~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 23, 2017

**S. 115**

Introduced by Senators Rankin and Hutto

S. Printed 2/23/17--S.

Read the first time January 10, 2017.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 115) to amend Title 61, Code of Laws of South Carolina, 1976, relating to alcohol and alcoholic beverages, by adding Chapter 3, so as to provide for the establishment, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting the following:

/ SECTION 1. It is determined and declared as a matter of legislative findings that:

(1) Service and consumption of alcoholic beverages in an irresponsible manner has a significant adverse impact on highway safety, personal health, and individual welfare, and is not in the best interests of the citizens of South Carolina;

(2) Responsible alcohol server training programs have proven to be an effective means of addressing, in a positive and constructive manner, inappropriate service of alcoholic beverages by permitted and licensed establishments;

(3) Any responsible alcohol server training program should be provided to licensees and permittees and their employees at a reasonable cost so as to encourage their full support and participation while creating an incentive for the program to be taken seriously; and

(4) The establishment of a responsible alcohol server training program will promote highway safety and the public health and welfare of the citizens of South Carolina.

Therefore, it is declared to be the policy of this state to promote the safety, health, and welfare of its citizens by the establishment and operation of a responsible alcohol server training program pursuant to the provisions of this chapter.

SECTION 2. Title 61 of the 1976 Code is amended by adding:

“Chapter 3

Responsible Alcohol Server Training Act

Section 61‑3‑100. This chapter shall be referred to as ‘Alli’s Law’ or the Responsible Alcohol Server Training Act.

Section 61‑3‑110. For purposes of this chapter, the following definitions apply:

(1) ‘Alcohol’ means beer, wine, alcoholic liquors, or any other type of alcoholic beverage that contains any amount of alcohol and is used as a beverage for human consumption.

(2) ‘Alcohol server’ means an individual who sells, serves, transfers, or dispenses alcohol for on‑premises consumption at permitted or licensed premises, and may include a permittee, licensee, manager, or other employee of a permittee or licensee. ‘Alcohol server’ shall not include an individual employed or volunteering on a temporary basis for a one‑time special event, such as a banquet, or at an event that has a temporary permit to sell beer, wine, or alcoholic liquors by the drink.

(3) ‘Alcohol Server Certificate’ means an authorization issued by the department for an individual to be employed or engaged as an alcohol server for on‑premises consumption.

(4) ‘DAODAS’ means the South Carolina Department of Alcohol and Other Drug Abuse Services.

(5) ‘Department’ means the South Carolina Department of Revenue.

(6) ‘Division’ means the South Carolina Law Enforcement Division.

(7) ‘Employee’ means a person who is employed for at least ten hours a week by the holder of a permit or license to sell alcohol for on‑premises consumption.

(8) ‘Licensee’ means a person issued a license by the department pursuant to Title 61 to sell, serve, transfer, or dispense alcoholic liquors or alcoholic liquor by the drink for on‑premises consumption.

(9) ‘Manager’ means an individual employed by a permittee or licensee who manages, directs, or controls the sale, service, transfer, or dispensing of alcoholic beverages for on‑premises consumption at the permitted or licensed premises.

(10) ‘Permittee’ means a person issued a permit by the department pursuant to Title 61 to sell, serve, transfer, or dispense beer, wine, ale, porter, or other malted beverages for on‑premises consumption.

(11) ‘Program’ means an alcohol server training and education course and examination approved by the department with input from DAODAS and the division that is administered by authorized providers.

(11) ‘Provider’ means an individual, partnership, corporation, or other legal entity authorized by the department that offers and administers a program.

Section 61‑3‑120. (A) An individual shall not be employed as an alcohol server or a manager on permitted or licensed premises unless and until that individual obtains, within sixty calendar days of employment, an alcohol server certificate pursuant to the provisions of this chapter. If a permittee or licensee functions or is employed as an alcohol server or manager on the permitted or licensed premises, then the permittee or licensee must also complete training on responsible alcohol server training and obtain an alcohol server certificate pursuant to the provisions of this chapter. An alcohol server shall not consume alcohol while serving alcohol.

(B) Each permittee or licensee shall maintain at all times on its permitted or licensed premises copies of the alcohol server certificates of the permittee or licensee, if applicable, and the alcohol server certificates of each manager and each alcohol server then employed by the permittee or licensee. Copies of the alcohol server certificate must be made available, upon request, to the department or the division, or to the agents and employees of each. For purposes of enforcement of the provisions of this chapter, a permittee or licensee shall also make available to the department or the division, when requested, the hire date of an alcohol server.

(C) Failure to produce a copy of an alcohol server certificate when an alcohol server has been employed for sixty calendar days, is prima facie evidence that an alcohol server certificate has not been issued and shall subject the permittee or licensee to fines and penalties in accordance with this chapter.

Section 61‑3‑130. (A)(1) The department, in collaboration with DAODAS and the division, is authorized to approve alcohol server training programs, based on best evidence practice standards, offered by providers. A program that has not received approval within ninety days from submission shall be considered denied. A provider may appeal the denial pursuant to Section 61-2-260 and the South Carolina Administrative Procedures Act.

(2) A provider shall not charge an individual more than fifty dollars for a training program.

(B) The curricula of each program must include the following subjects:

(1) state laws and regulations pertaining to:

(a) the sale and service of alcoholic beverages,

(b) the permitting and licensing of sellers of alcoholic beverages,

(c) impaired driving or driving under the influence of alcohol or drugs,

(d) liquor liability issues,

(e) carrying of concealed weapons by authorized permit holders into businesses selling and serving alcoholic beverages; and

(f) life consequences, such as the loss of education scholarships, to minors relating to the unlawful use, transfer, or sale of alcoholic beverages,

(2) the effect that alcohol has on the body and human behavior, including, but not limited to the effect on an individual’s ability to operate a motor vehicle when intoxicated;

(3) information on blood alcohol concentration and factors that change or alter blood alcohol concentration;

(4) the effect that alcohol has on an individual when taken in combination with commonly used prescription or nonprescription drugs or with illegal drugs;

(5) information on recognizing signs of intoxication and methods for preventing intoxication;

(6) methods of recognizing problem drinkers and techniques for intervening with and refusing to serve problem drinkers;

(7) methods of identifying and refusing to serve or sell alcoholic beverages to individuals under twenty-one years of age and intoxicated individuals;

(8) methods for properly and effectively checking the identification of an individual, for identifying an illegal identification of an individual, and for handling situations involving individuals who have provided illegal identification; and

(9) other topics related to alcohol server education and training designated by the department, in collaboration with DAODAS and the division, to be included.

(C) The department shall approve only online or classroom designed training programs that meet each of the following criteria:

(1) A program must cover the content specified in subsection (B). If a program does not include law enforcement information in its general course material, specific South Carolina law enforcement information must be provided in a South Carolina training supplement document.

(2) The content in a program must clearly identify and focus on the knowledge, skills, and abilities needed to responsibly serve alcoholic beverages and is developed using best practices in instructional design and exam development to ensure that the program is fair and legally defensible.

(3) A program may be offered online or through classroom instruction.

(4) Classroom training must be at least four hours, be available in English and Spanish, and include a test.

(5) Online or computer based training programs shall be forced linear, with no content omitted, be interactive, have audio for content, and include a test.

(6) Training and testing is conducted by any means available, including, but not limited to, online, computer, classroom and live trainers. All tests must be monitored by a manager or proctor. A passing grade of a test, as provided by the program, is required.

(7) Training certificates are issued by the provider only after training is complete and the test has been passed successfully.

(8) Each provider must give to the department a report of all individuals who have successfully completed training and testing within ten business days after the training is completed. The provider must also maintain these records for at least three years following the end of the training program for purposes of verifying certification validity by the department or the division.

(D) The department, in collaboration with DAODAS and the division, may suspend or revoke the authorization of a program provider that the department determines has violated the provisions of this chapter. If a provider’s authorization is suspended or revoked, that provider must cease operations in this state immediately and refund any money paid to it by individuals who are enrolled in that provider’s program at the time of the suspension or revocation.

Section 61‑3‑140. (A) A provider of a program that is authorized by the department shall pay a fee, in an amount to be determined by the department, not to exceed five hundred dollars per year, renewable each year. State agency providers are exempt from payment. Each fee shall be deposited into the Responsible Alcohol Server Training Fund to assist in the costs associated with implementation and enforcement of the provisions of this chapter.

(B) The Fund is a revolving fund and no funds deposited therein shall revert to the General Fund of the state treasury.

(C) The department, with the assistance of the division, shall, on or before the second Tuesday of each year, make a report of all income and expenditures made from the Responsible Alcohol Server Training Fund as of December thirty‑one of the previous year. A copy of the report shall be given to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate, placed on the websites of the department and the division, and recorded in the journals of each body of the General Assembly at the beginning of each legislative year.

Section 61‑3‑150. (A)(1) The department shall issue an alcohol server certificate to each applicant that completes an approved responsible alcohol server training program or a recertification program and who provides other information as may be required by the department, in an application form that is available on the department’s website. A person must apply for an alcohol server certificate within six months of completing a program. The department, if circumstances warrant the issuance of a temporary server certificate, may issue a temporary server certificate that is valid for a period of not more than thirty calendar days.

(2) The department, in collaboration with DAODAS and the division, may issue an alcohol server certificate to an individual from out of state, who applies for an alcohol server certificate, if the individual has an alcohol server certificate from a nationally recognized or comparable state recognized alcohol server certification program that the department, DAODAS, and the division find meets or exceeds the programs offered in this state.

