

CS for SB 666

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THE STATE SENATE
Thursday, February 24, 2005

Committee Substitute for
Senate Bill No. 666

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 666 - By: RABON of the Senate and BALKMAN of the House.

An Act relating to crimes and punishments; amending 21 O.S. 2001, Sections 1215 and 1216, which relate to possession of intoxicating beverages by under age person; prohibiting certain possession of low-point beer; increasing penalty; amending 37 O.S. 2001, Sections 241, 244 and 246, which relate to selling low-point beer to minors, ground for license revocation, and consumption of low-point beer by minors; prohibiting minor's access to or possession of low-point beer in public or private places; prohibiting license holder from allowing any minor access to or possession of low-point beer on premises or adjacent areas; setting penalties for certain offenses; requiring revocation of licenses for certain period of time for certain offenses; clarifying certain exception for consumption of low-point beer; increasing fine and community service hours for minor purchasing or gaining access to low-point beer; including adjacent areas within certain prohibition for minors; increasing penalties for license holder on certain offenses; providing for revocation of license; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 2001, Section 1215, is amended to read as follows:

Section 1215. It shall be unlawful for any person under the age of twenty-one years to be in the possession of any intoxicating beverage containing more than three and two-tenths percent (3.2%) alcohol by weight or any low-point beer as defined by Section 163.2

1 of Title 37 of the Oklahoma Statutes while such person is upon any
2 public street, road, or highway or in any public building or place.

3 SECTION 2. AMENDATORY 21 O.S. 2001, Section 1216, is
4 amended to read as follows:

5 Section 1216. Any person violating the provisions of Section ~~4~~
6 1215 of this ~~act~~ title shall be guilty of a misdemeanor and upon
7 conviction thereof shall be punished by imprisonment in the county
8 jail not to exceed thirty (30) days, ~~or by payment of~~ a fine not to
9 exceed ~~One Hundred Dollars (\$100.00)~~ Five Hundred Dollars (\$500.00),
10 or by both such fine and imprisonment.

11 SECTION 3. AMENDATORY 37 O.S. 2001, Section 241, is
12 amended to read as follows:

13 Section 241. A. It shall be unlawful for any person to sell,
14 barter, or give to any person under twenty-one (21) years of age any
15 low-point beer, as defined in Section 163.2 of this title or to
16 knowingly or willfully allow any person under twenty-one (21) years
17 of age to gain access to, possess or consume any low-point beer in
18 any public or private place.

19 B. It shall be unlawful for any person who holds a license to
20 sell and dispense low-point beer for consumption on the premises, or
21 any agent, servant, or employee of said license holder, to permit
22 any person under twenty-one (21) years of age to be admitted to or
23 remain in a separate or enclosed bar area of the licensed premises

1 unless said person's parent or legal guardian is present, which has
2 as its main purpose the selling or serving of low-point beer for
3 consumption on the premises. The provisions of this section shall
4 not prohibit persons under twenty-one (21) years of age from being
5 admitted to an area which has as its main purpose some objective
6 other than the sale or serving of low-point beer, in which sales or
7 serving of said beverages are incidental to the main purpose, as
8 long as persons under twenty-one (21) years of age are not sold ~~or~~
9 served or allowed to gain access to, possess or consume said
10 beverages on the premises; however, the incidental service of food
11 in the bar area shall not exempt a licensee, agent, servant, or
12 employee from the provisions of this section.

13 C. It shall be unlawful for any person who holds a license to
14 sell and dispense low-point beer, for consumption on the premises,
15 or any agent, servant or employee of said license holder to permit
16 any person under twenty-one (21) years of age to gain access to,
17 possess or consume any low-point beer on the licensed premises or to
18 knowingly or willfully allow any person under twenty-one (21) years
19 of age to gain access to, possess or consume any low-point beer on
20 any adjacent areas owned or leased by such licensed establishment
21 including, but not limited to, parking areas or grounds.

22 D. Any person violating the provisions of subsection A, B or C
23 of this section shall upon conviction be guilty of a misdemeanor for

1 a first violation and shall be punished by a fine of One Thousand
2 Dollars (\$1,000.00), and shall be subject to license revocation as
3 provided in Section 244 of this title. Any person convicted of a
4 second violation within six (6) months of the first violation shall
5 be punishable by a fine of Five Thousand Dollars (\$5,000.00) and
6 shall have such license revoked for three (3) years, notwithstanding
7 the provisions of Section 244 of this title.

