

1 H.288

2 ~~SHORT FORM~~

3 Introduced by Representative Nicoll of Ludlow

4 Referred to Committee on

5 Date:

6 Subject: Alcoholic beverages; sale to intoxicated persons; unlawful sale; civil

7 action for damages

8 Statement of purpose of bill as introduced: This bill proposes to amend the
9 statutes governing liability for the sale of alcoholic beverages to reduce the
10 scope of strict liability and limit the persons who may be subject to an action
11 for damages resulting from an unlawful sale of alcoholic beverages.

12 An act relating to liability for the sale of alcoholic beverages

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 ~~(TEXT OMITTED IN SHORT FORM BILLS)~~

** * * Liquor Liability * * **

Sec. 1. 7 V.S.A. § 501 is amended to read:

§ 501. UNLAWFUL SALE OF ALCOHOLIC BEVERAGES; CIVIL

ACTION FOR DAMAGES

~~(a) Action for damages. A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by an intoxicated person, or in consequence of the intoxication of any person, shall have a right of action in his or her own name, jointly or severally. An injured person may bring an action in the person's own name pursuant to this subsection.~~

~~(1) Unlawful sale. An injured person shall have a right of action against any person or persons licensee who have caused in whole or in part the intoxication of the intoxicated person by selling or furnishing alcoholic beverages:~~

~~(1)(A) to a minor as defined in section 2 of this title; or~~

~~(2) to a person apparently under the influence of alcohol;~~

~~(3)(B) to a person after legal serving hours; or~~

~~(4) to a person who it would be reasonable to expect would be under the influence of alcohol as a result of the amount of alcoholic beverages served by the defendant to that person.~~

~~(2) Negligent service. An injured person may bring an action against any licensee who negligently furnishes alcoholic beverages to a person:~~

~~(A) apparently under the influence of alcohol; or~~

(B) who it would be reasonable to expect would be under the influence of alcohol as a result of the amount of alcoholic beverages served by the licensee to that person.

(3) Negligence; prudent person. A licensee's conduct is negligent under this subsection if the licensee knows, or if a reasonable and prudent person in similar circumstances would know, that the individual being served is intoxicated.

(4) Licensee's knowledge; individual consumption. A licensee is not chargeable with knowledge of an individual's off-premises consumption of alcoholic beverages unless the individual's appearance and behavior, or other facts known to the licensee, would put a reasonable and prudent person on notice of the individual's consumption of alcoholic beverages.

(b) Survival of action; joint action. Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or ~~his or her~~ the party's legal representatives may bring either a joint action against the ~~person~~ intoxicated, person and the person or persons who furnished the alcoholic beverages, and an owner who may be liable under subsection (e) of this section, licensee or a separate action against either ~~or any~~ of them.

(c) Landlord liability.

~~(1) If the alcoholic beverages were sold or furnished to the intoxicated person in a rented building, the owner may be joined as a defendant in the action, and judgment in the action may be rendered against the owner, if the owner of the building or in the case of a corporation, its agent, knew or had reason to know that alcoholic beverages were sold or furnished by the tenant:~~

~~(A) to minors as defined in section 2 of this title;~~

~~(B) to persons apparently under the influence of alcohol;~~

~~(C) to persons after legal serving hours; or~~

~~(D) to persons who it would be reasonable to expect would be under the influence of alcohol as a result of the amount of alcoholic beverages served to them by the tenant.~~

~~(2) It shall be an affirmative defense to an action against an owner that the owner took reasonable steps to prevent the sale of alcoholic beverages under the circumstances described in this subsection or to evict the tenant.~~

~~[Repealed.]~~

* * *

(h) *Definitions. As used in this section:*

(1) “Apparently under the influence of alcohol” means a state of intoxication accompanied by a perceptible act or series of actions ~~which~~ that present signs of intoxication.

(2) “Injured person” means a spouse, child, guardian, employer, or other person, other than the intoxicated person, who is injured in person, property, or means of support by an intoxicated person or in consequence of the intoxication of any person.

(3) “Intoxicated person” means an intoxicated individual who caused injury to a person, a person’s property, or a person’s means of support.

(4) “Licensee” means the holder of a first-, third-, or fourth-class license under this title, and the license holder’s employees, who sells or furnishes alcohol to an intoxicated person.

(5) “Social host” means a person who is not the holder of a license or permit under this title and is not required to hold a license or permit under this title.

Sec. 2. 7 V.S.A. § 501 is amended to read:

§ 501. UNLAWFUL SALE OF ALCOHOLIC BEVERAGES; CIVIL

ACTION FOR DAMAGES

* * *

(i) Liability insurance required. The Department of Liquor and Lottery, in consultation with the Department of Financial Regulation, shall adopt rules governing minimum policy requirements, including coverage amounts, for liquor liability insurance. Prior to the issuance or renewal of a first-, third-, or fourth-class license, the Department of Liquor and Lottery shall require

each licensee or applicant to carry liquor liability insurance that meets minimum coverage requirements adopted by the Department.

** * * Notice to Landlord of Licensee Violations * * **

Sec. 3. 7 V.S.A. § 104 is amended to read:

§ 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

The Board shall supervise and manage the sale of spirits and fortified wines within the State in accordance with the provisions of this title, and through the Commissioner of Liquor and Lottery shall:

(1)(A) Ensure that the laws relating to alcohol and alcoholic beverages are enforced, using for that purpose as much of the monies annually available to the Board of Liquor and Lottery as may be necessary.

** * **

(E) Ensure that the owner of a premises leased by a licensee is notified of licensee violations of alcoholic beverage laws.

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** * * Effective Dates * * **

Sec. 4. EFFECTIVE DATES

(a) This section and Secs. 1 and 3 shall take effect on July 1, 2023.

(b) Sec. 2 shall take effect on July 1, 2024.