(B) Alcohol server certificates shall not be issued to graduates of programs that are not approved by the department.

(C) An alcohol server certificate is the property of the individual to whom it is issued, and is transferrable among employers.

(D) Alcohol server certificates are valid for a period of three years from the date that the alcohol server certificate was issued. After the three-year period, a new or recertified alcohol server certificate must be obtained pursuant to the provisions of this chapter in order for the holder to be employed as a server.

(E) Upon expiration of an alcohol server certificate, the individual to whom the alcohol server certificate was issued may obtain recertification in accordance with regulations promulgated by the department and approved by the General Assembly.

(F) The department shall charge a fee, not to exceed fifteen dollars, for the issuance and renewal of an alcohol server certificate. These fees shall be deposited in the Responsible Alcohol Server Training Fund.

Section 61‑3‑160. (A) In addition to civil and criminal penalties available for violations of provisions of Title 61, the following fines and penalties may be imposed upon an alcohol server who violates the provisions of this chapter:

(1) for a first offense, upon a final administrative determination, a fine of not more than fifty dollars, or the suspension of the certificate of the alcohol server certificate for a period not to exceed thirty days, or both;

(2) for a second offense not related to the first offense, upon a final administrative determination, a fine of not more than two hundred dollars, or the suspension of the certificate of the alcohol server for a period not to exceed six months, or both; and

(3) for a third or subsequent offense, not related to earlier offenses, upon a final administrative determination, a fine of not more than three hundred and fifty dollars, or a suspension of not more than one calendar year, or both.

(B) Fines collected pursuant to this chapter shall be deposited in the Responsible Alcohol Server Training Fund.

(C) The department may issue an administrative order to suspend or revoke the certificate of an alcohol server who repeatedly violates the provisions of this chapter within a three year period of time. In lieu of suspension or revocation of an alcohol server certificate, the department may require that the individual who has violated the provisions of this chapter attend and successfully complete either the full program or a recertification program.

(D) An individual whose alcohol server certificate is suspended or revoked is prohibited from serving in a South Carolina business permitted or licensed pursuant to Title 61 for such period as stated in the suspension or revocation order, and until the individual obtains a new alcohol server certificate pursuant to the provisions of this chapter. The department shall make the information on suspended or revoked alcohol server certificates accessible for licensees and permittees to verify when necessary.

(E) The provisions of this chapter shall not be interpreted to waive the liability of a permittee or licensee that may arise pursuant to the provisions of Title 61.

Section 61‑3‑170. As a requirement for application or renewal of a permit or license for on-premises consumption under Chapter 4, Title 61 or Chapter 6, Title 61, a permittee or licensee for on-premises consumption must submit to the department proof that the permittee or licensee, if applicable, and each manager and alcohol server employed by the permittee or licensee during the upcoming or prior permit or license period have or have held valid alcohol server certificates at all times that alcoholic beverages were sold, served, or dispensed.

Section 61‑3‑180. The division and the department are responsible for enforcement of the provisions of this chapter. The department is responsible for bringing administrative actions for violations of the provisions of this chapter or related regulations, and those actions shall proceed according to the provisions of Section 61‑2‑260 and the South Carolina Administrative Procedures Act.”

SECTION 3. Section 61‑2‑60 of the 1976 Code is amended to read:

“Section 61‑2‑60. The department and the division are authorized to promulgate regulations necessary to carry out the duties imposed upon them by law for the proper administration and enforcement of, and consistent with this title including, but not limited to:

(1) regulations for the application and issuance of alcoholic liquor licenses, permits, and certificates;

(2) regulations to prevent the unlawful manufacture, bottling, sale, distribution, transportation, and importation of alcoholic liquors;

(3) regulations necessary to effect an equitable distribution of alcoholic liquors in this State;

(4) regulations for the analysis of alcoholic liquors sold in this State and for a procedure for obtaining the samples for this purpose;

(5) regulations governing the administration and enforcement of provisions relating to producers and wholesalers of beer and wine;

(6) regulations for application for and issuance of beer licenses, permits, or brewers’ certificates of approval and the sale, distribution, promotion, and shipment of beer into and within the State;

(7) regulations for the operation of breweries and commercial wineries; ~~and~~

(8) regulations governing the enforcement of provisions relating to brewpubs; and

(9) regulations governing the development, implementation, education, and enforcement of responsible alcohol server training provisions.”

