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ALCOHOLIC BEVERAGES

Alcoholic Beverages: Impose Duty on Seller or Provider to Verify Age of Recipient

CODE SECTION: O.C.G.A. § 3-3-23 (amended)
 BILL NUMBER: HB 1322
 ACT NUMBER: 1343
 SUMMARY: The Act imposes a duty upon persons furnishing alcoholic beverages to verify that the recipient is twenty-one years of age or older.
 EFFECTIVE DATE: July 1, 1988

History

Knowingly providing alcoholic beverages or causing alcoholic beverages to be provided to anyone under the age of twenty-one is unlawful.¹ Under prior law, a seller or provider of alcoholic beverages to anyone under the age of twenty-one did not violate any law if he required proper identification from the person purchasing the intoxicating beverages.² The Code did not address the effect of a failure to require proper identification.

HB 1322

The Act amends O.C.G.A. § 3-3-23 by adding subsection (h). The new subsection imposes a duty upon a seller or provider of alcoholic beverages to verify the age of the recipient by requesting proper identification. This duty is triggered only if a reasonable or prudent person could reasonably doubt the recipient's age.³

When an alcoholic beverage is sold or furnished to a person under twenty-one years of age, failure to request identification in order to verify the purchaser's age "may be considered by the trier of fact in determining whether the person selling or otherwise furnishing such alcoholic beverage did so knowingly."⁴ In its original form, HB 1322 deleted subsection 3-3-

1. O.C.G.A. § 3-3-23(a)(1) (Supp. 1988). This proscription does not apply if the alcohol is prescribed by a physician, used in a religious ceremony, or furnished by a parent or guardian and consumed in the presence of the parent or guardian in the home. O.C.G.A. § 3-3-23(b), (c) (Supp. 1988) (formerly found at O.C.G.A. § 3-3-23(b)(1)—(3)).

2. O.C.G.A. § 3-3-23(d) (Supp. 1988) (formerly found at O.C.G.A. § 3-3-23(c)).

3. O.C.G.A. § 3-3-23(h) (Supp. 1988).

4. *Id.*

23(d), which provides that a violation is not committed if the buyer of the alcoholic beverage shows proper identification to the seller.⁵ The House committee substitute reinstated subsection (d), but included in subsection 3-3-23(a)(1) that failure to request proper identification would create a rebuttable presumption that the seller sold or furnished the alcoholic beverage knowingly.⁶ The Senate committee substitute deleted the rebuttable presumption language and inserted, in subsection (h), the current "may be considered by the trier of fact" evidentiary standard.⁷ Because the language of the amendment is discretionary as to the evidentiary effect of the failure to verify, it does not appear to alter significantly the prior law.⁸

The purpose of the Act is to encourage sellers of alcoholic beverages to check their customers' identification.⁹ The sponsors of the Act also intended to hinder an underaged person's ability to purchase intoxicating beverages by imposing an affirmative duty on the seller or provider of the alcohol to verify the recipient's age.¹⁰

J. Voyles

5. HB 1322, as introduced, 1988 Ga. Gen. Assem.

6. HB 1322 (HCS), 1988 Ga. Gen. Assem.

7. Compare O.C.G.A. § 3-3-23(h) (Supp. 1988) with HB 1322 (SCS), 1988 Ga. Gen. Assem.

8. Telephone interview with Representative Bill Goodwin, House District No. 63 (May 3, 1988).

9. *Id.*

10. *Id.*