

of release; provided that \*[, if the imposition of such additional or different conditions results in the detention of the person as a result of his inability to meet such conditions or in the release of the person on a condition requiring him to return to custody after specified hours,]\* the provisions of subsection (d) shall apply.

(f) The term "judicial officer" as used in this section and section 7556 of this title shall mean a clerk of a county or district court or a superior or district court judge.

(g) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

(h) Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security where such disposition is authorized by the court.

Sec. 3. 13 V.S.A. § 7559(e) and (f) are added to read:

(e) The state's attorney may commence a prosecution for criminal contempt under Rule 42 of the Vermont rules of criminal procedure against a person who violates a condition of release imposed under section 7554 of this title. The maximum penalty which may be imposed under this subsection shall be a fine of \$1,000.00 or imprisonment for six months, or both. Upon commencement of a prosecution for criminal contempt, the court shall review, in accordance with section 7554 of this title, and may continue or modify conditions of release or terminate release of the person.

(f) Notwithstanding Rule 3 of the Vermont rules of criminal procedure, a law enforcement officer may arrest a person without a warrant when the officer has probable cause to believe the person without just cause has failed to appear at a decided time and place in connection with a prosecution for an offense or has violated a condition of release relating to a restriction on travel or a condition of release that he or she or directly contact, harass or cause to be harassed a victim or potential witness.

Sec. 4. 13 V.S.A. § 7574 is added to read:

7574. RELEASE IN CASES AFTER CONVICTION

Upon an adjudication of guilt, the trial judge shall review the terms and conditions of release and may terminate them or may continue or alter them pending sentence or pending notice

of appeal or the expiration of the time allowed for filing notice of appeal. In making such review, the judge shall consider the factors set forth in subsection 7554(b) of this title, as well as the defendant's conduct during the trial and the fact of conviction. Any denial of or change in the terms of release shall be reviewable in the manner provided in sections 7554 and 7556 of this title for pretrial release.

Approved: June 23, 1987

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NO. 103. AN ACT RELATING TO DRAM SHOP LIABILITY.

(S.5)

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

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

§ 501. UNLAWFUL SALE OF INTOXICATING LIQUORS; CIVIL ACTION FOR DAMAGES

(a) Action for damages. A \*[husband, wife]\* 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, against \*[a person or persons, who, by selling or furnishing intoxicating liquor unlawfully, have caused in whole or in part such intoxication.]\* any person or persons who have caused in whole or in part such intoxication by selling or furnishing intoxicating liquor:

(1) to a minor as defined in this title;

(2) to a person apparently under the influence of intoxicating liquor;

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

(4) to a person whom it would be reasonable to expect would be under the influence of intoxicating liquor as a result of the amount of liquor served by the defendant to that person.

\*[If such intoxicating liquor was so sold or furnished to such person in a rented building, and the owner of such building, or his agent in charge thereof, knew or had reason to know that intoxicating liquor was sold or kept for sale by his tenant in such building contrary to law, such owner may be joined as defendant in such action, and judgment therein may be rendered against him.]\*

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

(c) Landlord liability. If the intoxicating liquor was sold or furnished to the intoxicated person in a rented building, the owner may be joined as a defendant in the action, and judgment therein 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 intoxicating liquor was sold or furnished by the tenant

(1) to minors as defined in this title;

(2) to persons apparently under the influence of intoxicating liquor;

(3) to persons after legal serving hours; or

(4) to persons whom it would be reasonable to expect would be under the influence of intoxicating liquor as a result of the amount of liquor served to them by the tenant. It shall be an affirmative defense to an action against an owner that the owner took reasonable steps to prevent the sale of intoxicating liquor under the circumstances described in this subsection or to evict the tenant.

(d) Statute of limitations. An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(e) Evidence. In an action brought under this section, evidence of responsible actions taken or not taken is admissible, if otherwise relevant. Responsible actions may include, but are not limited to, instruction of servers as to laws governing the sale of alcoholic beverages, training of servers regarding intervention techniques, admonishment to patrons or guests concerning laws regarding the consumption of intoxicating liquor, and inquiry under the methods provided by law as to the age or degree of intoxication of the persons involved.

(f) Right of contribution. A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(g) Social host. Nothing in this section shall create a statutory cause of action against a social host for furnishing intoxicating liquor to any person without compensation or profit, if the social host is not a licensee or required to be a licensee under this title. However, this subsection shall not be construed to limit or otherwise affect the liability of a social host for negligence at common law.

(h) Definition. For the purpose of this section "apparently under the influence of intoxicating liquor" means a state of intoxication accompanied by a perceptible act or series of actions which present signs of intoxication.