SECTION 4. Section 61‑4‑50 of the 1976 Code is amended to read:

“Section 61‑4‑50. (A) It is unlawful for a person to sell beer, ale, porter, wine, or other similar malt or fermented beverage to a person under twenty‑one years of age. A person who makes a sale in violation of this section, upon conviction:

(1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and if the person so convicted holds an alcohol server certificate pursuant to Chapter 3, Title 61, a suspension of the alcohol server certificate for not more than thirty days; and;

(2) for a second or subsequentoffense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both; and if the person so convicted holds an alcohol server certificate pursuant to Chapter 3, Title 61, a suspension of the certificate of the alcohol server for not less than six months and not more than one calendar year from the date of conviction.

(B) Failure of a person to require identification to verify a person’s age is prima facie evidence of the violation of this section.

(C) A person who violates the provisions of this section who does not hold an alcohol server certificate ~~also~~ is required to successfully complete a DAODAS approved merchant alcohol enforcement education program. The program must be a minimum of two hours and the cost to the person may not exceed fifty dollars. A person who violates the provisions of this section and who does hold an alcohol server certificate, upon conviction, is required to complete alcohol server training pursuant to Chapter 3, Title 61, and to obtain a new alcohol server certificate.

SECTION 5. Section 61‑4‑90(A) of the 1976 Code is amended to read:

“(A) It is unlawful for a person to transfer or give to a person under the age of twenty‑one years for the purpose of consumption of beer or wine in the State, unless the person under the age of twenty‑one is recruited and authorized by a law enforcement agency to test a person’s compliance with laws relating to the unlawful transfer or sale of beer and wine to a minor. A person who violates this section is guilty of a misdemeanor and, upon conviction:

(1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and if the person so convicted holds an alcohol server certificate pursuant to Chapter 3, Title 61, a suspension of the alcohol server certificate for not more than thirty days; and;

(2) for a second or subsequent offense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both; and if the person so convicted holds an alcohol server certificate pursuant to Chapter 3, Title 61, a suspension of the certificate of the alcohol server for not less than six months and not more than one calendar year from the date of conviction.”

SECTION 6. Section 61‑4‑580 of the 1976 Code is amended to read:

“Section 61‑4‑580. (A) No holder of a permit authorizing the sale of beer or wine or a servant, agent, or employee of the permittee may knowingly commit any of the following acts upon the licensed premises covered by the holder’s permit:

(1) sell beer or wine to a person under twenty‑one years of age;

(2) sell beer or wine to an intoxicated person;

(3) permit gambling or games of chance except game promotions including contests, games of chance, or sweepstakes in which the elements of chance and prize are present and which comply with the following:

(a) the game promotion is conducted or offered in connection with the sale, promotion, or advertisement of a consumer product or service, or to enhance the brand or image of a supplier of consumer products or services;

(b) no purchase payment, entry fee, or proof of purchase is required as a condition of entering the game promotion or receiving a prize;

(c) all materials advertising the game promotion clearly disclose that no purchase or payment is necessary to enter and provide details on the free method of participation; and

(d) this subsection is not an exception or limitation to Section 12‑21‑2710 or other provisions of the South Carolina Code of Laws in which gambling or games of chance are unlawful and prohibited;

(4) permit lewd, immoral, or improper entertainment, conduct, or practices. This includes, but is not limited to, entertainment, conduct, or practices where a person is in a state of undress so as to expose the human male or female genitals, pubic area, or buttocks cavity with less than a full opaque covering;

(5) permit any act, the commission of which tends to create a public nuisance or which constitutes a crime under the laws of this State;

(6) sell, offer for sale, or possess any beverage or alcoholic liquors the sale or possession of which is prohibited on the licensed premises under the law of this State;

(7) conduct, operate, organize, promote, advertise, run, or participate in a “drinking contest” or “drinking game”. For purposes of this item, “drinking contest” or “drinking game” includes, but is not limited to, a contest, game, event, or other endeavor which encourages or promotes the consumption of beer or wine by participants at extraordinary speed or in increased quantities or in more potent form. “Drinking contest” or “drinking game” does not include a contest, game, event, or endeavor in which beer or wine is not used or consumed by participants as part of the contest, game, event, or endeavor, but instead is used solely as a reward or prize. ~~Selling beer or wine in the regular course of business is not considered a violation of this section; or~~

(B) Selling beer or wine in the regular course of business is not considered a violation of this section.  ~~a~~ A violation of any provision of this section is a ground for the revocation or suspension of the holder’s permit to sell beer or wine.

(C) If the permittee, servant, agent, or employee of the permittee holds an alcohol server permit, and violates the provisions of items (A)(1) or (A)(2), upon conviction,

(1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and if the person so convicted holds an alcohol server certificate pursuant to Chapter 3, Title 61, a suspension of the alcohol server certificate for not more than thirty days; and;

(2) for a second or subsequentoffense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both; and if the person so convicted holds an alcohol server certificate pursuant to Chapter 3, Title 61, a suspension of the certificate of the alcohol server for not less than six months and not more than one calendar year from the date of conviction.”

