

Title 28-A: LIQUORS

Chapter 100: MAINE LIQUOR LIABILITY ACT

§2501. Short title

This Act shall be known and may be cited as the "Maine Liquor Liability Act." [PL 1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW).

§2502. Purposes

1. Primary legislative purpose. The primary legislative purpose of this Act is to prevent intoxication-related injuries, deaths and other damages among the State's population. [PL 1987, c. 45, Pt. A, §4 (NEW).]

2. Secondary purposes. The secondary legislative purposes are to:

A. Establish a legal basis for obtaining compensation for those suffering damages as a result of intoxication-related incidents in accordance with this Act; [PL 1987, c. 45, Pt. A, §4 (NEW).]

B. Allocate the liability for payment of damages fairly among those responsible for the damages, which will encourage liquor liability insurance availability; and [PL 1987, c. 45, Pt. A, §4 (NEW).]

C. Encourage all servers of alcohol to exercise responsible serving practices. [PL 1987, c. 45, Pt. A, §4 (NEW).]

[PL 1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW).

§2503. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1987, c. 45, Pt. A, §4 (NEW).]

1. Intoxicated individual. "Intoxicated individual" means an individual who is in a state of intoxication as defined by this Act.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

2. Intoxication. "Intoxication" means a substantial impairment of an individual's mental or physical faculties as a result of drug or liquor use.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

3. Licensee. Notwithstanding section 2, subsection 14, "licensee" means any person to whom a license of any kind is issued by the bureau and any person who is required to be licensed to serve liquor. [PL 2005, c. 539, §11 (AMD).]

4. Nonlicensee. "Nonlicensee" means any person who is neither a licensee nor an employee or agent of a licensee and is not required to be licensed under this Title.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

5. Server. "Server" means a person who sells, gives or otherwise provides liquor to an individual.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

6. Service of liquor. "Service of liquor" means any sale, gift or other furnishing of liquor.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

7. Visibly intoxicated. "Visibly intoxicated" means a state of intoxication accompanied by a perceptible act, a series of acts or the appearance of an individual which clearly demonstrates a state of intoxication.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 2005, c. 539, §11 (AMD).

§2504. Plaintiffs

1. Persons who may bring suit. Except as provided in subsection 2, any person who suffers damage, as provided in section 2508, may bring an action under this Act, against a server for negligently or recklessly serving liquor to an individual.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

2. Persons who may not bring suit. The following may not bring an action under this Act against a server for negligently serving liquor to an individual:

A. The intoxicated individual if the intoxicated individual is at least 18 years of age when served by the server; [PL 2021, c. 658, §281 (AMD).]

B. The estate of the intoxicated individual if the intoxicated individual was at least 18 years of age when served by the server; and [PL 1987, c. 45, Pt. A, §4 (NEW).]

C. Any person asserting claims arising out of the personal injury or death of the intoxicated individual if the intoxicated individual was at least 18 years of age when served by the server. [PL 1987, c. 45, Pt. A, §4 (NEW).]

[PL 2021, c. 658, §281 (AMD).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 2021, c. 658, §281 (AMD).

§2505. Defendants

1. Licensee as a defendant. Any server who is a licensee or employee or agent of a licensee who commits an act giving rise to liability, as provided in sections 2506 and 2507, may be made a defendant to a claim under this Act.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

2. Nonlicensee as a defendant. Any server who is a nonlicensee who commits an act giving rise to liability, as provided in section 2506, subsection 1, and section 2507, may be made a defendant to a claim under this Act.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW).

§2506. Negligent service of liquor; liability

1. Negligent service to a minor. A server who negligently serves liquor to a minor is liable for damages proximately caused by that minor's consumption of the liquor.
[PL 1987, c. 45, Pt. A, §4 (NEW).]

2. Negligent service to a visibly intoxicated individual. A server who negligently serves liquor to a visibly intoxicated individual is liable for damages proximately caused by that individual's consumption of the liquor.
[PL 1987, c. 45, Pt. A, §4 (NEW).]

3. Negligent conduct. Service of liquor to a minor or to an intoxicated individual is negligent if the server knows or if a reasonable and prudent person in similar circumstances would know that the individual being served is a minor or is visibly intoxicated.
[PL 1987, c. 45, Pt. A, §4 (NEW).]

4. Server's knowledge of individual's consumption. A server is not chargeable with knowledge of an individual's consumption of liquor or other drugs off the server's premises, unless the individual's appearance and behavior, or other facts known to the server, would put a reasonable and prudent person on notice of such consumption.
[PL 1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW).

§2507. Reckless service of liquor; liability

1. Reckless service to a minor. A server who recklessly provides liquor to a minor is liable for damages proximately caused by that minor's consumption of the liquor.
[PL 1987, c. 45, Pt. A, §4 (NEW).]

2. Reckless service to a visibly intoxicated individual. A server who recklessly serves liquor to a visibly intoxicated individual is liable for damages proximately caused by that individual's consumption of the liquor.
[PL 1987, c. 45, Pt. A, §4 (NEW).]

3. Reckless conduct. Service of liquor is reckless if a server intentionally serves liquor to an individual when the server knows that the individual being served is a minor or is visibly intoxicated and the server consciously disregards an obvious and substantial risk that serving liquor to that individual will cause physical harm to the drinker or to others.

For purposes of this Act, the disregard of the risk, when viewed in light of the nature and purpose of the server's conduct and the circumstances known to the server, must involve a gross deviation from the standard of conduct that a reasonable and prudent person would observe in the same situation.
[PL 1997, c. 373, §164 (AMD).]

4. Evidence of reckless conduct. Specific serving practices that are admissible as evidence of reckless conduct include, but are not limited to, the following:

A. Active encouragement of intoxicated individuals to consume substantial amounts of liquor; [PL 1987, c. 45, Pt. A, §4 (NEW).]

B. Service of liquor to an individual who is under 18 years of age when the server has actual or constructive knowledge of the individual's age; and [PL 1987, c. 45, Pt. A, §4 (NEW).]

C. Service of liquor to an individual that is so continuous and excessive that it creates a substantial risk of death by alcohol poisoning. [PL 1987, c. 45, Pt. A, §4 (NEW).]

[PL 1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1997, c. 373, §164 (AMD).

§2508. Damages

1. Damages. Damages may be awarded for property damage, bodily injury or death proximately caused by the consumption of the liquor served by the server.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

2. Damages under wrongful death and survival laws. Except as otherwise provided in this Act, damages may be recovered under Title 18-C, sections 2-807 and 3-817, as in other tort actions, subject to the damage limit of section 2509.

[PL 2017, c. 402, Pt. C, §81 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 2017, c. 402, Pt. C, §81 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§2509. Limit on awards

1. Limitation on damages for losses other than expenses for medical care and treatment. In actions for damages permitted by this Act, the claim for and award of damages for all losses, except expenses for medical care and treatment, including devices or aids, against both a server and the server's employees and agents, may not exceed \$350,000 for any and all claims arising out of a single accident or occurrence.

[PL 2009, c. 247, §1 (AMD).]

2. Multiple claimants. When the amount for all losses, except expenses for medical care and treatment, including devices and aids, awarded to or settled for multiple claimants, exceeds the limit imposed by this section, any party may apply to the Superior Court for the county where the server is located to allocate each claimant an equitable share of the total, limited as required by this section.

A. Any award by the court in excess of the maximum liability limit specified by subsection 1 must be automatically abated by operation of this section to the maximum limit of liability. [PL 2021, c. 658, §282 (AMD).]

[PL 2021, c. 658, §282 (AMD).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 2009, c. 247, §1 (AMD). PL 2021, c. 658, §282 (AMD).

§2510. Common law defenses

Defenses applicable to tort actions based on negligence and recklessness in this State may be asserted in defending actions brought under this Act. [PL 1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW).

§2511. Exclusive remedy

This Act is the exclusive remedy against servers who may be made defendants under section 2505, for claims by those suffering damages based on the servers' service of liquor. [PL 1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW).

§2512. Named and retained; several liability

1. Named and retained. No action against a server may be maintained unless the minor, the intoxicated individual or the estate of the minor or intoxicated individual is named as a defendant in the action and is retained in the action until the litigation is concluded by trial or settlement.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

2. Several but not joint liability. The intoxicated individual and any server, as described in section 2505, are each severally liable and not jointly liable for that percentage of the plaintiff's damages which corresponds to each defendant's percentage of fault as determined by the court or a jury.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW).

§2513. Notice required

Every plaintiff seeking damages under this Act must give written notice to all defendants within 180 days of the date of the server's conduct creating liability under this Act. The notice must specify the time, place and circumstances of the server's conduct creating liability under this Act and the time, place and circumstances of any resulting damages. No error or omission in the notice voids the effect of the notice, if otherwise valid, unless the error or omission is substantially material. Failure to give written notice within the time specified is grounds for dismissal of a claim, unless the plaintiff provides written notice within the limits of section 2514 and shows good cause why notice could not have reasonably been filed within the 180-day limit. For purposes of this section, "good cause" includes but is not limited to the inability of the plaintiff to obtain investigative records from a law enforcement officer or law enforcement agency. [PL 2017, c. 77, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 2017, c. 77, §1 (AMD).

§2514. Statute of limitations

Any action under this Act against a server alleging negligent or reckless conduct must be brought within 2 years after the cause of action accrues. [PL 1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW).

§2515. Evidence of responsible serving practices

1. Responsible practices. Proof of the server's responsible serving practices is admissible as evidence that the server was not negligent or reckless. Responsible serving practices include, but are not limited to:

A. The server's and server's employees attendance at an approved server education training course; and [PL 1999, c. 519, §1 (AMD).]

B. The server's implementation, at the time of service, of responsible management policies, procedures and actions. [PL 1987, c. 45, Pt. A, §4 (NEW).]
[PL 1999, c. 519, §1 (AMD).]

2. Neither proof nor disproof of negligence or recklessness. Proof or disproof that the server was adhering to responsible serving practices is not by itself proof or disproof of negligence or recklessness.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1999, c. 519, §1 (AMD).

§2516. Privileges

1. Refusal to serve. No licensee is liable for damages resulting from a good faith refusal to serve liquor to any individual who:

A. Fails to show proper identification of age; [PL 1987, c. 45, Pt. A, §4 (NEW).]

B. Reasonably appears to be a minor; or [PL 1987, c. 45, Pt. A, §4 (NEW).]

C. Is refused service in a good faith effort to prevent the individual from becoming visibly intoxicated. [PL 2021, c. 658, §283 (AMD).]

[PL 2021, c. 658, §283 (AMD).]

2. Holding identification documents. No licensee is liable for retaining identification documents presented to the licensee as proof of the individual's age for the purpose of receiving liquor provided that:

A. Retention is for a reasonable length of time in a good faith effort to determine whether the individual is of legal age; and [PL 1987, c. 45, Pt. A, §4 (NEW).]

B. The licensee informs the individual why the licensee is retaining the identification documents. [PL 2021, c. 658, §284 (AMD).]

[PL 2021, c. 658, §284 (AMD).]

3. Other defenses not limited. This section does not limit a licensee's right to assert any other defense provided by law.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

4. Failure to exercise privileges. A licensee may not be held liable under this Act for failing to exercise any privilege provided in this section. This section does not provide immunity from liability under sections 2506 and 2507.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 2021, c. 658, §§283, 284 (AMD).

§2517. Insurance records

1. Superintendent shall keep records. The Superintendent of Insurance shall collect and maintain records on the following statistics concerning liquor liability insurance in this State:

A. The number and names of companies writing liquor liability insurance, either as a separate line or in a large policy; [PL 1987, c. 45, Pt. A, §4 (NEW).]

B. The number and dollar amount of premiums collected for liquor liability insurance policies; and [PL 1987, c. 45, Pt. A, §4 (NEW).]

C. The number and dollar amount of claims incurred under liquor liability insurance. [PL 1987, c. 45, Pt. A, §4 (NEW).]

[PL 1987, c. 45, Pt. A, §4 (NEW).]

2. Superintendent shall make records available. The Superintendent of Insurance shall make available to the Legislature the information collected and maintained under subsection 1.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW).