

SB104 ENROLLED



1 L6E5AY-2

2 By Senators Elliott, Carnley, Hovey, Sessions, Stutts, Melson,
3 Scofield, Allen, Butler, Jones, Chesteen, Price, Williams,
4 Gudger, Waggoner, Barfoot

5 RFD: Judiciary

6 First Read: 21-Mar-23

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SB104 Enrolled

1 Enrolled, An Act,

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4 Relating to civil liability; to amend Section 6-5-71,
5 Code of Alabama 1975, to further provide for the right of
6 action for injuries resulting from the illegal furnishing of
7 alcoholic beverages, by basing liability for a person who
8 illegally furnishes alcoholic beverages to an individual who
9 injures a third party on what the furnisher knew or should
10 have known under the circumstances; to specify when the right
11 of action is not available; and to provide legislative intent.
12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

15 "§6-5-71

16 (a) (1) A person who sells, furnishes, or serves
17 alcoholic beverages to an individual of lawful drinking age
18 shall not thereby become liable for injury, death, or damage
19 caused by or resulting from the intoxication of that
20 individual, including injury or death to other individuals;
21 provided, however, Everyevery wifespouse, child, parent, or
22 other ~~person~~individual who shall be injured in person,
23 property, or means of support by any intoxicated
24 ~~person~~individual or in consequence of the intoxication of any
25 ~~person~~ shall have a right of action for all damages actually
26 sustained as well as exemplary damages against any person who
27 ~~shall, by selling, giving, or otherwise disposing of to~~
28 ~~another,~~ knowingly sells, furnishes, or serves alcoholic



SB104 Enrolled

29 beverages to an individual contrary to the provisions of law,
30 ~~any liquors or beverages, cause the intoxication of such~~
31 ~~person for all damages actually sustained, as well as~~
32 ~~exemplary damages~~who was visibly intoxicated, when the sale,
33 furnishing, or serving is the proximate cause of such injury
34 or damage.

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

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

40 (c) The party injured, or ~~his~~the party's legal
41 representative, may commence a joint or separate action
42 against the ~~person~~individual intoxicated or the person who
43 furnished the ~~liquor~~alcoholic beverages, and ~~all such~~the
44 claims shall be by civil action in any court having
45 jurisdiction thereof.

46 (d) Evidence sufficient to establish that an individual
47 was visibly intoxicated as set forth in subdivision (a)(1)
48 shall be based on the totality of the circumstances present at
49 the time of service of the alcoholic beverages to the
50 individual. The evidence must either be by direct evidence or,
51 if circumstantial, must not require or allow the finder of
52 fact to speculate.

53 (e) Nothing contained in this section shall authorize
54 the consumer of any alcoholic beverage to recover from the
55 provider of the alcoholic beverage for injuries or damages
56 suffered by the consumer caused by the consumer's ingestion of



SB104 Enrolled

57 [alcohol.](#)"

58 Section 2. It is the intent of the Legislature in
59 enacting this act to provide a new standard of liability for
60 damages resulting from intoxication due to alcoholic
61 beverages. To the extent that *McIsaac v. Monte Carlo Club,*
62 *Inc.*, 587 So. 2d 320 (Ala. 1991), enunciated a strict
63 liability standard, it is the intent of the Legislature to
64 repeal that standard and replace it with the new standard
65 provided in this act. It is not the intent of the Legislature
66 for any provision of this act to alter or amend Section 6-5-70
67 or 6-5-72, Code of Alabama 1975, nor is it the intent of the
68 Legislature to broaden liability to social hosts for serving
69 alcoholic beverages to an individual 21 years of age or older.

70 Section 3. This act shall become effective immediately
71 following its passage and approval by the Governor, or its
72 otherwise becoming law.



SB104 Enrolled

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB104

Senate 23-Mar-23

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,
Secretary.

House of Representatives

Passed: 11-Apr-23

By: Senator Elliott