Sec. 2. 7 V.S.A. § 167 is amended to read:

§ 167. DUTIES OF LOCAL CONTROL COMMISSIONERS

The local control commissioners shall administer such rules and regulations, which shall be furnished them by the liquor control board, as shall be necessary to carry out the purposes of this title. All forms of licenses and permits and applications therefor and all rules and regulations shall be prescribed by the liquor control board, which shall prepare and issue such forms, rules and regulations.

Sec. 3. 7 V.S.A. § 240 is added to read:

§ 240. PROOF OF FINANCIAL RESPONSIBILITY

(a) Any first, second or third class liquor licensee whose license is suspended by the local control commissioners or suspended or revoked by the liquor control board for selling or furnishing intoxicating liquor to a minor, to a person apparently under the influence of intoxicating liquor, to a person after legal serving hours, or to a person whom it would be reasonable to expect would be intoxicated as a result of the amount of liquor served to that person, shall be required to furnish to the liquor control department a certificate of financial responsibility within 60 days of the commencement of the suspension or revocation or at the time of reinstatement of the license, whichever is later. Financial responsibility may be established by any one or a combination of the following: insurance, surety bond or letter of credit. Coverage shall be maintained at not less than \$25,000.00 per occurrence and \$50,000.00 aggregate per occurrence. Proof of financial responsibility shall be required for license renewal for the three years following the suspension or revocation.

(b) Proof of financial responsibility and completion of the licensee education program established in section 239 of this title shall be conditions to resume operation after a suspension or revocation for any of the reasons in subsection

(a) of this section; however, at the discretion of the suspending or revoking authority, the licensee may receive a provisional license prior to the time these conditions are met in order to allow for compliance with the education requirement or to obtain the certificate of financial responsibility. A provisional license may not be issued for a period exceeding 60 days.

sec. 4. 7 V.S.A. § 239 is added to read:

239. LICENSEE EDUCATION

(a) No new first or second class license shall be granted until the applicant has met with a liquor control investigator or the purpose of being informed of the Vermont liquor laws, rules and regulations pertaining to the purchase, storage and sale of alcohol beverages. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this subsection.

(b) Every first and second class licensee shall complete the department of liquor control licensee enforcement seminar at least once every three years. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this subsection. No first or second class license shall be renewed unless the records of the department of liquor control show that the licensee has complied with the terms of this subsection.

(c) It shall be the responsibility of each licensee to insure that every employee who is involved in the sale or serving of alcohol beverages completes a training program approved by the department of liquor control. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the department of liquor control.

sec. 5. 8 V.S.A. § 3567 is added to read:

3567. INSURANCE RECORDS

(a) All insurers licensed to sell insurance, including unadmitted insurers with whom certain types of insurance may be placed as permitted by chapter 138 of Title 8, shall submit the following liquor liability insurance statistics to the commissioner of banking and insurance who shall collect and maintain records on the following:

(1) the number of policies written, premiums written, and premiums earned for liquor liability insurance;

(2) the number of claims paid and dollar amount of claims paid; and

(3) the number of claims incurred and dollar amount of claims incurred.

(b) The commissioner of banking and insurance shall make available to the general assembly the information collected and maintained under this section. The commissioner shall report to the general assembly the number of companies writing liquor liability insurance.

(c) If an insurer cannot determine the amount of premiums written or premiums earned because the liquor liability coverage is part of a policy or policies providing other liability coverage, reasonable methods of estimation may be used as approved by the commissioner of banking and insurance.

(d) "Liquor liability insurance" means that type of liability insurance which covers the selling or serving of alcoholic beverages for a consideration and includes policies which provide other liability coverage in addition to liquor liability insurance.

sec. 6. 20 V.S.A. § 1817 is added to read:

1817. REPORTS OF LAW ENFORCEMENT OFFICER; ACCIDENTS INVOLVING

LIQUOR

Any law enforcement officer who, upon investigation of a motor vehicle accident or other incident involving the use of intoxicating liquor, shall inquire whether the person involved in the accident or incident was served or furnished intoxicating liquor at a licensed establishment and, if the officer determines that a person was served or furnished intoxicating liquor at a licensed establishment, the officer shall so inform in writing the appropriate licensee or licensees. A law enforcement officer shall not be subject to civil liability for an omission or failure to comply with a provision of this section.

Approved: June 25, 1987

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NO. 104. AN ACT RELATING TO THE ISSUANCE OF SUBPOENAS BY VARIOUS BOARDS AND COMMISSIONS.

(H.7)

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

Sec. 1. 3 V.S.A. § 809(h) is added to read:

(h) The chairman of a board, commission or panel, a hearing officer appointed by a board, commission or panel, or a licensed attorney representing a party before a board,

1 (b) The commissioner of liquor control, the director of the  
2 enforcement division of the department of liquor control or an  
3 \*inspector or\* investigator employed by the liquor control board  
4 \*, may,\* or by the department of liquor control and any other  
5 \*officer empowered to serve criminal process and the state police  
6 shall, without warrant, arrest\* law enforcement officer may take  
7 into arrest or take into custody pursuant to the Vermont Rules of  
8 Criminal Procedure, a person whom he or she finds in the act of  
9 manufacturing alcohol or possessing a still, or other apparatus for  
10 the manufacture of alcohol, or unlawfully selling, bartering,  
11 possessing, furnishing or transporting alcohol, or unlawfully  
12 selling, furnishing or transporting spirituous liquor, or malt and  
13 vinous beverages, and shall seize the liquors, alcohol, vessels and  
14 implements of sale and the stills or other apparatus for the  
15 manufacture of alcohol in the possession of \*[such]\* the person. He  
16 or she \*[shall detain such person and the property so seized until  
17 proper warrants can be procured, or complaint made]\* may also seize  
18 and take into custody any property evidencing the above mentioned  
19 acts.

1 S.5  
2 Introduced by Senator Skinner of Washington County, Senator Gannett  
3 of Windham County and Senator Hoff of Chittenden County  
4 Referred to Committee on  
5 Date:  
6 Subject: Alcoholic beverages; dram shop; liability  
7 Statement of purpose: This bill would clarify and limit liability  
8 under the "dram shop" law.  
9 AN ACT RELATING TO DRAM SHOP LIABILITY  
10 It is hereby enacted by the General Assembly of the State of Vermont:  
11 Sec. 1. 7 V.S.A. § 501 is amended to read:  
12 § 501. UNLAWFUL SALE OF INTOXICATING LIQUORS; CIVIL ACTION FOR  
13 DAMAGES; RIGHT OF CONTRIBUTION  
14 (a) Action for damages. A \*[husband, wife]\* spouse, child,  
15 guardian, employer or other person who is injured in person,  
16 property or means of support by an intoxicated person, or in  
17 consequence of the intoxication of any person, shall have a right of

1 action in his or her own name, jointly or severally, against \*[a  
2 person or persons, who, by selling or furnishing intoxicating liquor  
3 unlawfully, have caused in whole or in part such intoxication.]\* the  
4 intoxicated person and any person or persons who have caused in  
5 whole or in part such intoxication by selling or furnishing  
6 intoxicating liquor:  
7 (1) to a minor;  
8 (2) to a person apparently under the influence of intoxicating  
9 liquor;  
10 (3) to a person after legal serving hours; or  
11 (4) to a person whom it would be reasonable to expect would be  
12 under the influence of intoxicating liquor as a result of the amount  
13 of liquor served to that person.  
14 If such intoxicating liquor was so sold or furnished to such  
15 person in a rented building, and the owner of \*[such building, or  
16 his agent in charge thereof, knew or had reason to know that  
17 intoxicating liquor was sold or kept for sale by his tenant in such  
18 building contrary to law, such]\* the building had any ownership  
19 interest in or participated in the operation or management of the  
20 licensed establishment other than as lessor, the owner may be joined  
21 as defendant in \*[such]\* the action, and judgment therein may be  
22 rendered against \*[him]\* the owner. Upon the death of either party,  
23 the action and right of action shall survive to or against \*[his]\*

1 the party's executor or administrator. The party injured or his or  
2 her legal representatives may bring either a joint action against  
3 the person intoxicated and the person or persons who furnished the  
4 liquor and \*[the owner of the building]\* against any building owner  
5 who had an ownership interest in or participated in the operation or  
6 management of the licensed establishment other than as lessor, or a  
7 separate action against either or any of them.  
8 (b) Right of contribution. A defendant in an action brought  
9 under this section has a right of contribution from any other  
10 responsible person or persons, which may be enforced in the original  
11 action or in a separate action brought for that purpose.  
12 (c) Evidence. Any party may introduce evidence, if otherwise  
13 relevant, of actions taken or not taken by persons who served the  
14 intoxicated person including, but not limited to, instruction  
15 received as to applicable laws and rules governing the sale of  
16 alcoholic beverages and training regarding intervention techniques.  
17 The results of a test taken for the purpose of determining the  
18 alcoholic content of the blood of an intoxicated person shall be  
19 admissible as evidence.  
20 (d) Definition. For the purpose of this section "apparently  
21 under the influence of intoxicating liquor" means a state of  
22 intoxication accompanied by a perceptible act or series of actions  
23 which present signs of intoxication.

1 Sec. 2. 7 V.S.A. § 167 is amended to read:  
2 § 167. DUTIES OF CONTROL COMMISSIONERS  
3 (a) The control commissioners shall administer such rules and  
4 regulations, which shall be furnished them by the liquor control  
5 board, as shall be necessary to carry out the purposes of this  
6 title. All forms of licenses and permits and applications therefor  
7 and all rules and regulations shall be prescribed by the liquor  
8 control board, which shall prepare and issue such forms, rules and  
9 regulations.  
10 (b) In addition to the duties and responsibilities imposed by  
11 subsection (a) of this section, the local control commissioners may  
12 adopt, pursuant to provisions for adoption of ordinances of that  
13 municipality, and enforce, pursuant to sections 236 and 237 of this  
14 title, municipal ordinances for the purpose of assuring financial  
15 responsibility of any licensee in an amount determined by the local  
16 control commissioners against any claim for damages arising out of  
17 section 501 of this title. This subsection shall not prohibit an  
18 insurer from providing coverage in combination with other insurance  
19 coverage. At its option, a municipality may exempt from any  
20 financial responsibility requirement under this section a holder of  
21 a first class license whose gross receipts from alcohol are less  
22 than 15 percent of the licensee's total gross receipts for food and  
23 beverages.

1 Sec. 3. 7 V.S.A. § 239 is added to read:  
2 § 239. LICENSEE EDUCATION  
3 (a) No new first or second class license may be granted until the  
4 applicant has met with a liquor control investigator for the purpose  
5 of being informed of the Vermont liquor laws, rules and regulations  
6 pertaining to the purchase, storage and sale of alcohol beverages.  
7 A corporation, partnership or association shall designate a  
8 director, partner or manager who shall comply with the terms of this  
9 subsection.  
10 (b) Every first class licensee shall complete the department of  
11 liquor control licensee enforcement seminar on or before March 15,  
12 1988. Every second class licensee shall complete the department of  
13 liquor control licensee enforcement seminar on or before March 15,  
14 1989. Thereafter, every first and second class licensee shall  
15 complete the department of liquor control licensee enforcement  
16 seminar at least once every three years. A corporation, partnership  
17 or association shall designate a director, partner or manager who  
18 shall comply with the terms of this subsection. No first or second  
19 class license may be granted or renewed unless the licensee has  
20 complied with this subsection.  
21 (c) Each licensee shall ensure that every employee who is  
22 involved in the sale or serving of alcohol beverages completes a  
23 training program approved by the department of liquor control. A

1 licensee may comply with this requirement by conducting its own  
2 training program on its premises, using information and materials  
3 furnished by the department of liquor control. No first or second  
4 class license may be granted or renewed unless the licensee has  
5 complied with this subsection, and unless certificates of employee  
6 training are on file with the department of liquor control and the  
7 clerk of the town where the license application has been submitted.  
8 Sec. 4. 8 V.S.A. § 3567 is added to read:  
9 § 3567. INSURANCE RECORDS  
10 (a) The commissioner of banking and insurance shall collect and  
11 maintain records on the following statistics concerning liquor  
12 liability in Vermont:  
13 (1) the number and names of companies writing liquor liability  
14 insurance, either as a separate line or in a larger policy;  
15 (2) the number and dollar amount of premiums collected for  
16 liquor liability policies;  
17 (3) the number and dollar amount of claims made under liquor  
18 liability insurance policies; and  
19 (4) the number and dollar amount of payments made under liquor  
20 liability insurance policies.  
21 (b) The commissioner of banking and insurance shall make  
22 available to the general assembly the information collected and  
23 maintained under this section.

Thereupon, the recommendation of amendment of the Committee on Appropriations was agreed to and third reading ordered.

On motion of Mr. Brooks of Montpelier, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed and, on motion of Mr. Brooks of Montpelier, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

#### Bill Passed in Concurrence with Proposal of Amendment

##### S. 5

On motion of Mr. Brooks of Montpelier, the rules were suspended and Senate bill, entitled

An act relating to dram shop liability;

Appearing on the Calendar for notice, was taken up for immediate consideration.

Mr. Harris of Windsor, for the Committee on General and Military Affairs to which the bill had been referred, reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

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

#### § 501. UNLAWFUL SALE OF INTOXICATING LIQUORS; CIVIL ACTION FOR DAMAGES

(a) 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, against the intoxicated party and any person or persons, who, by selling or furnishing intoxicating liquor to a minor, to a person visibly intoxicated, to a person after legal serving hours, or to a person whom it would be reasonable to expect would be intoxicated as a result of the amount of liquor served to that person, have caused in whole or in part such intoxication. If such intoxicating liquor was so sold or furnished to such person in a rented building, and the owner of such building had any ownership interest or participated in the operation or management of the licensed establishment other than as lessor, such owner may be joined as defendant in such action, and judgment therein may be rendered against the owner. For the purpose of this section "visibly intoxicated" means "a state of intoxication accompanied by a perceptible act or series of actions which present clear signs of intoxication". Upon the death of either party, the action and right of action shall survive to or against the executor or administrator. The intoxicated party or his or her legal representatives shall be considered an indispensable defendant in any action brought under this section.

(b) An action to recover for injuries under this section shall be commenced within one year after the cause of action accrues, and not after.

(c) In an action brought under this section, a defendant may implead, or in separate action a defendant may sue, another responsible person or persons; may obtain contribution or indemnification. Responsibility among sued defendants found liable to the party injured shall be joint and several. In the event recovery is allowed against more than one defendant, rights of contribution shall be based upon amounts paid by a defendant in excess of the allocator the percentage of fault attributable to each defendant, in accordance with findings of the trier of fact.

(d) In any impleader or other separate action against another responsible person under subsection (c), evidence of responsible actions taken or not taken, admissible where applicable, as to the degree of fault among the responsible persons. Responsible actions may include, but are not limited to, instructor servers as to laws governing the sale of alcoholic beverages, training of servers regarding intervention techniques, admonishment to patrons or guests concerning laws regarding the consumption of intoxicating liquor, and inquiry under the methods provided by law as to the age or degree of intoxication of person involved.

(e) Nothing in this section shall create a statutory cause of action against social host for furnishing intoxicating liquor to any person without compensation or profit, provided that the social host is not a licensee or required to be licensee under this title. However, this subsection shall not be construed to limit or otherwise affect the liability of a social host for negligence at common law.

(f) This section shall be the exclusive remedy against a defendant for claims for those suffering damages based on the defendant's furnishing of alcoholic beverages, and any common law action is hereby abolished.

Sec. 2. 7 V.S.A. § 167 is amended to read:

#### § 167. DUTIES OF LOCAL CONTROL COMMISSIONERS

The local control commissioners shall administer such rules and regulations, which shall be furnished them by the liquor control board, as shall be necessary to carry out the purposes of this title. All forms of licenses and permits and applications therefor and all rules and regulations shall be prescribed by the liquor control board, which shall prepare and issue such forms and regulations.

Sec. 3. 7 V.S.A. § 240 is added to read:

#### § 240. PROOF OF FINANCIAL RESPONSIBILITY

Any first, second or third class liquor licensee whose license is suspended by the local control commissioners or suspended or revoked by the liquor control board for selling or furnishing intoxicating liquor to a minor, to a person visibly intoxicated, to a person after legal serving hours, or to a person whom it would be reasonable to expect would be intoxicated as a result of the amount of liquor served to that person, shall be required to furnish to the liquor control department a certificate of financial responsibility within 60 days of the



suspension or revocation. The certificate shall be required for the three years following the suspension or revocation and shall be a condition of restoring the license.

Sec. 4. 7 V.S.A. § 239 is added to read:

#### § 239. LICENSEE EDUCATION

(a) No new first or second class license shall be granted until the applicant has met with a liquor control investigator for the purpose of being informed of the Vermont liquor laws, rules and regulations pertaining to the purchase, storage and sale of alcohol beverages. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this subsection.

(b) Every first class licensee shall complete the department of liquor control license enforcement seminar on or before March 15, 1987. Every second class licensee shall complete the department of liquor control license enforcement seminar on or before March 15, 1988. Thereafter, every first and second class licensee shall complete the department of liquor control license enforcement seminar at least once every three years. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this subsection. No first or second class licensee shall be renewed unless the records of the department of liquor control show that the licensee has complied with the terms of this subsection.

(c) It shall be the responsibility of each licensee to ensure that every employee who is involved in the sale or serving of alcohol beverages completes a training program approved by the department of liquor control. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the department of liquor control.

Sec. 5. 8 V.S.A. § 3567 is added to read:

#### § 3567. INSURANCE RECORDS

(a) All insurers licensed to sell insurance, including nonadmitted insurers with whom certain types of insurance may be placed as permitted by chapter 138 of Title 8, shall submit the following liquor liability insurance statistics to the commissioner of banking and insurance who shall collect and maintain records on the following:

(1) the number of policies written, premiums written, and premium earned for liquor liability insurance;

(2) the number of claims paid and dollar amount of claims paid; and

(3) the number of claims incurred and dollar amount of claims incurred.

