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ALCOHOL

Alcoholic Beverages: Age for Purchasing

CODE SECTIONS:	O.C.G.A. §§ 3-3-23 (amended), 3-3-23.1 (new) and 3-3-2.1 (new)
BILL NUMBERS:	HB 21, HB 142 and HB 558
ACT NUMBERS:	562, 564 and 717
EFFECTIVE DATES:	September 30, 1985 and September 30, 1986
SUMMARY:	The Acts deal with changes in the legal age for purchasing alcoholic beverages and with a new violation, the misrepresentation of identity for the purpose of obtaining alcoholic beverages.

History

The Georgia Alcoholic Beverage Code was enacted in 1980.¹ It prohibited the furnishing of alcoholic beverages to persons under eighteen years of age and to persons who were noticeably intoxicated. Persons under the age of eighteen were additionally prohibited from selling, serving or taking orders for alcoholic beverages to be consumed on the premises.

In addition to prohibiting the sale of alcoholic beverages to persons under eighteen years of age, the law also prohibited the purchase of alcoholic beverages by underaged persons. Misrepresentation of age for the purpose of obtaining alcoholic beverages was also proscribed.

The following year, the law was rewritten so as to prohibit persons from knowingly furnishing alcoholic beverages to anyone under nineteen years of age.² The purchase or possession of alcoholic beverages by persons under nineteen years of age was also prohibited, and such persons were prohibited from misrepresenting their age in order to obtain alcoholic beverages. However, under the 1981 amendments, persons under nineteen could sell or serve alcoholic beverages as part of their employment.

The requirement that the sale of alcoholic beverages to a minor be knowingly done was established in *Monteford v. State*.³ In that case beer was sold to an undercover police cadet who was eighteen and one-half years old. The defense was based on the fact that the barmaid had no knowledge that the cadet was underage because the owner had told her

1. 1980 Ga. Laws 1573.

2. 1981 Ga. Laws 1269 § 22.

3. 162 Ga. App. 491, 492, 292 S.E.2d 93, 94 (1982).

that a doorman had been hired for the specific purpose of checking identification. The court held that the law does not impose a duty to determine whether the person purchasing an alcoholic beverage is a minor. Since the state had not met its burden of proving that the sale to the minor was knowingly made, the case was reversed.

HB 21

The Act, codified as O.C.G.A. § 3-3-23, amends the section of the Code relating to the sale or purchase of alcoholic beverages in two parts. The first part, which became effective September 30, 1985, raises the lawful age for purchase or knowing possession of alcoholic beverages from nineteen to twenty. The second part, effective on September 30, 1986, raises the lawful age from twenty to twenty-one.

HB 142

As introduced by the House Committee, the companion Act, codified as O.C.G.A. § 3-3-23.1(b)(2), specified the penalty for a second conviction related to alcoholic beverage offenses involving underage persons. It provides that upon a second or subsequent conviction, a person may be found guilty of a misdemeanor of a high and aggravated nature.

In the Senate, two additional sections were added to the Act to track HB 21. Effective September 30, 1985, O.C.G.A. § 3-3-23(a)(5) makes it unlawful for a person up to the age of twenty to misrepresent his identity in order to purchase alcoholic beverages. The lawful age changes from twenty to twenty-one, effective September 30, 1986.

HB 558

HB 558 adds a new Code section, codified as O.C.G.A. § 3-3-2.1, which works in tandem with the provisions raising the lawful age for the purchase or sale of alcoholic beverages. It requires that city or county governments notify the Department of Revenue of any violation of O.C.G.A. § 3-3-23.