

HB158 INTRODUCED



1 WVON5E-1

2 By Representatives Faulkner, Stadthagen, Shaw, Reynolds,

3 Whitt, Clouse, Ellis

4 RFD: Insurance

5 First Read: 21-Mar-23

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SYNOPSIS:

Existing law provides that any seller or furnisher of alcoholic beverages, such as a bar, restaurant, or retail store, can be held liable for civil damages suffered by an individual who is injured by an intoxicated customer or patron of the seller or furnisher. The current standard used by courts in Alabama imposes strict liability on a seller or furnisher of alcoholic beverages based on the fact that alcoholic beverages were furnished to an individual contrary to the provisions of law, and that individual subsequently caused injury to another. Under existing law, social hosts are not subject to liability under Section 6-5-71, Code of Alabama 1975, for service of alcoholic beverages to individuals 21 years of age or older.

This bill would change the standard that civil courts use to hold sellers or furnishers of alcoholic beverages liable for injuries caused by an intoxicated customer or patron by instead requiring that the seller or furnisher knew, or should have known under the circumstances leading up to the injury, that it was contrary to the provisions of law to furnish the visibly intoxicated customer or patron alcoholic beverages, and that such furnishing was the proximate



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29 cause of the injury. It would also specify a case in
30 which this right of action is not available, and does
31 not extend liability to social hosts for service of
32 alcoholic beverages to an individual 21 years of age or
33 older.

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A BILL

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TO BE ENTITLED

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AN ACT

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40 Relating to civil liability; to amend Section 6-5-71,
41 Code of Alabama 1975, to further provide for the right of
42 action for injuries resulting from the illegal furnishing of
43 alcoholic beverages, by basing liability for a person who
44 illegally furnishes alcoholic beverages to an individual who
45 injures a third party on what the furnisher knew or should
46 have known under the circumstances; to specify when the right
47 of action is not available; and to provide legislative intent.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. Section 6-5-71, Code of Alabama 1975, is
50 amended to read as follows:

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"§6-5-71

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(a) (1) A person who sells, furnishes, or serves

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alcoholic beverages to an individual of lawful drinking age

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shall not thereby become liable for injury, death, or damage

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caused by or resulting from the intoxication of that

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individual, including injury or death to other individuals;



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57 provided, however, Everyevery wifespouse, child, parent, or
58 other ~~person~~individual who shall be injured in person,
59 property, or means of support by any intoxicated
60 ~~person~~individual ~~or in consequence of the intoxication of any~~
61 ~~person~~ shall have a right of action for all damages actually
62 sustained as well as exemplary damages against any person who
63 ~~shall, by selling, giving, or otherwise disposing of to~~
64 ~~another,~~ knowingly sells, furnishes, or serves alcoholic
65 beverages to an individual contrary to the provisions of law,
66 ~~any liquors or beverages, cause the intoxication of such~~
67 ~~person for all damages actually sustained, as well as~~
68 ~~exemplary damages~~ who was visibly intoxicated, when the sale,
69 furnishing, or serving is the proximate cause of such injury
70 or damage.

71 (2) For purposes of this section, "knowingly" means
72 knew or should have known under the circumstances.

73 (b) Upon the death of any party, the action or right of
74 action will survive to or against ~~his executor or~~
75 ~~administrator~~ the party's personal representative.

76 (c) The party injured, or ~~his~~ the party's legal
77 representative, may commence a joint or separate action
78 against the ~~person~~ individual intoxicated or the person who
79 furnished the ~~liquor~~ alcoholic beverages, and ~~all such~~ the
80 claims shall be by civil action in any court having
81 jurisdiction thereof.

82 (d) Evidence sufficient to establish that an individual
83 was visibly intoxicated as set forth in subdivision (a) (1)
84 shall be based on the totality of the circumstances present at



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85 the time of service of the alcoholic beverages to the
86 individual. The evidence must either be by direct evidence or,
87 if circumstantial, must not require or allow the finder of
88 fact to speculate.

89 (e) Nothing contained in this section shall authorize
90 the consumer of any alcoholic beverage to recover from the
91 provider of the alcoholic beverage for injuries or damages
92 suffered by the consumer caused by the consumer's ingestion of
93 alcohol."

94 Section 2. It is the intent of the Legislature in
95 enacting this act to provide a new standard of liability for
96 damages resulting from intoxication due to alcoholic
97 beverages. To the extent that *McIsaac v. Monte Carlo Club,*
98 *Inc.*, 587 So. 2d 320 (Ala. 1991), enunciated a strict
99 liability standard, it is the intent of the Legislature to
100 repeal that standard and replace it with the new standard
101 provided in this act. It is not the intent of the Legislature
102 for any provision of this act to alter or amend Section 6-5-70
103 or 6-5-72, Code of Alabama 1975, nor is it the intent of the
104 Legislature to broaden liability to social hosts for serving
105 alcoholic beverages to an individual 21 years of age or older.

106 Section 3. This act shall become effective immediately
107 following its passage and approval by the Governor, or its
108 otherwise becoming law.