(b) The commissioner of banking and insurance shall make available to the general assembly the information collected and maintained under this section.

lies writing liquor liability insurance.

(c) If an insurer cannot determine the amount of premiums written premiums earned because the liquor liability coverage is part of a policy policies providing other liability coverage, reasonable methods of estimation may be used as approved by the commissioner of banking and insurance.

(d) "Liquor liability insurance" means that type of liability insurance which covers the selling or serving of alcoholic beverages for a consideration and includes policies which provide other liability coverage in addition liquor liability insurance.

Mr. Hannan of Holland, for the Committee on Judiciary, to which the bill had been referred, reported in favor of its passage in concurrence with proposed amendment as recommended by the Committee on General and Military Affairs with the following amendments thereto:

First. By striking Sec. 1 and inserting in lieu thereof the following:

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

#### § 501. UNLAWFUL SALE OF INTOXICATING LIQUORS; CIVIL ACTION FOR DAMAGES

(a) Definitions. As used in this section,

(1) "Visibly intoxicated" means a state of intoxication accompanied by perceptible act or series of actions which present clear signs of intoxication

(2) "Unlawful sale" means the sale or furnishing of intoxicating liquor

(A) a minor;

(B) a person visibly intoxicated;

(C) a person after legal serving hours; or

(D) a person whom it would be reasonable to expect would be intoxicated as a result of the amount of liquor served to that person.

(b) Right of action. A spouse, child, guardian, employer or other person who is injured in person, property or means of support by an intoxicated person, in consequence of the intoxication of any person, shall have a right of action against any person or persons, jointly or severally, against the intoxicated person or in part such intoxication.

(c) Liability of landlords. If such intoxicating liquor was so sold or furnished to such person in a rented building, and the owner of such building has any ownership interest or participated in the operation or management of the licensed establishment other than as lessor, the owner may be joined as defendant in such action, and judgment therein may be rendered against the owner

(d) Survival of action. Upon the death of either party, the action and right of action shall survive to or against the executor or administrator.

(e) Indispensable defendant. The intoxicated person or his or her legal representatives shall be considered an indispensable defendant in any action brought under this section.

(f) Statute of limitations. An action to recover for damages to property under this section shall be commenced within one year after the cause of action accrues, and not after. An action to recover for damages resulting from personal injury or wrongful death shall be commenced within two years after the cause of action accrues, and not after.

(g) Damages and contribution. Responsibility among sued defendants found liable to the party injured shall be joint and several. The damages to which a plaintiff is entitled shall be diminished in proportion to the amount of negligence attributable to the plaintiff. In an action brought under this section, a defendant may implead, or in a separate action a defendant may sue, another responsible person or persons and may obtain contribution or indemnification. In the event recovery is allowed against more than one defendant, rights of contribution shall be based upon amounts paid by a defendant in excess of the allocation of the percentage of fault attributable to each defendant, in accordance with the findings of the trier of fact.

(h) Evidence. In any impleader or other separate action against another responsible person under subsection (g), evidence of responsible actions taken or not taken is admissible where applicable, as to the degree of fault among the responsible persons. Responsible actions may include, but are not limited to, instruction of servers as to laws governing the sale of alcoholic beverages, training of servers regarding intervention techniques, admonishment to patrons or guests concerning laws regarding the consumption of intoxicating liquor, and inquiry under the methods provided by law as to the age or degree of intoxication of the person involved.

(i) Social host liability. Nothing in this section shall create a statutory cause of action against a social host for furnishing intoxicating liquor to any person without compensation or profit, provided that the social host is not a licensee or required to be a licensee under this title. However, this subsection shall not be construed to limit or otherwise affect the liability of a social host for negligence at common law.

(j) Exclusive remedy. This section shall be the exclusive remedy against a defendant for claims for those suffering damages based on the defendant's furnishing of alcoholic beverages, and any common law action against a person who sells or furnishes intoxicating liquor is hereby abolished.

Second: In Sec. 3, 7 V.S.A. § 240, by adding before the word "Any" the following: "(a) and in the first sentence, by striking the words "suspension or revocation" and inserting in lieu thereof the following: commencement of the suspension or revocation or at the time of reinstatement of the license, which ever is later

Third: In Sec. 3, 7 V.S.A. § 240, by striking the last sentence and inserting

in lieu thereof the following: Financial responsibility may be established by one or a combination of the following: insurance, guarantee, surety bond, or of credit or qualification as a self insurer. Coverage shall be maintained at less than \$25,000.00 per occurrence and \$50,000.00 aggregate per occurrence. Proof of financial responsibility shall be required for license renewal for three years following the suspension or revocation.

