

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 * * * Liquor Liability * * *

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

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

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

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

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

1 ~~(2) to a person apparently under the influence of alcohol;~~
2 ~~(3)(B) to a person after legal serving hours; or~~
3 ~~(4) to a person who it would be reasonable to expect would be under the~~
4 ~~influence of alcohol as a result of the amount of alcoholic beverages served by~~
5 ~~the defendant to that person.~~

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

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

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

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

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

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,~~ licensee or a separate action
7 against either ~~or any~~ of them.

8 (c) ~~Landlord liability.~~

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

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

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

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

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

20 ~~(2) It shall be an affirmative defense to an action against an owner that~~
21 ~~the owner took reasonable steps to prevent the sale of alcoholic beverages~~

1 ~~under the circumstances described in this subsection or to evict the tenant.~~

2 [Repealed.]

3 * * *

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

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

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

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

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

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

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

2 § 501. UNLAWFUL SALE OF ALCOHOLIC BEVERAGES; CIVIL
3 ACTION FOR DAMAGES

4 * * *

5 (i) Liability insurance required. The Department of Liquor and Lottery, in
6 consultation with the Department of Financial Regulation, shall adopt rules
7 governing minimum policy requirements, including coverage amounts, for
8 liquor liability insurance. Prior to the issuance or renewal of a first-, third-, or
9 fourth-class license, the Department of Liquor and Lottery shall require each
10 licensee or applicant to carry liquor liability insurance that meets minimum
11 coverage requirements adopted by the Department.

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

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

14 § 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

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

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

21 * * *

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

3 * * *

4 * * * Effective Dates * * *

5 Sec. 4. EFFECTIVE DATES

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

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

8

9 (Committee vote: _____)

10

11

Representative _____

12

FOR THE COMMITTEE