



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3085/1
ARG:wlj/amn/kjf

2015 SENATE BILL 471

December 18, 2015 - Introduced by Senators RISSER, ERPENBACH, GUDEx, RINGHAND, CARPENTER and C. LARSON, cosponsored by Representatives HORLACHER, GOYKE, SARGENT, BROSTOFF, SPREITZER, SUBECK, KAHL, BERCEAU, WACHS and JOHNSON. Referred to Committee on Judiciary and Public Safety.

- 1 **AN ACT to amend** 125.07 (4) (bs) (intro.) and 125.07 (4) (c) (intro.); and **to create**
2 125.07 (5) of the statutes; **relating to:** citations to underage persons for alcohol
3 beverages violations and providing a criminal penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits issuance of an underage alcohol beverage citation to a person who requests emergency medical or law enforcement assistance, cooperates with emergency responders when they arrive, and satisfies other conditions.

Under current law, a person who has not attained the legal drinking age of 21 years and who is not accompanied by his or her parent, guardian, or spouse who is at least age 21 (underage person) may not 1) procure or attempt to procure alcohol beverages from an alcohol retailer; 2) possess or consume alcohol beverages on licensed retail premises or knowingly possess or consume alcohol beverages elsewhere; 3) enter or be on licensed retail premises, subject to various exceptions; or 4) falsely represent his or her age to obtain alcohol beverages from a retailer (underage violation). A person who commits an underage violation is subject to various penalties, including a forfeiture ranging in amount from \$250 to \$1,000 depending on the number of prior underage violations the person has committed.

Under this bill, beginning approximately one year after the bill's enactment, an underage person may not be issued a citation for, or convicted of, an underage violation if all of the following apply:

1. A law enforcement officer has contact with the underage person because the underage person requested emergency medical assistance for himself or herself or

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for another person; another person requested emergency medical assistance for the underage person; or the underage person requested law enforcement assistance to report, request investigation of, or prevent a possible crime. The request for assistance may be made by dialing "911" or by other means.

2. The underage person remains at the scene until emergency medical assistance or law enforcement assistance arrives and thereafter cooperates with providers of emergency medical assistance or law enforcement assistance. However, this requirement does not apply if the underage person is the person in need of emergency medical assistance and lacks capacity to cooperate.

3. The underage person has not fraudulently requested assistance (as discussed further below).

4. The underage person satisfies the requirements of any applicable deferred-citation alcohol diversion program established by the applicable law enforcement agency.

A person who requests assistance with an intention to claim this protection against citation or conviction for an underage violation knowing that the fact situation that he or she reports does not exist must be fined not less than \$100 nor more than \$600 or imprisoned not more than 90 days or both for the first offense and is guilty of a Class H felony for a subsequent offense within four years. A Class H felony is punishable by a fine not exceeding \$10,000 or imprisonment not exceeding six years or both.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 125.07 (4) (bs) (intro.) of the statutes is amended to read:

2 125.07 (4) (bs) (intro.) ~~Any~~ Subject to sub. (5) (a), any person violating par. (a)
3 is subject to the following penalties:

4 **SECTION 2.** 125.07 (4) (c) (intro.) of the statutes is amended to read:

5 125.07 (4) (c) (intro.) ~~Any~~ Subject to sub. (5) (a), any person violating par. (b)
6 is subject to the following penalties:

7 **SECTION 3.** 125.07 (5) of the statutes is created to read:

8 125.07 (5) REQUESTS FOR EMERGENCY ASSISTANCE. (a) An underage person may
9 not be issued a citation for, or convicted of, a violation of sub. (4) (a) or (b) if all of the
10 following apply:

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1 1. A law enforcement officer has contact with the underage person because of
2 any of the following:

3 a. The underage person requested emergency medical assistance, by dialing
4 the telephone number “911” or by other means, for himself or herself or for another
5 person.

6 b. Another person requested emergency medical assistance, by dialing the
7 telephone number “911” or by other means, for the underage person.

8 c. The underage person requested law enforcement assistance, by dialing the
9 telephone number “911” or by other means, to report, request investigation of, or
10 prevent a possible crime.

11 2. The underage person remains at the scene until emergency medical
12 assistance or law enforcement assistance arrives and thereafter cooperates with
13 providers of emergency medical assistance or law enforcement assistance, including
14 furnishing any requested information. This subdivision does not apply if the
15 underage person is the person in need of emergency medical assistance and lacks
16 capacity to cooperate when emergency medical assistance arrives.

17 3. The underage person has not violated par. (b).

18 4. If the law enforcement officer having contact with the underage person under
19 subd. 1. is employed by a law enforcement agency that has established a
20 deferred-citation alcohol diversion program, the underage person has satisfied all
21 of the requirements under this program.

22 (b) Any person who requests emergency medical assistance or law enforcement
23 assistance, by dialing the telephone number “911” or by other means, with an
24 intention to claim the protections under par. (a) and knowing that the fact situation
25 that he or she reports does not exist shall be fined not less than \$100 nor more than

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1 \$600 or imprisoned not more than 90 days or both for the first offense and is guilty
2 of a Class H felony for a 2nd or subsequent offense committed within 4 years after
3 the first offense.

4 **SECTION 4. Initial applicability.**

5 (1) The treatment of section 125.07 (5) (a) of the statutes first applies to
6 violations of section 125.07 (4) (a) and (b) of the statutes committed on the first day
7 of the 13th month beginning after the effective date of this subsection.

8 (END)