

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 708

By: Leftwich

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5
6 AS INTRODUCED

7 An Act relating to intoxicating liquors; amending
8 Section 1, Chapter 312, O.S.L. 2006, as amended by
9 Section 2, Chapter 365, O.S.L. 2007 (37 O.S. Supp.
10 2008, Section 8.2), which relates to permitting
11 certain person to possess or consume certain alcohol
12 or substances; making certain prohibited actions age
13 specific; adding low-point beer to certain prohibited
14 actions; providing additional penalties; allowing
15 certain municipal ordinance prosecution in addition
16 to state prosecution; making certain actions a
17 rebuttable presumption; stating what certain term
18 includes; stating certain defense shall not relieve
19 certain liability for a violation under certain
20 circumstances; stating availability of certain
21 defense does not affect availability of certain other
22 defense; and providing an effective date.

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

24 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. 2008, Section 8.2), is amended to read as follows:

Section 8.2 A. No person shall knowingly ~~and willfully~~ permit
or allow any individual under twenty-one (21) 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

1 on any land owned, occupied, leased or otherwise procured by the
2 person, to possess or consume any alcoholic beverage as defined by
3 Section 506 of Title 37 of the Oklahoma Statutes, any low-point beer
4 as defined by Section 163.2 of this title, any controlled dangerous
5 substance as defined in the Uniform Controlled Dangerous Substances
6 Act, or any combination thereof, in such place.

7 B. Except as provided for in subsection C, any person convicted
8 of a first violation of this section shall be guilty of a
9 misdemeanor and be punished by a fine of not more than Five Hundred
10 Dollars (\$500.00), or imprisoned in the county jail for not more
11 than one (1) year, or by both such fine and imprisonment. Any
12 person convicted of a second violation shall be guilty of a
13 misdemeanor and shall be punished by a fine of not more than Two
14 Thousand Five Hundred Dollars (\$2,500.00), or imprisoned in the
15 county jail for not more than one (1) year, or by both such fine and
16 imprisonment. Any person convicted of a third or subsequent
17 violation shall be guilty of a felony and shall be punished by a
18 fine of not less than Two Thousand Five Hundred Dollars (\$2,500.00)
19 and not more than Five Thousand Dollars (\$5,000.00), or by
20 imprisonment in the custody of the Department of Corrections for not
21 more than five (5) years, or by both such fine and imprisonment.

22 C. Any person who violates this section, and such actions cause
23 great bodily injury or the death of a person, shall, in addition to
24 any other penalty provided by law, be guilty of a felony, punishable

1 by imprisonment in the custody of the Department of Corrections for
2 not more than five (5) years, a fine of not less than Two Thousand
3 Five Hundred Dollars (\$2,500.00) nor more than Five Thousand Dollars
4 (\$5,000.00), or both such fine and imprisonment.

5 D. In addition to the penalties provided in subsections B and C
6 of this section, when a violation of this section occurs within the
7 jurisdiction of any municipality, the violator may be charged and
8 prosecuted for a violation of any other municipal ordinance which
9 shall be in addition to and a separate offense from the prosecution
10 for a violation of the provisions of this section.

11 E. There shall be a rebuttable presumption to any action
12 brought pursuant to this section for any person having control of
13 any premises, who knowingly hosts, permits, or allows a gathering at
14 said premises who takes reasonable steps to prevent the consumption
15 of any alcoholic beverage as defined by Section 506 of this title,
16 any low-point beer as defined by Section 163.2 of this title, any
17 controlled dangerous substance as defined in the Uniform Controlled
18 Dangerous Substances Act, or any combination thereof, by any
19 individual under the age of twenty-one (21) at the gathering.
20 Reasonable steps include controlling access to alcoholic beverages
21 and low-point beer at the gathering, controlling the quantity of
22 alcoholic beverages and low-point beer, verifying the age of all
23 individuals attending the gathering by inspecting driver licenses or
24 other government-issued identification cards to ensure that

1 individuals under the age of twenty-one (21) do not consume
2 alcoholic beverages and low-point beer while at the gathering,
3 ensuring no controlled dangerous substances are present at the
4 gathering and supervising the activities of the individuals at the
5 gathering.

6 Provided, that this defense shall not relieve from liability any
7 person cited for a violation of this section if such person failed
8 to exercise reasonable diligence in taking the steps outlined above.

9 The availability of the defense described in this subsection does
10 not affect the availability of any other defense under any other
11 provision of law.

12 SECTION 2. This act shall become effective November 1, 2009.

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