SECTION 7. Section 61‑6‑2220 of the 1976 Code is amended to read:

“Section 61‑6‑2220. A person or establishment licensed to sell alcoholic liquors or liquor by the drink pursuant to this article ~~may~~ shall not sell these beverages to persons in an intoxicated condition; these sales are considered violations of the provisions ~~thereof~~ of Chapter 6, Title 61 ~~and subject to the penalties contained herein~~. A person who makes a sale in violation of this section, upon conviction:

(1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and if the person so convicted holds an alcohol server certificate pursuant to Chapter 3, Title 61, a suspension of the alcohol server certificate for not more than thirty days; and;

(2) for a second or subsequentoffense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both; and if the person so convicted holds an alcohol server certificate pursuant to Chapter 3, Title 61, a suspension of the certificate of the alcohol server for not less than six months and not more than one calendar year from the date of conviction.”

SECTION 8. Section 61‑6‑4070(A) of the 1976 Code is amended to read:

“(A) It is unlawful for a person to transfer or give to a person under the age of twenty‑one years for the purpose of consumption of alcoholic liquors in the State unless the person under the age of twenty‑one is recruited and authorized by a law enforcement agency to test a person’s compliance with laws relating to the unlawful transfer or sale of alcoholic liquors to a minor. A person who violates this section is guilty of a misdemeanor and, upon conviction:

(1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and if the person so convicted holds an alcohol server certificate pursuant to Chapter 3, Title 61, a suspension of the alcohol server certificate for not more than thirty days; and;

(2) for a second or subsequent offense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both; and if the person so convicted holds an alcohol server certificate pursuant to Chapter 3, Title 61, a suspension of the certificate of the alcohol server for not less than six months and not more than one calendar year from the date of conviction.”

SECTION 9. Section 61‑6‑4080 of the 1976 Code is amended to read:

“Section 61‑6‑4080. (A) A person engaged in the sale of alcoholic liquors who knowingly sells the alcoholic liquors to a person under the age of twenty‑one is guilty of a misdemeanor and, upon conviction:

(1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and if the person so convicted holds an alcohol server certificate pursuant to Chapter 3, Title 61, a suspension of the alcohol server certificate for not more than thirty days; and;

(2) for a second or subsequent offense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both; and if the person so convicted holds an alcohol server certificate pursuant to Chapter 3, Title 61, a suspension of the certificate of the alcohol server for not less than six months and not more than one calendar year from the date of conviction.”

(B) Failure of a person to require identification to verify a person’s age is prima facie evidence of a violation of this section.

(C) A person who violates the provisions of this section who does not hold an alcohol server certificate ~~also~~ is required to successfully complete a DAODAS approved merchant alcohol enforcement education program. The program must be a minimum of two hours and the cost to the person may not exceed fifty dollars. A person who violates the provisions of this section and who does hold an alcohol server certificate, upon conviction, is required to complete alcohol server training pursuant to Chapter 3, Title 61, and to obtain a new alcohol server certificate.”

SECTION 10. If any section, subsection, paragraph, item, subitem, subparagraph, sentence, clause, phrase, or word of Chapter 3, Title 61 of the 1976 Code as added by this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the chapter, the General Assembly hereby declaring that it would have passed each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 11. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 12. The provisions of Chapter 3, Title 61 and SECTION 3 take effect upon signature of the Governor, but the implementation and enforcement of the provisions of Chapter 3, Title 61 and the provisions in SECTIONS 4, 5, 6, 7, 8 and 9 become effective one year after the signature of the Governor. A person applying for a new permit or license under Title 61 one year after the signature of the Governor must comply with all provisions of this act at the time of the application. A person renewing a permit or license under Title 61 one year after the signature of the Governor must comply with the provisions of this act at the time of the renewal. /

Renumber sections to conform.

Amend title to conform.

BRAD HUTTO for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 10, 2017**

**State Expenditure**

This bill prohibits an individual from being employed as a manager or alcohol server on a premises licensed or permitted for the sale of alcohol on-premises unless and until the individual obtains an alcohol server permit. If a permittee or licensee is a manager or server on the permitted or licensed premises, then the permittee or licensee must also complete an approved training program on responsible alcohol service and obtain a server permit. Each permittee or licensee shall maintain on its premises copies of the server permits of the permittee or licensee, each manager, and each server then employed by the permittee or licensee. Failure to produce a permit shall subject the permittee or licensee to fines and penalties. Administrative fines, not to exceed $1,000, may be imposed by DOR against any person that violates the permitting requirements. DOR is authorized to approve training programs offered by providers. An authorized provider shall pay a fee not to exceed $500 that will go to the South Carolina Mandatory Alcohol Server Training Program Fund to assist with the cost of implementation and enforcement of this bill’s provisions. The department shall issue a server permit to each applicant that completes an approved responsible alcohol server education program. The department may charge a fee, not to exceed $15 for the issuance of the server permit.

**Department of Revenue.** The department indicates this bill will have an expenditure impact of $225,000 to the general fund to hire three FTEs and five temporary employees to administer the new requirements. This bill will have no expenditure impact on other funds or federal funds.

**South Carolina Law Enforcement Division.** The expenditure impact is undetermined, pending a response from the agency.

**State Reve**n**ue**

This bill authorizes DOR to charge providers of alcohol server training programs a fee in an amount not to exceed $500. The revenue generated from the fee must be deposited into the South Carolina Mandatory Alcohol Server Training Program Fund to assist in the costs associated with implementation and enforcement of alcohol server training. DOR may also charge a fee for the issuance of alcohol server certificates in an amount not to exceed $15. The alcohol server certificates are valid for a period of 3 years. DOR may impose administrative fines, not to exceed $1,000, against any person that violates the provisions of Chapter 3.

Based upon data provided by DOR, we estimate 40 approved providers will offer alcohol server training programs. For this analysis, we assume that DOR will charge the full $500 fee for providers. Therefore, revenue of the South Carolina Mandatory Alcohol Server Training Program will increase by $20,000.

Based upon data obtained from the Occupational Employment Statistics report from the U.S. Bureau of Labor Statistics, there are approximately 35,000 servers in South Carolina. For this analysis, we assume that DOR will charge the maximum $15 fee per server. Therefore, revenue would increase by $525,000. Since the bill does not state the allocation of the revenue generated from the $15 fee, Proviso 117.1 of the FY 2016-17 Appropriations Act, directs the $525,000 to the general fund.

Since the bill creates a new administrative fine for which there is no historical data, the revenue impact is undetermined. The bill does not state the allocation of the revenue generated from the administrative fine. However, based on Proviso 117.1 of the FY 2016-17 Appropriations Act, any revenue generated from the administrative fine would be allocated to the general fund.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND TITLE 61, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ALCOHOL AND ALCOHOLIC BEVERAGES, BY ADDING CHAPTER 3, SO AS TO PROVIDE FOR THE ESTABLISHMENT, IMPLEMENTATION, AND ENFORCEMENT OF A MANDATORY ALCOHOL SERVER TRAINING AND EDUCATION PROGRAM; TO REQUIRE SERVERS OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION IN LICENSED OR PERMITTED BUSINESSES TO OBTAIN ALCOHOL SERVER CERTIFICATES; TO PROVIDE GUIDANCE FOR THE CURRICULA OF THE TRAINING PROGRAMS; TO PROVIDE FOR THE DEPARTMENT OF REVENUE TO BE RESPONSIBLE FOR APPROVAL OF THE TRAINING PROGRAMS AND IMPLEMENTATION OF THE ALCOHOL SERVER CERTIFICATES; TO REQUIRE FEES FROM PROVIDERS OF TRAINING PROGRAMS AND FROM APPLICANTS FOR ALCOHOL SERVER CERTIFICATES TO COVER THE COSTS OF THE MANDATORY TRAINING AND ENFORCEMENT; TO REQUIRE COORDINATION AMONG THE DEPARTMENT OF REVENUE, THE STATE LAW ENFORCEMENT DIVISION, AND OTHER STATE AND LOCAL AGENCIES FOR THE IMPLEMENTATION AND ENFORCEMENT OF THESE PROVISIONS; TO PROVIDE FOR FINES AND PENALTIES FOR VIOLATIONS OF THESE PROVISIONS; AND TO AUTHORIZE THE DEPARTMENT OF REVENUE TO PROMULGATE REGULATIONS NECESSARY TO ESTABLISH, IMPLEMENT, AND ENFORCE THESE PROVISIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. It is determined and declared as a matter of legislative findings that:

(1) Service and consumption of alcoholic beverages in an irresponsible manner has a significant adverse impact on highway safety, personal health, and individual welfare, and is not in the best interests of the citizens of South Carolina;

(2) Responsible alcoholic beverage server training programs have proven to be an effective means of addressing, in a positive and constructive manner, inappropriate service of alcoholic beverages by permitted and licensed establishments;

(3) Any mandatory training program should be provided to licensees and permittees and their employees at a reasonable cost so as to encourage their full support and participation while creating an incentive for the program to be taken seriously; and

(4) The establishment of a mandatory responsible alcoholic beverage server training program will promote highway safety and the public health and welfare of the citizens of South Carolina.

Therefore, it is declared to be the policy of this state to promote the safety, health, and welfare of its citizens by the establishment and operation of a mandatory responsible alcoholic beverage server training program pursuant to the provisions of this chapter.

SECTION 2. Title 61 of the 1976 Code is amended by adding:

“Chapter 3

South Carolina Mandatory Alcohol Server Training Act

Section 61‑3‑100. This chapter shall be referred to as ‘Alli’s Law’ or the South Carolina Alcohol Server Training Act.

Section 61‑3‑110. For purposes of this chapter, the following definitions apply:

(1) ‘Alcohol’ means beer, wine, alcoholic liquors, or any other type of alcoholic beverage that contains any amount of alcohol and is used as a beverage for human consumption.

(2) ‘Alcohol server’ means an individual who sells, serves, transfers, or dispenses alcohol for on-premises consumption at permitted or licensed premises, and may include a permittee, licensee, manager, or other employee of a permittee or licensee. ‘Alcohol server’ shall not include an individual employed or volunteering on a temporary basis for a one‑time special event, such as a banquet.

(3) ‘Alcohol Server Certificate’ means an authorization issued by the department for an individual to be employed or engaged as an alcohol server for on‑premises consumption.

(4) ‘Department’ means the South Carolina Department of Revenue.

(5) ‘Division’ means the South Carolina Law Enforcement Division.

(6) ‘Employee’ means a person who is employed for at least ten hours a week by the holder of a permit or license to sell alcohol for on‑premises consumption.

(7) ‘Licensee’ means a person issued a license by the department pursuant to Title 61 to sell, serve, transfer, or dispense alcoholic liquors or alcoholic liquor by the drink for on‑premises consumption.

(8) ‘Manager’ means an individual employed by a permittee or licensee who manages, directs, or controls the sale, service, transfer, or dispensing of alcoholic beverages for on-premises consumption at the permitted or licensed premises.

(9) ‘Permittee’ means a person issued a permit by the department pursuant to Title 61 to sell, serve, transfer, or dispense beer, wine, ale, porter, or other malted beverages for on‑premises consumption.

(10) ‘Program’ means an alcohol server training and education course and examination approved by the department that is administered by authorized providers.

(11) ‘Provider’ means an individual, partnership, corporation, or other legal entity authorized by the department that offers and administers a program.

Section 61‑3‑120. (A) No individual shall be employed as a manager or alcohol server on permitted or licensed premises unless and until that individual obtains, within sixty calendar days of employment, an alcohol server certificate pursuant to the provisions of this chapter. If a permittee or licensee is a manager or alcohol server on the permitted or licensed premises, then the permittee or licensee must also complete training on mandatory alcohol server education and obtain an alcohol server certificate pursuant to the provisions of this chapter.

(B) Each permittee or licensee shall maintain at all times on its permitted or licensed premises copies of the alcohol server certificates of the permittee or licensee, if applicable, and the alcohol server certificates of each manager and each alcohol server then employed by the permittee or licensee. Copies of the alcohol server certificate must be made available, upon request, to the department or the division, or to the agents and employees of each.

(C) Failure to produce a copy of an alcohol server certificate is prima facie evidence that an alcohol server certificate has not been issued and shall subject the permittee or licensee to fines and penalties in accordance with this chapter.

(D) Administrative fines, not to exceed one thousand dollars, may be imposed by the department against any person that violates the provisions of this chapter or related regulations.

(E) The department may issue an administrative order to suspend or revoke the alcohol server certificate of any person whom the department determines has violated the provisions of this chapter. In lieu of suspension or revocation of an alcohol server certificate, the department may require that the individual who has violated the provisions of this chapter attend and successfully complete either the full program or a recertification program.

(F) If an individual’s alcohol server certificate is suspended or revoked, that individual is prohibited from serving in a South Carolina business permitted or licensed pursuant to Title 61 during the period of suspension or revocation, for such period as stated in the suspension or revocation order.

Section 61‑3‑130. (A) The department is authorized to approve alcohol server training programs offered by providers. A provider shall not charge an individual more than fifty dollars for a training program.

(B) The curricula of each program must include the following subjects:

(1) state laws and regulations pertaining to:

(a) the sale and service of alcoholic beverages,

(b) the permitting and licensing of sellers of alcoholic beverages,

(c) impaired driving or driving under the influence of alcohol or drugs,

(d) liquor liability issues, and

(e) carrying of concealed weapons by authorized permit holders into businesses selling and serving alcoholic beverages;

(2) the effect that alcohol has on the body and human behavior, including, but not limited to the effect on an individual’s ability to operate a motor vehicle when intoxicated;

(3) the effect that alcohol has on an individual when taken in combination with commonly used prescription or nonprescription drugs or with illegal drugs;

(4) methods of recognizing problem drinkers and techniques for intervening with and refusing to serve problem drinkers;

(5) methods of identifying and refusing to serve or sell alcoholic beverages to an underage or intoxicated person; and

(6) methods for properly and effectively checking the identification of an individual, for identifying an illegal identification of an individual, and for handling situations involving individuals who have provided illegal identification;

(C) The department shall approve only online or classroom designed training programs that meet each of the following criteria:

(1) A program must cover the content specified in subsection (B). If a program does not include law enforcement information in its general course material, specific South Carolina law enforcement information must be provided in a South Carolina training supplement document.

