

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

As Engrossed: H4/1/99 S4/6/99 S4/7/99

# A Bill

Act 1596 of 1999  
HOUSE BILL 2010

5 By: Representative T. Smith  
6 By: Senators Mahony, K. Smith  
7

## For An Act To Be Entitled

10 "AN ACT TO REGULATE THE FURNISHING AND PROVIDING OF  
11 ALCOHOLIC BEVERAGES, OR BEER OR WINE, IN CERTAIN  
12 CIRCUMSTANCES; AND FOR OTHER PURPOSES."  
13

### Subtitle

14 "TO REGULATE THE FURNISHING AND PROVIDING  
15 OF ALCOHOLIC BEVERAGES, OR BEER OR WINE,  
16 IN CERTAIN CIRCUMSTANCES."  
17  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. The General Assembly finds and determines that it needs to  
23 clarify and establish its legislative intent regarding the sale of alcoholic  
24 beverages as addressed by the Supreme Court of Arkansas in "Shannon vs.  
25 Wilson, et. al" (96-762: June 23, 1997) and "Jackson vs. Cadillac Cowboy, et.  
26 al." (98-574: March 18, 1999).  
27

28 SECTION 2. The General Assembly finds and determines that the knowing  
29 sale of alcoholic beverages by a retailer to a minor is contrary to the public  
30 policy of the State of Arkansas.  
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32 SECTION 3. In cases where it has been proven that an alcoholic beverage  
33 retailer knowingly sold alcoholic beverages to a minor, or sold under  
34 circumstances where such retailer reasonably should have known such purchaser  
35 was a minor, a civil jury may determine whether or not such knowing sale  
36 constituted the proximate cause of any injury to such minor, or to a third

1 person, caused by such minor.  
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3       SECTION 4. In cases where it has been proven that an alcoholic beverage  
4 retailer knowingly sold alcoholic beverages to a person who was clearly  
5 intoxicated at the time of such sale or sold under circumstances where such  
6 retailer reasonably should have known such person was clearly intoxicated at  
7 the time of such sale, a civil jury may determine whether or not such sale  
8 constitutes a proximate cause of any subsequent injury to other persons. For  
9 purposes of this Act, a person is considered clearly intoxicated when such  
10 person is so obviously intoxicated to the extent that, at the time of such  
11 sale, he presents a clear danger to others. It shall be an affirmative  
12 defense to civil liability under this section that an alcoholic beverage  
13 retailer had a reasonable belief that the person was not clearly intoxicated  
14 at the time of such sale or that the person would not be operating a motor  
15 vehicle while in the impaired state.  
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17       SECTION 5. Except in the knowing sale of alcohol to a minor or to a  
18 clearly intoxicated person, the General Assembly hereby finds and declares  
19 that the consumption of any alcoholic beverage, rather than the furnishing of  
20 any alcoholic beverage, is the proximate cause of injuries or property damage  
21 inflicted upon persons or property by a legally intoxicated person.  
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23       SECTION 6. In no event will the act of providing alcoholic beverages to  
24 a person who can lawfully possess them by a social host, or other person who  
25 does not hold an alcoholic beverage vendor's permit, constitute a proximate  
26 cause of any personal injuries or property damages which may be subsequently  
27 caused by an individual consuming any alcoholic beverages so provided.  
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29       SECTION 7. All provisions of this act of a general and permanent nature  
30 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
31 Revision Commission shall incorporate the same in the Code.  
32

33       SECTION 8. If any provision of this act or the application thereof to  
34 any person or circumstance is held invalid, such invalidity shall not affect  
35 other provisions or applications of the act which can be given effect without  
36 the invalid provision or application, and to this end the provisions of this

1 act are declared to be severable.

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3 SECTION 9. All laws and parts of laws in conflict with this act are  
4 hereby repealed.

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6 SECTION 10. EMERGENCY CLAUSE. It is hereby found and determined by the  
7 Eighty-second General Assembly that recent court decisions indicate that the  
8 General Assembly must clarify the public policy of the State of Arkansas  
9 regarding liability for furnishing alcohol to a minor; that this act so  
10 provides; and that this act should go into effect as soon as possible in order  
11 that subsequent litigation be subject to this act. Therefore, an emergency is  
12 declared to exist and this act being immediately necessary for the  
13 preservation of the public peace, health and safety shall become effective on  
14 the date of its approval by the Governor. If the bill is neither approved nor  
15 vetoed by the Governor, it shall become effective on the expiration of the  
16 period of time during which the Governor may veto the bill. If the bill is  
17 vetoed by the Governor and the veto is overridden, it shall become effective  
18 on the date the last house overrides the veto.

19 /s/ T. Smit APPROVED: BECAME LAW ON 4/29/1999, WITHOUT THE GOVERNOR'S  
20 SIGNATURE. h