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Date: 4/14/2020

- **Ohio Revised Code**
- » **Title [43] XLIII LIQUOR**
- » **Chapter 4301: LIQUOR CONTROL LAW**

## **4301.611 Transaction scan as affirmative defense where age of purchaser is element of crime.**

(A) A permit holder or an agent or employee of a permit holder may not be found guilty of a charge of a violation of this chapter or any rule of the liquor control commission in which the age of a purchaser of any beer, intoxicating liquor, or low-alcohol beverage is an element of the alleged violation, if the permit holder, agent, or employee raises and proves as an affirmative defense that all of the following occurred:

(1) The card holder attempting to purchase any beer, intoxicating liquor, or low-alcohol beverage presented a driver's or commercial driver's license or an identification card.

(2) A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid.

(3) The beer, intoxicating liquor, or low-alcohol beverage was sold to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.

(B) In determining whether a permit holder or an agent or employee of a permit holder has proven the affirmative defense provided by division (A) of this section, the liquor control commission or the trier of fact in a court of record shall consider any written policy that the permit holder has adopted and implemented and that is intended to prevent violations of division (A)(1) or (2) of section [4301.22](#) and of sections [4301.63](#) to [4301.636](#), [4301.69](#), and [4301.691](#) of the Revised Code. For purposes of division (A)(3) of this section, the commission or trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a permit holder or an agent or employee of a permit holder to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a permit holder or an agent or employee of a permit holder from exercising reasonable diligence to determine, the following:

(1) Whether a person to whom the permit holder or agent or employee of a permit holder sells any beer or intoxicating liquor is twenty-one years of age or older or sells any low-alcohol beverage is eighteen years of age or older;

(2) Whether the description and picture appearing on the driver's or commercial driver's license or identification card presented by a card holder is that of the card holder.

(C) The affirmative defense provided by division (A) of this section is in addition to the defense provided by section [4301.639](#) of the Revised Code.

(D) In any hearing before the liquor control commission and in any criminal action in which the affirmative defense provided by division (A) of this section is raised, the registrar of motor vehicles or a

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deputy registrar who issued an identification card under sections [4507.50](#) to [4507.52](#) of the Revised Code shall be permitted to submit certified copies of the records of that issuance in lieu of the testimony of the personnel of or contractors with the bureau of motor vehicles in the hearing or action.

Effective Date: 09-21-2000 .

- [Ohio Revised Code](#)
- » [Title \[43\] XLIII LIQUOR](#)
- » [Chapter 4301: LIQUOR CONTROL LAW](#)

## **4301.61 Transaction scans to check the validity of driver's or commercial driver's license or identification card.**

(A) As used in this section and section [4301.611](#) of the Revised Code:

(1) "Card holder" means any person who presents a driver's or commercial driver's license or an identification card to a permit holder, or an agent or employee of a permit holder, for either of the purposes listed in division (A)(4)(a) or (b) of this section.

(2) "Identification card" means an identification card issued under sections [4507.50](#) to [4507.52](#) of the Revised Code or an equivalent identification card issued by another state.

(3) "Permit holder" means the holder of a permit issued under Chapter 4303. of the Revised Code.

(4) "Transaction scan" means the process by which a permit holder or an agent or employee of a permit holder checks, by means of a transaction scan device, the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for doing either of the following:

(a) Purchasing any beer, intoxicating liquor, or low-alcohol beverage;

(b) Gaining admission to a premises that has been issued a liquor permit authorizing the sale of beer or intoxicating liquor for consumption on the premises where sold, and where admission is restricted to persons twenty-one years of age or older.

(5) "Transaction scan device" means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver's or commercial driver's license or an identification card.

(B)

(1) A permit holder or an agent or employee of a permit holder may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or commercial driver's license or identification card presented by a card holder for either of the purposes listed in division (A)(4)(a) or (b) of this section.

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(2) If the information deciphered by the transaction scan performed under division (B)(1) of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the permit holder nor any agent or employee of the permit holder shall sell any beer, intoxicating liquor, or low-alcohol beverage to the card holder.

(3) Division (B)(1) of this section does not preclude a permit holder or an agent or employee of a permit holder from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or an identification card, if the document includes a bar code or magnetic strip that may be scanned by the device, as a condition of a sale of beer, intoxicating liquor, or a low-alcohol beverage or of granting admission to a premises described in division (A)(4) of this section.

(C) The registrar of motor vehicles, with the approval of the liquor control commission, shall adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code that do both of the following:

(1) Govern the recording and maintenance of information described in divisions (D)(1)(a) and (b) of this section, divisions (D)(1)(a) and (b) of section [2927.021](#) of the Revised Code, and divisions (D)(1)(a) and (b) of section [2925.57](#) of the Revised Code;

(2) Ensure quality control in the use of transaction scan devices under this section and sections [2927.021](#), [2927.022](#), [2925.57](#), [2925.58](#), and [4301.611](#) of the Revised Code.

(D)

(1) No permit holder or agent or employee of a permit holder shall electronically or mechanically record or maintain any information derived from a transaction scan, except the following:

(a) The name and date of birth of the person listed on the driver's or commercial driver's license or identification card presented by a card holder;

(b) The expiration date and identification number of the driver's or commercial driver's license or identification card presented by a card holder.

(2) No permit holder or agent or employee of a permit holder shall use the information that is derived from a transaction scan or that is permitted to be recorded and maintained by division (D)(1) of this section, except for purposes of section [4301.611](#) of the Revised Code.

(3) No permit holder or agent or employee of a permit holder shall use a transaction scan device for a purpose other than a purpose listed in division (A)(4)(a) or (b) of this section.

(4) No permit holder or agent or employee of a permit holder shall sell or otherwise disseminate the information derived from a transaction scan to any third party, including, but not limited to, selling or otherwise disseminating that information for any marketing, advertising, or promotional activities, but a permit holder or agent or employee of a permit holder may release that information pursuant to a court order or as specifically authorized by section [4301.611](#) or another section of the Revised Code.

(E) Nothing in this section or section [4301.611](#) of the Revised Code relieves a permit holder or an agent or employee of a permit holder of any responsibility to comply with any other applicable state or federal laws or rules governing the sale of beer, intoxicating liquor, or low-alcohol beverages.

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(F) Whoever violates division (B)(2) or (D) of this section is guilty of an illegal liquor transaction scan, and the court may impose upon the offender a civil penalty of up to one thousand dollars for each violation. The clerk of the court shall pay each collected civil penalty to the county treasurer for deposit into the county treasury.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Effective Date: 09-21-2000; 05-17-2006