

SB104 INTRODUCED



1 L6E5AY-1
2 By Senator Elliott
3 RFD: Judiciary
4 First Read: 21-Mar-23
5



4 SYNOPSIS:

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

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



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

A BILL
TO BE ENTITLED
AN ACT

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

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

"§6-5-71

(a) (1) A person who sells, furnishes, or serves alcoholic beverages to an individual of lawful drinking age shall not thereby become liable for injury, death, or damage caused by or resulting from the intoxication of that individual, including injury or death to other individuals;



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

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

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

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

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



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

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

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

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