

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

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.
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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.

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/s/ T. Smith