8 SECTION 4. AMENDATORY 37 O.S. 2001, Section 244, is
9 amended to read as follows:

10 Section 244. A. The violation by any person of the provisions
11 of ~~Sections~~ Section 241 or 243 of this title or any statute
12 pertaining to the sale of low-point beer, as defined in Section
13 163.2 of this title, shall be sufficient ground for revocation by
14 the judge of the district court of any permit held by such person
15 authorizing the sale of low-point beer. The ~~permit~~ revocation
16 period shall be ~~revoked~~ twelve (12) months if the person is
17 convicted of a first violation of the provisions of Section 241 or
18 243 of this title ~~after a prior~~ and three (3) years for any second
19 or subsequent conviction of the provisions of Section 241 or 243 of
20 this title. ~~No new permit shall be issued to such person or to a~~
21 ~~relative of such person for a period of twelve (12) months after~~
22 ~~such revocation. The permit shall be revoked if a servant, agent,~~
23 ~~employee or representative of the permit holder is convicted of a~~

1 ~~violation of the provisions of Section 241 or 243 of this title~~
2 ~~after that person has been convicted of a prior violation of the~~
3 ~~provisions of Section 241 or 243 of this title within the previous~~
4 ~~twelve (12) months~~ when the conviction is within twelve (12) months
5 of any prior conviction.

6 B. Each holder of a retail license or permit to sell and
7 dispense low-point beer, as defined in Section 163.2 of this title,
8 shall be held responsible for any violation of Section 241 or 243 of
9 this title committed by a servant, agent, employee or representative
10 of the license or permit holder.

11 SECTION 5. AMENDATORY 37 O.S. 2001, Section 246, is
12 amended to read as follows:

13 Section 246. A. No person under twenty-one (21) years of age
14 shall consume or possess with the intent to consume low-point beer,
15 as defined in Section 163.2 of this title. It shall be unlawful for
16 any person under twenty-one (21) years of age to purchase or attempt
17 to purchase or gain access to low-point beer, as defined in Section
18 163.2 of this title, except under supervision of law enforcement
19 officers. Any person violating any of the provisions of this
20 section shall be guilty, upon conviction, of a misdemeanor and
21 punished by a fine not to exceed ~~One Hundred Dollars (\$100.00)~~ Three
22 Hundred Dollars (\$300.00) or by appropriate community service not to
23 exceed ~~twenty (20)~~ eighty (80) hours. Provided, the provisions of

1 this section shall not apply when such persons are under the direct
2 supervision of their parent or guardian, but in no instance shall
3 this exception be interpreted to allow such persons to consume such
4 beverages in any place licensed ~~to dispense low-point beer as~~
5 ~~provided in Section 163.11 of this title.~~

6 B. If the premises of a holder of a license to sell low-point
7 beer contains a separate or enclosed bar area which has as its main
8 purpose the sale or serving of low-point beer for consumption on the
9 premises, no person under twenty-one (21) years of age shall enter,
10 attempt to enter, or remain in said area. The provisions of this
11 subsection shall not prohibit persons under twenty-one (21) years of
12 age from entering or remaining in an area which has as its main
13 purpose some objective other than the sale or serving of low-point
14 beer, in which sales or serving of said beverages are incidental to
15 the main purpose, if the persons under twenty-one (21) years of age
16 are not sold ~~or~~, served or ~~do not~~ allowed to gain access to, possess
17 or consume low-point beer anywhere on the premises or the adjacent
18 areas owned or leased by the licensed establishment; however, the
19 incidental service of food in the bar area shall not exempt persons
20 under twenty-one (21) years of age from the provisions of this
21 subsection. Any person convicted of violating the provisions of
22 this subsection shall be guilty of a misdemeanor and punished by a
23 fine not to exceed ~~One Hundred Dollars (\$100.00)~~ One Thousand

1 Dollars (\$1,000.00) for a first offense. Any person convicted of a
2 second violation within six (6) months of the first violation shall
3 be punishable by a fine of Five Thousand Dollars (\$5,000.00) and
4 shall have such license revoked for three (3) years.

5 C. Except as otherwise provided, an admission charge shall not
6 be considered in any calculation designed to determine the main
7 purpose of an area pursuant to subsection B of this section. For
8 purposes of this section, an "admission charge" shall mean any form
9 of consideration received by an establishment from a person in order
10 for that person to gain entry into the establishment or an area
11 thereof.

12 D. The provisions of subsection C of this section shall not
13 apply:

14 1. If only persons eighteen (18) years of age or older are
15 permitted to enter the licensed premises;

16 2. If the licensed premises are owned or operated by a service
17 organization or fraternal establishment which is exempt under
18 Section 501(c)(19), (8), or (10) of the Internal Revenue Code; ~~or~~

19 3. To a public event held in a facility owned or operated by
20 any agency, political subdivision or public trust of this state.

21 E. A violation of the provisions of this section shall not be a
22 basis for instituting juvenile proceedings to determine if a person
23 under eighteen (18) years of age is a delinquent child; however, if

1 a person under eighteen (18) years of age habitually violates the
2 provisions of this section, juvenile proceedings may be brought to
3 determine if the person is a delinquent child. A person under
4 eighteen (18) years of age who has been convicted of violating the
5 provisions of this section shall be subject to the penalty
6 provisions provided in this section.

7 SECTION 6. This act shall become effective July 1, 2005.

8 SECTION 7. It being immediately necessary for the preservation
9 of the public peace, health and safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

12 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY AND HOMELAND
13 SECURITY, dated 2-21-05 - DO PASS, As Amended and Coauthored.