



## Ohio Revised Code

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

Effective: September 21, 2000

Legislation: Senate Bill 200 - 123rd General Assembly

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(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 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.