(b) Proof of financial responsibility and completion of the licensee education program established in section 239 of this title shall be conditions to resumption after a suspension or revocation for any of the reasons in subsection (a) of this section; however, at the discretion of the suspending or revoking authority, the licensee may receive a provisional license prior to the time that conditions are met in order to allow for compliance with the education requirement or to obtain the certificate of financial responsibility. A provisional license may not be issued for a period exceeding 60 days.

Fourth: In Sec. 4, 7 V.S.A. § 239(b), by striking the first two sentences in the third sentence, by striking the following: "Hereafter, every" and in lieu thereof the following: Every

The bill was read the second time, recommendation of proposal of amendment of the Committee on General and Military Affairs amended as recommended by the Committee on Judiciary, recommendation of proposal of amendment of the Committee on General and Military Affairs, as amended agreed to and third reading ordered.

On motion of Mr. Brooks of Montpelier, the rules were suspended and a bill placed on all remaining stages of passage in concurrence with proposal of amendment. The bill was read the third time and passed in concurrence with proposal of amendment and, on motion of Mr. Brooks of Montpelier, the bill was suspended and the bill was ordered messaged to the Senate forthwith

#### Message from Senate

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that the Senate has considered originating in the House of the following titles:

H. 458. An act relating to fish and wildlife license fees.

H. 485. An act relating to compensation of certain state employees;

And has passed the same in concurrence with proposals of amendment the adoption of which the concurrence of the House is requested.

The Senate has considered a joint resolution originating in the House following title:

J.R.H. 22. Joint resolution relating to the Vermont Fool's Fest;

property may limit significantly the use of the property.

Sec. 10. IMPLEMENTATION

Any lot, all portions of which are greater than five miles apart, but any portion of which are within the jurisdictional area of a district commission, shall not be counted as a lot, solely on the basis of that distinction, if it was conveyed before the effective date of this act.

Sec. 11. 32 V.S.A. § 10002(k) is added to read:

(k) Also excluded from the definition of land is agricultural land transferred by a farmer to a member of his or her family, when the land is used by the transferee as agricultural land for a period of time which, when added to the time the land was used as agricultural land by the transferor, equals or exceeds six years. For the purpose of this section, the terms "agricultural land" and "farmer" shall have the definitions provided under section 3752, and "family" shall mean persons in a relationship to the transferor of grandparent, parent or apparent, brother or sister, or natural or adopted child. As used in this section, land is deemed to be transferred from a farmer to a transferee when the farmer has died and title vests in the transferee by right of survivorship in a joint tenancy (or tenancy by the entirety), or through intestate succession, or by will, without any intervening transfers, except those to and from the estate.

0002a. PRINCIPAL RESIDENCE

(a) "Principal residence" means the principal dwelling of a person whose principal residence is in the state of Vermont.

(b) "Principal residence" includes any multi-family dwelling, not exceeding four units, if:

(1) the seller used at the time of sale at least one unit within such dwelling as principal residence; or

(2) the purchaser will use at least one unit within such dwelling as principal residence under the conditions of subsection 10002(b).

c) "Principal residence" also means any dwelling used as the seller's principal residence, or which will be used by the purchaser as his principal residence under the conditions of subsection 10002(b), even though the resident carries on or will carry on commercial activity in that dwelling. Commercial activity includes an office for the resident's business or profession or a retail

3. 32 V.S.A. § 10005(d) is amended to read:

(1) The land sold or exchanged shall be deemed to have been held as joint tenants under the Federal Internal Revenue Code. If a husband and wife own the land as joint tenants, the land was held by one spouse alone before that spouse created the tenancy by the entirety. Notwithstanding any provision to the contrary under

the Federal Internal Revenue Code, if a tenancy by the entirety is dissolved by the reason of death or divorce, the holding period during the tenancy by the entirety will be added to the holding period of the spouse subsequently owning the property in his or her own name. For the purposes of this subsection land devised to or inherited by a surviving spouse or land awarded to a spouse upon dissolution of marriage shall be treated as though it had been held by husband and wife as tenants by the entirety.

Sec. 14. EFFECTIVE DATE

Secs. 6, 7, 8, 11, 12, 13 and 14 of this act shall take effect on June 1, 1987. The remainder of this act shall take effect on July 1, 1987.

