

SB 2240

THE STATE SENATE
Monday, February 22, 2010

Senate Bill No. 2240
As Amended

SENATE BILL NO. 2240 - By: Brown of the Senate and Kirby of the House.

[intoxicating liquors - permitting use of alcohol by minors
- expanding scope of prohibited substances - mandating
penalties - enabling prosecution - effective date]

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

SECTION 1. AMENDATORY Section 1, Chapter 312, O.S.L.

2006, as amended by Section 2, Chapter 365, O.S.L. 2007 (37 O.S. Supp. 2009, Section 8.2), is amended to read as follows:

Section 8.2 A. No person shall knowingly ~~and willfully~~ permit any individual under ~~twenty one (21)~~ eighteen (18) years of age who is ~~an invitee to~~ at the person's residence, any building, structure, or room owned, occupied, leased or otherwise procured by the person or on any land owned, occupied, leased or otherwise procured by the person, to possess or consume any alcoholic beverage as defined by Section 506 of ~~Title 37 of the Oklahoma Statutes~~ this title, low-point beer as defined by Section 163.2 of this title, any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, or any combination thereof, in such place.

B. Except as provided for in subsection C, any person convicted of a first violation of this section shall be guilty of a

1 misdemeanor and be punished by a fine of not more than Five Hundred
2 Dollars (\$500.00), or imprisoned in the county jail for not more
3 than one (1) year, or by both such fine and imprisonment. Any
4 person convicted of a second violation shall be guilty of a
5 misdemeanor and shall be punished by a fine of not more than Two
6 Thousand Five Hundred Dollars (\$2,500.00), or imprisoned in the
7 county jail for not more than one (1) year, or by both such fine and
8 imprisonment. Any person convicted of a third or subsequent
9 violation shall be guilty of a felony and shall be punished by a
10 fine of not less than Two Thousand Five Hundred Dollars (\$2,500.00)
11 and not more than Five Thousand Dollars (\$5,000.00), or by
12 imprisonment in the custody of the Department of Corrections for not
13 more than five (5) years, or by both such fine and imprisonment.

14 C. Any person who violates this section, and such actions cause
15 great bodily injury or the death of a person, shall, in addition to
16 any other penalty provided by law, be guilty of a felony, punishable
17 by imprisonment in the custody of the Department of Corrections for
18 not ~~more~~ less than five (5) years, a fine of not less than ~~Two~~
19 ~~Thousand Five Hundred Dollars (\$2,500.00) nor more than Five~~
20 ~~Thousand Dollars (\$5,000.00), or both such fine and imprisonment.~~

21 D. In addition to the penalties provided for in subsections B
22 and C of this section, when a violation of this section occurs
23 within the jurisdiction of a municipality, the offender may be

1 charged and prosecuted for a violation of any municipal ordinance,
2 which shall be in addition to and a separate offense from the
3 prosecution of the violation of the provisions of this section.

4 E. There shall be a rebuttable presumption to any action
5 brought pursuant to this section for any person having control of
6 any premises, who knowingly hosts, permits, or allows a gathering at
7 the premises who takes reasonable steps to prevent the consumption
8 of any alcoholic beverage as defined by Section 506 of this title,
9 low-point beer as defined by Section 163.2 of this title, any
10 controlled dangerous substance as defined in the Uniform Controlled
11 Dangerous Substances Act, or any combination thereof, by any
12 individual under eighteen (18) years of age at the gathering.
13 Reasonable steps include controlling access to alcoholic beverages
14 and low-point beer, controlling the quantity of alcoholic beverages
15 and low-point beer, verifying the age of all individuals attending
16 the gathering by inspecting driver licenses or other government-
17 issued identification cards to ensure that individuals under
18 eighteen (18) years of age do not consume alcoholic beverages and
19 low-point beer, ensuring no controlled dangerous substances are
20 present and supervising the activities of attending individuals.
21 Provided, that this defense shall not relieve from liability any
22 person cited for a violation of this section if such person failed
23 to exercise reasonable diligence in taking the steps outlined above.

1 The availability of the defense described in this subsection does
2 not affect the availability of any other defense under any other
3 provision of law.

4 SECTION 2. This act shall become effective November 1, 2010.

5 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-17-10 - DO
6 PASS, As Amended and Coauthored.