

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 05-1183

BY REPRESENTATIVE(S) Paccione, Borodkin, Cerbo, Coleman, Garcia, Lindstrom, Merrifield, Boyd, Carroll T., Cloer, Green, Liston, Madden, Marshall, May M., McCluskey, McGihon, Riesberg, Todd, Romanoff, Berens, and Kerr;
also SENATOR(S) Grossman, Bacon, Entz, Groff, Hanna, Johnson, Shaffer, Tochtrop, Veiga, Wiens, and Williams.

CONCERNING ALCOHOL CONSUMPTION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) The incidents of death related to underage binge drinking have come to the forefront of the concerns of the state of Colorado; and

(b) Colorado has a strong interest in preventing further deaths as a result of underage binge drinking.

(2) The general assembly, therefore, determines that:

(a) Creating a safe haven provision for a person under twenty-one

years of age if the person contacts the police or emergency medical personnel when necessary to provide medical assistance for the underage person serves the state's interest in preventing further deaths from underage binge drinking; and

(b) By creating a safe haven provision, the state is encouraging persons who would otherwise be reluctant to contact the authorities due to a fear of criminal prosecution to contact those authorities when a friend needs medical assistance due to underage binge drinking.

SECTION 2. 12-47-901 (1) (a), Colorado Revised Statutes, is amended, and the said 12-47-901 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-47-901. Unlawful acts - exceptions. (1) Except as provided in section 18-13-122, C.R.S., it is unlawful for any person:

(a) To sell, serve, give away, dispose of, exchange, or deliver or permit the sale, serving, giving, or procuring of any alcohol beverage ~~to or for any person under the age of twenty-one years~~; to a visibly intoxicated person or to a known habitual drunkard;

(a.5) (I) TO SELL, SERVE, GIVE AWAY, DISPOSE OF, EXCHANGE, OR DELIVER OR PERMIT THE SALE, SERVING, GIVING, OR PROCURING OF ANY ALCOHOL BEVERAGE TO OR FOR ANY PERSON UNDER THE AGE OF TWENTY-ONE YEARS.

(II) IF A PERSON IS CONVICTED OF AN OFFENSE PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a.5) FOR SERVING, GIVING AWAY, DISPOSING OF, EXCHANGING, OR DELIVERING OR PERMITTING THE SERVING, GIVING, OR PROCURING OF ANY ALCOHOL BEVERAGE TO A PERSON UNDER THE AGE OF TWENTY-ONE YEARS, THE COURT SHALL CONSIDER THE FOLLOWING IN MITIGATION:

(A) AFTER CONSUMING THE ALCOHOL, THE UNDERAGE PERSON WAS IN NEED OF MEDICAL ASSISTANCE AS A RESULT OF CONSUMING ALCOHOL; AND

(B) WITHIN SIX HOURS AFTER THE UNDERAGE PERSON CONSUMED THE ALCOHOL, THE DEFENDANT CONTACTED THE POLICE OR EMERGENCY MEDICAL PERSONNEL TO REPORT THAT THE UNDERAGE PERSON WAS IN NEED

OF MEDICAL ASSISTANCE AS A RESULT OF CONSUMING ALCOHOL.

SECTION 3. 12-47-901, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-47-901. Unlawful acts - exceptions. (1.5) AN UNDERAGE PERSON AND ONE OR TWO OTHER PERSONS SHALL BE IMMUNE FROM CRIMINAL PROSECUTION UNDER PARAGRAPH (b) OR (c) OF SUBSECTION (1) OF THIS SECTION IF THEY ESTABLISH THE FOLLOWING:

(a) ONE OF THE UNDERAGE PERSONS CALLED 911 AND REPORTED THAT ANOTHER UNDERAGE PERSON WAS IN NEED OF MEDICAL ASSISTANCE DUE TO ALCOHOL CONSUMPTION;

(b) THE UNDERAGE PERSON WHO CALLED 911 AND, IF APPLICABLE, ONE OR TWO OTHER PERSONS ACTING IN CONCERT WITH THE UNDERAGE PERSON WHO CALLED 911 PROVIDED EACH OF THEIR NAMES TO THE 911 OPERATOR;

(c) THE UNDERAGE PERSON WAS THE FIRST PERSON TO MAKE THE 911 REPORT; AND

(d) THE UNDERAGE PERSON AND, IF APPLICABLE, ONE OR TWO OTHER PERSONS ACTING IN CONCERT WITH THE UNDERAGE PERSON WHO MADE THE 911 CALL REMAINED ON THE SCENE WITH THE UNDERAGE PERSON IN NEED OF MEDICAL ASSISTANCE UNTIL ASSISTANCE ARRIVED AND COOPERATED WITH MEDICAL ASSISTANCE AND LAW ENFORCEMENT PERSONNEL ON THE SCENE.

SECTION 4. 12-47-903, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-47-903. Violations - penalties. (2.5) A PERSON VIOLATING THE PROVISIONS OF SECTION 12-47-901 (1) (a.5) COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

SECTION 5. 18-13-122 (2), Colorado Revised Statutes, is amended to read:

18-13-122. Illegal possession or consumption of ethyl alcohol by

an underage person. (2) (a) Any person under twenty-one years of age who possesses or consumes ethyl alcohol anywhere in the state of Colorado commits illegal possession or consumption of ethyl alcohol by an underage person. Illegal possession or consumption of ethyl alcohol by an underage person is a strict liability offense.

(b) (I) UPON CONVICTION OF A FIRST OFFENSE, illegal possession or consumption of ethyl alcohol by an underage person shall be punished by a fine of not more than ~~one~~ TWO hundred FIFTY dollars. The court, upon sentencing a defendant pursuant to this paragraph (b), may, in addition to any fine, order that the defendant perform up to twenty-four hours of useful public service, subject to the conditions and restrictions of section 18-1.3-507, and may further order that the defendant submit to and complete an alcohol evaluation or assessment, an alcohol education program, or an alcohol treatment program at such defendant's own expense.

(II) UPON CONVICTION OF A SECOND OFFENSE, ILLEGAL POSSESSION OR CONSUMPTION OF ETHYL ALCOHOL BY AN UNDERAGE PERSON SHALL BE PUNISHED BY A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS, AND THE COURT SHALL ORDER THE DEFENDANT TO SUBMIT TO AND COMPLETE AN ALCOHOL EVALUATION OR ASSESSMENT, AN ALCOHOL EDUCATION PROGRAM, OR AN ALCOHOL TREATMENT PROGRAM, AT THE DEFENDANT'S OWN EXPENSE. THE COURT MAY FURTHER ORDER THE DEFENDANT TO PERFORM UP TO TWENTY-FOUR HOURS OF USEFUL PUBLIC SERVICE, SUBJECT TO THE CONDITIONS AND RESTRICTIONS SPECIFIED IN SECTION 18-1.3-507.

(III) UPON CONVICTION OF A THIRD OR SUBSEQUENT OFFENSE, ILLEGAL POSSESSION OR CONSUMPTION OF ETHYL ALCOHOL BY AN UNDERAGE PERSON SHALL BE A CLASS 2 MISDEMEANOR, AND THE COURT, IN ADDITION TO SENTENCING THE DEFENDANT PURSUANT TO THE PROVISIONS OF SECTION 18-1.3-501, SHALL ORDER THE DEFENDANT TO SUBMIT TO AND COMPLETE AN ALCOHOL EVALUATION OR ASSESSMENT, AN ALCOHOL EDUCATION PROGRAM, OR AN ALCOHOL TREATMENT PROGRAM, AT THE DEFENDANT'S OWN EXPENSE.

SECTION 6. 12-47-801 (4) (a) (I), Colorado Revised Statutes, is amended to read:

12-47-801. Civil liability - legislative declaration. (4) (a) No social host who furnishes any alcohol beverage is civilly liable to any injured individual or his or her estate for any injury to such individual or

damage to any property suffered, including any action for wrongful death, because of the intoxication of any person due to the consumption of such alcohol beverages, except when:

(I) It is proven that the social host ~~willfully and~~ knowingly served any alcohol beverage to such person who was under the age of twenty-one years OR KNOWINGLY PROVIDED THE PERSON UNDER THE AGE OF TWENTY-ONE A PLACE TO CONSUME AN ALCOHOLIC BEVERAGE; and

SECTION 7. 18-13-122, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

18-13-122. Illegal possession or consumption of ethyl alcohol by an underage person. (4.5) AN UNDERAGE PERSON AND ONE OR TWO OTHER PERSONS SHALL BE IMMUNE FROM CRIMINAL PROSECUTION UNDER THIS SECTION IF THEY ESTABLISH THE FOLLOWING:

(a) ONE OF THE UNDERAGE PERSONS CALLED 911 AND REPORTED THAT ANOTHER UNDERAGE PERSON WAS IN NEED OF MEDICAL ASSISTANCE DUE TO ALCOHOL CONSUMPTION;

(b) THE UNDERAGE PERSON WHO CALLED 911 AND, IF APPLICABLE, ONE OR TWO OTHER PERSONS ACTING IN CONCERT WITH THE UNDERAGE PERSON WHO CALLED 911 PROVIDED EACH OF THEIR NAMES TO THE 911 OPERATOR;

(c) THE UNDERAGE PERSON WAS THE FIRST PERSON TO MAKE THE 911 REPORT; AND

(d) THE UNDERAGE PERSON AND, IF APPLICABLE, ONE OR TWO OTHER PERSONS ACTING IN CONCERT WITH THE UNDERAGE PERSON WHO MADE THE 911 CALL REMAINED ON THE SCENE WITH THE UNDERAGE PERSON IN NEED OF MEDICAL ASSISTANCE UNTIL ASSISTANCE ARRIVED AND COOPERATED WITH MEDICAL ASSISTANCE AND LAW ENFORCEMENT PERSONNEL ON THE SCENE.

SECTION 8. Effective date - applicability. This act shall take effect July 1, 2005, and shall apply to offenses committed on or after said date.

SECTION 9. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Joan Fitz-Gerald
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO