

As Introduced

**130th General Assembly
Regular Session
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H. B. No. 392

Representatives Stinziano, Rosenberger

**Cosponsors: Representatives Dovilla, Fedor, Ramos, Reece, Sheehy,
Stebelton**

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A B I L L

To amend sections 4301.631, 4301.69, and 4301.691 and 1
to enact section 4301.79 of the Revised Code to 2
provide persons under 21 years of age with a 3
qualified immunity from prosecution for offenses 4
involving underage alcohol possession or 5
consumption if law enforcement personnel become 6
aware of the offense solely because the person 7
sought or obtained medical assistance, solely 8
because another individual sought or obtained 9
medical assistance for the person, or because the 10
person requested law enforcement assistance to 11
report a criminal offense, prevent a possible 12
criminal offense, or request the investigation of 13
a criminal offense. 14

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4301.631, 4301.69, and 4301.691 be 15
amended and section 4301.79 of the Revised Code be enacted to read 16
as follows: 17

Sec. 4301.631. (A) As used in this section, "underage person" 18

means a person under eighteen years of age. 19

(B) No underage person shall purchase any low-alcohol 20
beverage. 21

(C) No underage person shall order, pay for, share the cost 22
of, or attempt to purchase any low-alcohol beverage. 23

(D) No person shall knowingly furnish any false information 24
as to the name, age, or other identification of any underage 25
person for the purpose of obtaining or with the intent to obtain 26
any low-alcohol beverage for an underage person, by purchase or as 27
a gift. 28

(E) No underage person shall knowingly show or give false 29
information concerning the person's name, age, or other 30
identification for the purpose of purchasing or otherwise 31
obtaining any low-alcohol beverage in any place in this state. 32

(F) No person shall sell or furnish any low-alcohol beverage 33
to, or buy any low-alcohol beverage for, an underage person, 34
unless given by a physician in the regular line of ~~his~~ the 35
physician's practice or given for established religious purposes, 36
or unless the underage person is accompanied by a parent, spouse 37
who is not an underage person, or legal guardian. 38

No permit issued by the division of liquor control shall be 39
suspended, revoked, or canceled because of a violation of this 40
division or division (G) of this section. 41

(G) No person who is the owner or occupant of any public or 42
private place shall knowingly allow any underage person to remain 43
in or on the place while possessing or consuming any low-alcohol 44
beverage, unless the low-alcohol beverage is given to the person 45
possessing or consuming it by that person's parent, spouse who is 46
not an underage person, or legal guardian, and the parent, spouse 47
who is not an underage person, or legal guardian is present when 48
the person possesses or consumes the low-alcohol beverage. 49

An owner of a public or private place is not liable for acts 50
or omissions in violation of this division that are committed by a 51
lessee of that place, unless the owner authorizes or acquiesces in 52
the lessee's acts or omissions. 53

(H) No underage person shall knowingly possess or consume any 54
low-alcohol beverage in any public or private place, unless 55
accompanied by a parent, spouse who is not an underage person, or 56
legal guardian, or unless the low-alcohol beverage is given by a 57
physician in the regular line of the physician's practice or given 58
for established religious purposes. 59

(I) No parent, spouse who is not an underage person, or legal 60
guardian of an underage person shall knowingly permit the underage 61
person to violate this section. 62

(J) Section 4301.79 of the Revised Code applies with respect 63
to the prosecution, unruly child adjudication, or delinquent child 64
adjudication of an underage person who violates division (H) of 65
this section by possessing or consuming any low-alcohol beverage. 66

Sec. 4301.69. (A) Except as otherwise provided in this 67
chapter, no person shall sell beer or intoxicating liquor to an 68
underage person, shall buy beer or intoxicating liquor for an 69
underage person, or shall furnish it to an underage person, unless 70
given by a physician in the regular line of the physician's 71
practice or given for established religious purposes or unless the 72
underage person is supervised by a parent, spouse who is not an 73
underage person, or legal guardian. 74

In proceedings before the liquor control commission, no 75
permit holder, or no employee or agent of a permit holder, charged 76
with a violation of this division shall be charged, for the same 77
offense, with a violation of division (A)(1) of section 4301.22 of 78
the Revised Code. 79

(B) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian and the parent, spouse who is not an underage person, or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor.