Pending the question, Will the House concur in the Senate proposal of amendment? Mrs. Batten of Hardwick moved that the House concur in the Senate proposal of amendment with the following amendment thereto:

In Sec. 3, § 6007(a), by striking the second sentence and inserting in lieu thereof the following: The seller shall provide the buyer with the statement within 10 days of entering into a purchase and sales agreement for the sale or exchange of land, or at the time of transfer of title, if no purchase and sales agreement was executed.

Which was agreed to.

On motion of Mr. Brooks of Montpelier, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Report of Committee of Conference Adopted

S. 5

On motion of Mr. Brooks of Montpelier, the rules were suspended and the following Committee of Conference report, appearing on the Calendar for notice, was taken up for immediate consideration:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill, entitled

S. 5. An act relating to dram shop liability;

Respectfully reports that it has met and considered the same and recommends that the Senate accede to the House proposal of amendment with the following amendments thereto:

First: By striking Sec. 1 and inserting in lieu thereof the following:

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

§ 501. UNLAWFUL SALE OF INTOXICATING LIQUORS; 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, against any person or persons who have caused in whole or in part such intoxication by selling or furnishing intoxicating liquor:

- (1) to a minor as defined in this title;
- (2) to a person apparently under the influence of intoxicating liquor;
- (3) to a person after legal serving hours; or
- (4) to a person whom it would be reasonable to expect would be under the influence of intoxicating liquor as a result of the amount of liquor served by the defendant to that person.

(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 legal representatives may bring a joint action against the person intoxicated and the person or persons who furnished the liquor and an owner who may be liable under subsection (c) of this section, or a separate action against either or any of them.

(c) Landlord liability. If the intoxicating liquor was sold or furnished to the intoxicated person in a rented building, the owner may be joined as a defendant in the action, and judgment therein 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 intoxicating liquor was sold or furnished by the tenant:

- (1) to minors as defined in this title;
- (2) to persons apparently under the influence of intoxicating liquor;
- (3) to persons after legal serving hours; or
- (4) to persons whom it would be reasonable to expect would be under the influence of intoxicating liquor as a result of the amount of liquor served to the tenant. It shall be an affirmative defense to an action against an owner that the owner took reasonable steps to prevent the sale of intoxicating liquor under the circumstances described in this subsection or to evict the

) Statute of limitations. An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, but not later than two years after the cause of action accrues.

Evidence. In an action brought under this section, evidence of responsibility taken or not taken is admissible, if otherwise relevant. Responsible parties may include, but are not limited to, instruction of servers as to laws governing the sale of alcoholic beverages, training of servers regarding interviewing techniques, admonishment to patrons or guests concerning laws governing the consumption of intoxicating liquor, and inquiry under the provisions provided by law as to the age or degree of intoxication of the persons involved.

(f) Right of contribution. A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(g) Social host. Nothing in this section shall create a statutory cause of action against a social host for furnishing intoxicating liquor to any person without compensation or profit, if the social host is not a licensee or required to be a licensee under this title. However, this subsection shall not be construed to limit or otherwise affect the liability of a social host for negligence at common law.

(h) Definition. For the purpose of this section "apparently under the influence of intoxicating liquor" means a state of intoxication accompanied by a perceptible act or series of actions which present signs of intoxication.

Second: In Sec. 3, § 240(a), following the words "to a person" by striking the words "visibly intoxicated" and inserting in lieu thereof the following: apparently under the influence of intoxicating liquor

Third: In Sec. 3, § 240(a), second sentence, after the following: "insurance," by striking the following: "guarantee, surety bond, letter of credit or qualification as a self insurer" and inserting in lieu thereof the following: surety bond or letter of credit

Fourth: By adding a new Sec. 6 to read:

Sec. 6. 20 V.S.A. § 1817 is added to read:

§ 1817. REPORTS OF LAW ENFORCEMENT OFFICER, ACCIDENTS INVOLVING LIQUOR

Any law enforcement officer who, upon investigation of a motor vehicle accident or other incident involving the use of intoxicating liquor, shall inquire whether the person involved in the accident or incident was served or furnished intoxicating liquor at a licensed establishment and, if the officer determines that a person was served or furnished intoxicating liquor at a licensed establishment, the officer shall so inform in writing the appropriate licensee or licensees. A law enforcement officer shall not be subject to civil liability for an omission or failure to comply with a provision of this section.

ROBERT J. HARRIS  
PAUL W. HANNAN  
SALLY G. FOX

Committee on the part of the House

WILLIAM A. HUNTER  
JOHN H. BLOOMER  
CHESTER S. KETCHAM

Committee on the part of the Senate

Which was considered and adopted on the part of the House.

On motion of Mr. Brooks of Montpelier, the rules were suspended and the