selling, dispensing or giving away of the alcohol beverages may be considered, including any circumstance under subds. 1 to 4. In addition, sub. (2) does apply if all of the following occur:

1. The underage person falsely represents that he or she has attained the legal drinking age.

2. The underage person supports the representation with documentation that he or she has attained the legal drinking age.

3. The alcohol beverages are provided in good faith reliance on the underage person's representation that he or she has attained the legal drinking age.

4. The appearance of the underage person is such that an ordinary and prudent person would believe that he or she had attained the legal drinking age.

(5) Subsection (2) does not apply to civil forfeiture actions for violation of any provision of this chapter or any local ordinance in conformity with any provision of this chapter.

SECTION 5. 125.037 of the statutes is created to read:

125.037 Civil liability exemption for municipalities. No municipality, as defined in s. 67.01 (5), or municipal governing body, committee, official or employe is civilly liable for damage to any person caused by the consumption of alcohol beverages by that person or any other person, by reason of any of the following:

- (1) Issuing a license to sell alcohol beverages.
- (2) Allowing the holder of a license or permit to sell, dispense or give away alcohol beverages on property owned or leased by the municipality.
- (3) Failing to monitor or supervise the activities of the licensee or permittee.

SECTION 6. 125.07 (3) (a) (intro.) of the statutes is amended to read:

125.07 (3) (a) *Restrictions.* (intro.) An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age may not enter, knowingly attempt to enter or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued, for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employe. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This paragraph does not apply to:

SECTION 7. 125.07 (4) (a) 3 of the statutes is amended to read:

125.07 (4) (a) 3. Enters, knowingly attempts to enter or is on licensed premises in violation of sub. (3) (a).

SECTION 8. 125.07 (4) (c) 3 of the statutes is amended to read:

125.07 (4) (c) 3. For a violation committed within 12 months of 2 or more previous violations, either a forfeiture of not more than \$150 ~~\$500~~, revocation of the person's operating privilege under s. 343.30 (6) (b) 3, participation in a supervised work program under par. (cg) or any combination of these penalties.

SECTION 9. 125.07 (4) (cd) of the statutes is created to read:

125.07 (4) (cd) For purposes of par. (c), all violations arising out of the same incident or occurrence shall be counted as a single violation.

SECTION 10. 125.08 (3) (b) 1 of the statutes is amended to read:

125.08 (3) (b) 1. Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information. ~~A law enforcement officer shall confiscate any card that violates this subdivision.~~

SECTION 11. 125.08 (3) (b) 4 and (c) of the statutes are created to read:

125.08 (3) (b) 4. Intentionally carries an identification card or other documentation showing that the person has attained the legal drinking age, with knowledge that the documentation is false.

(c) *Confiscation of card.* A law enforcement officer investigating an alleged violation of par. (b) shall confiscate any identification card or other documentation that constitutes evidence of the violation.

SECTION 12. 125.115 of the statutes is created to read:

125.115 Responsibility for commission of a crime.

(1) A person may be convicted of the commission of a crime under this chapter only if the criteria specified in s. 939.05 exist.

(2) This section does not apply to civil forfeiture actions for violation of any provision of this chapter or any local ordinance in conformity with any provision of this chapter.