



SPONSOR: Rep. Miro & Rep. Stone & Sen. DeLuca;
Reps. Spence, Buckworth, Carey, Cathcart, DiPinto, Hocker, Lavelle,
Maier, Oberle, Ulbrich, Gilligan, Schwartzkopf, Caulk; Sens. Henry,
Sokola, Still, Sorenson, Cloutier, Connor, Copeland, Simpson

HOUSE OF REPRESENTATIVES

143rd GENERAL ASSEMBLY

HOUSE BILL NO. 176

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATED TO THE DELAWARE RESPONSIBLE
ALCOHOLIC BEVERAGE SERVER TRAINING PROGRAM AND THE ENFORCEMENT OF LAWS RELATED TO
RESPONSIBLE SERVING OF ALCOHOLIC BEVERAGES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to
each house thereof concurring therein):

1 Section 1. Amend Title 4 of the Delaware Code, § 1201 (4) by deleting said subsection in its entirety and replacing it with
2 the following:

3 “(4) The voluntary Delaware Responsible Alcoholic Beverage Server Training Program which has been conducted by the
4 Delaware Division of Alcohol and Tobacco Enforcement staff has been well received by those licensed commercial servers of
5 alcoholic beverages who have undergone the training;”.

6 Section 2. Amend Title 4 of the Delaware Code, § 1201 (6) by deleting said subsection in its entirety and replacing it with
7 the following:

8 “(6) Such a mandatory training program should be provided to licensees and their employees at a reasonable cost so as to
9 encourage their full support and participation while creating an incentive for the employees to take the program seriously; and”.

10 Section 3. Amend Title 4 of the Delaware Code, § 1202 by deleting said Section in its entirety and replacing it with the
11 following:

12 “1202. Implementation.

13 (a) It shall be the responsibility of the Delaware Division of Alcohol and Tobacco Enforcement to establish training
14 courses and materials, examinations and examination procedures with respect to the implementation of a mandatory
15 responsible alcoholic beverage server training program in Delaware.

16 (b) It shall be permissible for any person or entity to establish a responsible alcoholic beverage server training program
17 that conforms to the requirements of § 1204 of this Title.

- (c) In establishing, implementing, certifying or otherwise approving any training program, the Alcoholic Beverage Control Commissioner and the Delaware Division of Alcohol and Tobacco Enforcement shall consult with and seek comment from industry groups affected by the program as well as other interested State agencies.
- (d) For the purposes of § 1203 (a) and (c) of this Title, the term ‘employees’ means persons who have been employed by the holder of a license for at least 30 days and who work in a licensed establishment at least 10 hours a week.
- (e) The Commissioner may grant new licenses or renew valid licenses conditional upon the certification required by § 1203 (b) and (d) of this Title being provided to the Commissioner within 30 days of the granting or renewal of such license.”.

Section 4. Amend Title 4 of the Delaware Code, § 1204 (c) by deleting said subsection in its entirety and replacing said subsection with the following:

“(c) The Division of Alcohol and Tobacco Enforcement shall provide a responsible alcoholic beverage server training program through its trained personnel for a course approved by the Commissioner and the Commissioner may approve and certify such a training program or programs to be provided through independent contactors, private persons or educational institutions.”.

Section 5. Amend Title 4 of the Delaware Code, § 1205 by deleting said Section in its entirety and replacing said Section with the following:

“§ 1205. Certification and renewal training.

Every person who successfully completes an approved responsible alcoholic beverage server training program shall be certified by the instructor as having met the requirements of this Chapter. The course taught shall be either the Division of Alcohol and Tobacco Enforcement course or any other Commissioner approved course. The instructor shall provide the names of the persons who successfully complete the approved class, as well as such additional information that is required by the Commissioner, to the Commissioner and the Division of Alcohol and Tobacco Enforcement. Such certification shall be valid for a period of four (4) years at which time the person must undergo renewal training in order to obtain recertification which shall also be valid for a period of four (4) years. Renewal training shall include the information described in § 1204 of this Title and/or such other information as the Commissioner may by regulation require.”.

Section 6. Amend Title 4 of the Delaware Code, § 1206 by adding a new subsection “(c)” to read as follows:

“(c) The Commissioner may suspend or revoke the server training card of any person who the Commission determines, after a hearing, has violated this Title or the Commissioner’s rules. If a person’s card is suspended or revoked, that person shall not be permitted to serve alcohol in Delaware during the period of suspension or, if revoked, for such period of time as stated by the

46 Commissioner in the order of revocation. In addition, the Commissioner may require that a person that has completed the course
47 attend and successfully complete either the full course or the recertification course.”.

48 Section 7. Amend Title 4 of the Delaware Code, § 1207 by deleting said Section in its entirety and replacing said Section
49 with the following:

50 “§ 1207. Enforcement.

51 The Division of Alcohol and Tobacco Enforcement shall be responsible for enforcement of this Chapter and shall
52 bring charges of violations of this Chapter against a licensee or a certified trained server before the Commissioner. The
53 Commissioner shall have exclusive original jurisdiction over all alleged violations of the provisions of this Chapter.”.

54 Section 8. Amend Title 4 of the Delaware Code, § 1208 by deleting said Section in its entirety and replacing said Section
55 with the following:

56 “§ 1208. Training program costs.

- 57 (a) All costs associated with the implementation, administration and enforcement of the requirements of this Chapter shall
58 be paid from a special fund entitled the ‘Delaware Responsible Alcoholic Beverage Server Training Program Fund’.
- 59 (b) The Commissioner shall deposit \$300 from each application process fee, collected pursuant to § 554 (x) of this Title,
60 into the Delaware Responsible Alcoholic Beverage Server Training Program Fund.
- 61 (c) Any person that takes the course offered by the Division of Alcohol and Tobacco Enforcement after July 1, 2005 shall
62 pay a fee, in the amount determined by the Commissioner, not to exceed fifteen dollars (\$15.00) for the full course and
63 ten dollars (\$10.00) for the recertification course. Said fee shall be deposited into the Delaware Responsible Alcoholic
64 Beverage Server Training Program Fund to pay for the costs associated with the program. Any person that is
65 approved by the Commissioner to offer a responsible alcoholic beverage server training course may be required to
66 remit a fee determined by the Commissioner, not to exceed fifteen dollars (\$15.00), to offset any costs associated with
67 creating an identification card for the server.
- 68 (d) The Fund shall be a revolving fund and no funds deposited therein shall revert to the General Fund of the State
69 Treasury.
- 70 (e) The Alcoholic Beverage Control Commissioner and Division of Alcohol and Tobacco Enforcement shall, on or before
71 December 31 of each year, make a report to the Governor of all income and expenditures made from said Fund. A
72 copy of said reports shall be given biennially on or before December 31 to any member of the General Assembly who
73 requests a copy.

74 (f) The Commissioner shall deposit \$200 from each application process fee, collected pursuant to § 554 (x) of this Title,
75 into an account designated by the Department of Finance for the General Fund of the State Treasury.”.

76 Section 9. Amend Title 4 of the Delaware Code § 554 by adding a new subsection (nn) that shall read as follows:

77 “(nn) Each of the licensees identified in subsections a-h, t, v-z, bb, cc, dd, ff, gg, hh, ii and ll of this Section, shall pay an
78 additional annual fee of \$100.00. The Commissioner shall deposit said funds into a special account designated as the
79 ‘Overservice Investigation Fund’. Said fund shall be utilized by the Division of Alcohol and Tobacco Enforcement to
80 pay overtime to its agents and/or to hire and equip additional agents for the purpose of investigating and prosecuting
81 licensees that serve intoxicated individuals.”.

SYNOPSIS

This Bill clarifies the respective duties of the Alcoholic Beverage Control Commissioner (Commission) and the Division of Alcohol and Tobacco Enforcement (DATE) with regard to the Responsible Alcoholic Beverage Server Training Program.

The Bill provides authority for the Commission to take action against a trained server who violates the law or Commissioner’s rules. It also provides a funding mechanism for the training program.

Finally, the Bill provides a fund, paid by licensees, that will supply monies for DATE to investigate and prosecute licensees who engage in the overservice of patrons.