An owner of a public or private place is not liable for acts or omissions in violation of this division that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(C) No person shall engage or use accommodations at a hotel, inn, cabin, campground, or restaurant when the person knows or has reason to know either of the following:

(1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person;

(2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs and has the drug of abuse in the original container in which it was dispensed to the person.

(D)(1) No person is required to permit the engagement of

accommodations at any hotel, inn, cabin, or campground by an 111
underage person or for an underage person, if the person engaging 112
the accommodations knows or has reason to know that the underage 113
person is intoxicated, or that the underage person possesses any 114
beer or intoxicating liquor and is not supervised by a parent, 115
spouse who is not an underage person, or legal guardian who is or 116
will be present at all times when the beer or intoxicating liquor 117
is being consumed by the underage person. 118

(2) No underage person shall knowingly engage or attempt to 119
engage accommodations at any hotel, inn, cabin, or campground by 120
presenting identification that falsely indicates that the underage 121
person is twenty-one years of age or older for the purpose of 122
violating this section. 123

(E)(1) No underage person shall knowingly order, pay for, 124
share the cost of, attempt to purchase, possess, or consume any 125
beer or intoxicating liquor in any public or private place. No 126
underage person shall knowingly be under the influence of any beer 127
or intoxicating liquor in any public place. The prohibitions set 128
forth in division (E)(1) of this section against an underage 129
person knowingly possessing, consuming, or being under the 130
influence of any beer or intoxicating liquor shall not apply if 131
the underage person is supervised by a parent, spouse who is not 132
an underage person, or legal guardian, or the beer or intoxicating 133
liquor is given by a physician in the regular line of the 134
physician's practice or given for established religious purposes. 135

(2)(a) If a person is charged with violating division (E)(1) 136
of this section in a complaint filed under section 2151.27 of the 137
Revised Code, the court may order the child into a diversion 138
program specified by the court and hold the complaint in abeyance 139
pending successful completion of the diversion program. A child is 140
ineligible to enter into a diversion program under division 141
(E)(2)(a) of this section if the child previously has been 142

diverted pursuant to division (E)(2)(a) of this section. If the 143
child completes the diversion program to the satisfaction of the 144
court, the court shall dismiss the complaint and order the child's 145
record in the case sealed under sections 2151.356 to 2151.358 of 146
the Revised Code. If the child fails to satisfactorily complete 147
the diversion program, the court shall proceed with the complaint. 148

(b) If a person is charged in a criminal complaint with 149
violating division (E)(1) of this section, section 2935.36 of the 150
Revised Code shall apply to the offense, except that a person is 151
ineligible for diversion under that section if the person 152
previously has been diverted pursuant to division (E)(2)(a) or (b) 153
of this section. If the person completes the diversion program to 154
the satisfaction of the court, the court shall dismiss the 155
complaint and order the record in the case sealed under section 156
2953.52 of the Revised Code. If the person fails to satisfactorily 157
complete the diversion program, the court shall proceed with the 158
complaint. 159

(c) Section 4301.79 of the Revised Code applies with respect 160
to the prosecution, unruly child adjudication, or delinquent child 161
adjudication of an underage person who violates division (E) of 162
this section by possessing, consuming, or being under the 163
influence of any beer or intoxicating liquor. 164

(F) No parent, spouse who is not an underage person, or legal 165
guardian of a minor shall knowingly permit the minor to violate 166
this section or section 4301.63, 4301.633, or 4301.634 of the 167
Revised Code. 168

(G) The operator of any hotel, inn, cabin, or campground 169
shall make the provisions of this section available in writing to 170
any person engaging or using accommodations at the hotel, inn, 171
cabin, or campground. 172

(H) As used in this section: 173

(1) "Drug of abuse" has the same meaning as in section 3719.011 of the Revised Code.	174 175
(2) "Hotel" has the same meaning as in section 3731.01 of the Revised Code.	176 177
(3) "Licensed health professional authorized to prescribe drugs" and "prescription" have the same meanings as in section 4729.01 of the Revised Code.	178 179 180
(4) "Minor" means a person under the age of eighteen years.	181
(5) "Underage person" means a person under the age of twenty-one years.	182 183
Sec. 4301.691. If the United States congress repeals the mandate established by the "Surface Transportation Assistance Act of 1982" relating to a national uniform drinking age of twenty-one or if a court of competent jurisdiction declares the mandate to be unconstitutional or otherwise invalid, then upon the certification by the secretary of state that this mandate has been repealed or invalidated, the following shall apply:	184 185 186 187 188 189 190
(A) Beer or intoxicating liquor may be served to a person not seated at a table unless there is reason to believe that the beer will be consumed by a person under nineteen years of age or that the intoxicating liquor will be consumed by a person under twenty-one years of age.	191 192 193 194 195
(B) No person under the age of twenty-one years shall purchase intoxicating liquor, nor shall a person under the age of nineteen years purchase beer.	196 197 198
(C) No person under the age of nineteen years shall order, pay for, share the cost of, or attempt to purchase any beer or intoxicating liquor, or consume any beer or intoxicating liquor, either from a sealed or unsealed container or by the glass or by the drink, in any public or private place, except as provided in	199 200 201 202 203

section 4301.69 of the Revised Code. 204

(D) No person under the age of twenty-one years shall order, 205
pay for, share the cost of, or attempt to purchase any 206
intoxicating liquor, or consume any intoxicating liquor, either 207
from a sealed or unsealed container or by the glass or by the 208
drink, except as provided in section 4301.69 of the Revised Code. 209

(E) No person shall knowingly furnish any false information 210
as to the name, age, or other identification of any person under 211
twenty-one years of age for the purpose of obtaining or with the 212
intent to obtain, beer or intoxicating liquor for a person under 213
nineteen years of age, or intoxicating liquor for a person under 214
twenty-one years of age, by purchase, or as a gift. 215

(F) No person under the age of nineteen years shall knowingly 216
show or give false information concerning the person's name, age, 217
or other identification for the purpose of purchasing or otherwise 218
obtaining beer or intoxicating liquor in any place in this state 219
where beer or intoxicating liquor is sold under a permit issued by 220
the division of liquor control or sold by the division. 221

(G) No person under the age of twenty-one years shall 222
knowingly show or give false information concerning the person's 223
name, age, or other identification for the purpose of purchasing 224
or otherwise obtaining intoxicating liquor in any place in this 225
state where intoxicating liquor is sold under a permit issued by 226
the division or sold by the division. 227

(H) No person shall sell intoxicating liquor to a person 228
under the age of twenty-one years or sell beer to a person under 229
the age of nineteen, or buy intoxicating liquor for, or furnish it 230
to, a person under the age of twenty-one years, or buy beer for or 231
furnish it to a person under the age of nineteen, unless given by 232
a physician in the regular line of ~~his~~ the physician's practice, 233
or by a parent or legal guardian. 234

In proceedings before the liquor control commission, no 235
permit holder or the permit holder's employee or agent charged 236
with a violation of this section shall, for the same offense, be 237
charged with a violation of division (A)(1) of section 4301.22 of 238
the Revised Code. 239

(I) No person who is the owner or occupant of any public or 240
private place shall knowingly allow any person under the age of 241
twenty-one to remain in or on the place while possessing or 242
consuming intoxicating liquor, or knowingly allow any person under 243
the age of nineteen to remain in or on the place while possessing 244
or consuming beer, unless the intoxicating liquor or beer is given 245
to the person possessing or consuming it by that person's parent 246
or legal guardian and the parent or legal guardian is present at 247
the time of the person's possession or consumption of the 248
intoxicating liquor or beer. 249

(J) The division shall revise the warning sign required by 250
section 4301.637 of the Revised Code so that the sign conforms to 251
this section. 252

(K) Section 4301.79 of the Revised Code applies with respect 253
to the prosecution, unruly child adjudication, or delinquent child 254
adjudication of a person who violates division (C) or (D) of this 255
section by consuming any beer or intoxicating liquor. 256

Sec. 4301.79. (A) As used in this section: 257

(1) "Law enforcement personnel" means peace officers, 258
prosecutors, and members of a campus police department appointed 259
under section 1713.50 of the Revised Code. 260

(2) "Peace officer" and "prosecutor" have the same meanings 261
as in section 2935.01 of the Revised Code. 262

(3) "Underage alcohol possession or consumption violation" 263
means any of the following: 264

(a) A person's violation of division (H) of section 4301.631 265
of the Revised Code by possessing or consuming any low-alcohol 266
beverage, a person's violation of division (E) of section 4301.69 267
of the Revised Code by possessing, consuming, or being under the 268
influence of any beer or intoxicating liquor, or a person's 269
violation of division (C) or (D) of section 4301.691 of the 270
Revised Code by consuming any beer or intoxicating liquor; 271

(b) A person's violation of any ordinance of a municipal 272
corporation that is substantially equivalent to any violation 273
listed in division (A)(3)(a) of this section. 274

(B) Notwithstanding any provision of Title XXI or XXIX of the 275
Revised Code or any other provision of law, a person under 276
twenty-one years of age shall not be prosecuted, subjected to 277
adjudication as an unruly child, or subjected to adjudication as a 278
delinquent child for an underage alcohol possession or consumption 279
violation if all of the following apply: 280

(1) Law enforcement personnel became aware of the person's 281
possession or consumption of the low-alcohol beverage or the 282
person's possession, consumption, or being under the influence of 283
the beer or intoxicating liquor that is the basis of the violation 284
solely because the person sought or obtained medical assistance 285
for another individual, solely because the person sought or 286
obtained medical assistance for self, or solely because another 287
individual sought or obtained medical assistance for the person. 288

(2) If the person sought or obtained the medical assistance 289
for another individual, when seeking or obtaining the assistance, 290
the person acted in good faith upon a reasonable belief that the 291
person was the first to call for assistance and the person 292
remained with the individual needing the medical assistance until 293
help arrived. 294

(3) If the person sought or obtained the medical assistance 295

for another individual or for self, when seeking or obtaining the 296
assistance, the person used the person's own name. 297

(C) Notwithstanding any provision of Title XXI or XXIX of the 298
Revised Code or any other provision of law, a person under 299
twenty-one years of age shall not be prosecuted, subjected to 300
adjudication as an unruly child, or subjected to adjudication as a 301
delinquent child for an underage alcohol possession or consumption 302
violation if law enforcement personnel became aware of the 303
person's possession or consumption of low-alcohol beverage or the 304
person's possession, consumption, or being under the influence of 305
the beer or intoxicating liquor that is the basis of the violation 306
solely because the person, acting in good faith, requested law 307
enforcement assistance by dialing the telephone number "9-1-1" or 308
by other means, to report a criminal offense, prevent a possible 309
criminal offense, or request the investigation of a criminal 310
offense. 311

Section 2. That existing sections 4301.631, 4301.69, and 312
4301.691 of the Revised Code are hereby repealed. 313

Section 3. Section 4301.69 of the Revised Code is presented 314
in this act as a composite of the section as amended by both Am. 315
Sub. H.B. 137 and Sub. S.B. 131 of the 126th General Assembly. The 316
General Assembly, applying the principle stated in division (B) of 317
section 1.52 of the Revised Code that amendments are to be 318
harmonized if reasonably capable of simultaneous operation, finds 319
that the composite is the resulting version of the section in 320
effect prior to the effective date of the section as presented in 321
this act. 322