(2) The content in a program must clearly identify and focus on the knowledge, skills, and abilities needed to responsibly serve alcoholic beverages and is developed using best practices in instructional design and exam development to ensure that the program is fair and legally defensible.

(3) A program may be offered online or through classroom instruction.

(4) Classroom training must be at least four hours, be available in English and Spanish, and include a test.

(5) Online or computer based training programs shall be forced linear, with no content omitted, be interactive, have audio for content, and include a test.

(6) Training and testing is conducted by any means available, including, but not limited to, online, computer, classroom and live trainers. All tests must be monitored by a manager or proctor. A passing grade is seventy percent or above correctly answered.

(7) Training certificates are issued by the provider only after training is complete and the test has been passed successfully.

(8) Each provider must provide to the department a report of all individuals who have successfully completed training and testing within ten business days after the training is completed. The provider must also maintain these records for at least three years following the end of the training program for purposes of verifying certification validity by the department or the division.

(D) The department may suspend or revoke the authorization of a program provider that the department determines has violated the provisions of this chapter. If a provider’s authorization is suspended or revoked, that provider must cease operations in this state immediately and refund any money paid to it by individuals who are enrolled in that provider’s program at the time of the suspension or revocation.

Section 61‑3‑140. (A) A provider of a program that is authorized by the department shall pay a fee, in an amount to be determined by the department, not to exceed five hundred dollars. Each fee shall be deposited into the South Carolina Mandatory Alcohol Server Training Program Fund to assist in the costs associated with implementation and enforcement of the provisions of this chapter.

(B) The Fund is a revolving fund and no funds deposited therein shall revert to the General Fund of the state treasury.

(C) The department, with the assistance of the division, shall, on or before the second Tuesday of each year, make a report of all income and expenditures made from the South Carolina Mandatory Alcohol Server Training Program Fund as of December thirty‑one of the previous year. A copy of the report shall be given to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate, placed on the websites of the department and the division, and recorded in the journals of each body of the General Assembly at the beginning of each legislative year.

Section 61‑3‑150. (A) The department shall issue an alcohol server certificate to each applicant that completes an approved mandatory alcohol server training program or a recertification program and who provides other information as may be required by the department, in an application form that is available on the department’s website. A person must apply for an alcohol server certificate within six months of completing a program. The department, if circumstances warrant the issuance of a temporary server certificate, may issue a temporary server certificate that is valid for a period of not more than thirty calendar days.

(B) Alcohol server certificates shall not be issued to graduates of programs that are not approved by the department.

(C) An alcohol server certificate is the property of the individual to whom it is issued, and is transferrable among employers.

(D) Alcohol server certificates shall be valid for a period of three years from the date that the alcohol server certificate was issued. After that date, a new alcohol server certificate must be obtained in order for the holder to be employed as a server.

(E) Upon expiration of an alcohol server certificate, the individual to whom the alcohol server certificate was issued may obtain recertification in accordance with regulations promulgated by the department and approved by the General Assembly.

(F) The department may charge a fee, not to exceed fifteen dollars, for the issuance of an alcohol server certificate.

Section 61‑3‑160. As a requirement for application or renewal of a permit or license under Chapter 4, Title 61 or Chapter 6, Title 61, a permittee or licensee must submit to the department proof that the permittee or licensee, if applicable, and each manager and alcohol server employed by the permittee or licensee during the upcoming or prior permit or license period have or have held valid alcohol server certificates at all times that alcoholic beverages were sold, served, or dispensed.

Section 61‑3‑170. The department is authorized to promulgate regulations necessary to carry out the duties imposed upon them by this chapter, including, but not limited to, regulations governing the establishment, implementation, and enforcement of responsible alcoholic beverage server training programs.

Section 61‑3‑180. The division and the department are responsible for enforcement of the provisions of this chapter. The department is responsible for bringing administrative actions for violations of the provisions of this chapter or related regulations, and those actions shall proceed according to the provisions of Section 61‑2‑260 and the South Carolina Administrative Procedures Act.”

SECTION 3. If any section, subsection, paragraph, item, subitem, subparagraph, sentence, clause, phrase, or word of Chapter 3, Title 61 of the 1976 Code as added by this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the chapter, the General Assembly hereby declaring that it would have passed each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. This act takes effect on January 1, 2018, and any person applying for a new permit or license under Title 61 after this date must comply with the provisions of this act at the time of the application. A person renewing a permit or license under Title 61 after this date must comply with the provisions of this act at the time of the renewal.

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