

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 288
3 entitled “An act relating to liability for the sale of alcoholic beverages”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

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

8 § 501. UNLAWFUL SALE OF ALCOHOLIC BEVERAGES; CIVIL
9 ACTION FOR DAMAGES

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

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

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

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

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

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

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

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

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

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

15 (4) Server’s knowledge; individual consumption. A server is not
16 chargeable with knowledge of an individual’s off-premises consumption of
17 alcoholic beverages or other substances unless the individual’s appearance and
18 behavior, or other facts known to the server, would put a reasonable and
19 prudent person on notice of the individual’s consumption of alcoholic
20 beverages or other substances.

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

8 (c) ~~Landlord liability.~~ Liability insurance required. The Department of
9 Financial Regulation shall adopt rules governing minimum policy
10 requirements, including coverage amounts, for liquor liability insurance. Any
11 server who is licensed under this title shall carry a liquor liability insurance
12 policy that meets the minimum requirements adopted by the Department.

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

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

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

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

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

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

7 * * *

8 (e) Evidence.

9 (1) In an action brought under this section, evidence of responsible
10 actions taken or not taken is admissible, if otherwise relevant.

11 (2) Responsible actions may include instruction of servers as to laws
12 governing the sale of alcoholic beverages, training of servers regarding
13 intervention techniques, admonishment to patrons or guests concerning laws
14 regarding the consumption of alcoholic beverages, and inquiry under the
15 methods provided by law as to the age or degree of intoxication of the persons
16 involved.

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

20 * * *

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

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

4 (2) “Injured person” means a person who is:

5 (A) injured in person or property by an intoxicated person, or in
6 consequence of the intoxication of any person; or

7 (B) a legal dependent of an injured person who is injured in means of
8 support by an intoxicated person, or in consequence of the intoxication of any
9 person.

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

12 (4) “Server” means a person who holds a license or permit under this
13 title and who sold or furnished alcohol to an intoxicated person.

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

17 Sec. 2. EFFECTIVE DATE

18 This act shall take effect on passage.

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1 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE