

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 859

By: Halligan

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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 2010, 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. 2010, 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~~ this title, any  
4 low-point beer as defined by Section 163.2 of this title, any  
5 controlled dangerous substance as defined in the Uniform Controlled  
6 Dangerous Substances Act, or any combination thereof, in such place.

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

23 C. Any person who violates this section, and such actions cause  
24 great bodily injury or the death of a person, shall, in addition to

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

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

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

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

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

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

13 SECTION 2. This act shall become effective November 1, 2011.

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