

SENATE BILL NO. 337
INTRODUCED BY TROPILA

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CIVIL LIABILITY OF BUSINESSES AND SOCIAL HOSTS FOR INJURIES INVOLVING ALCOHOL CONSUMPTION; ESTABLISHING CRITERIA GOVERNING LIABILITY; PROVIDING THAT THE JURY OR TRIER OF FACT MAY CONSIDER ~~THAT~~ THE CONSUMPTION OF ALCOHOL ~~RATHER THAN~~ IN ADDITION TO THE SALE OR SERVICE ~~IS THE PROXIMATE~~ IN DETERMINING THE CAUSE OF ANY INJURY OR DAMAGE; PROVIDING THAT NO CIVIL ACTION MAY BE BROUGHT BY THE PERSON CONSUMING THE ALCOHOLIC BEVERAGE UNLESS THE CONSUMER WAS A MINOR OR WAS COERCED; PROVIDING THAT A CIVIL ACTION MUST BE COMMENCED WITHIN 2 YEARS OF THE SERVICE; LIMITING NONECONOMIC AND PUNITIVE DAMAGES; ALLOWING CRIMINAL AND INTENTIONAL ACTS OF A PERSON CAUSING AN INJURY TO BE ADMITTED INTO EVIDENCE; AMENDING SECTION 27-1-710, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-710, MCA, is amended to read:

"27-1-710. Civil liability for injuries involving alcohol consumption. (1) The purpose of this section is to set statutory criteria governing the liability of a person or entity that furnishes an alcoholic beverage for injury or damage arising from an event involving the person who consumed the beverage.

(2) Except as provided in 16-6-305, a person or entity furnishing an alcoholic beverage may not be found liable for injury or damage arising from an event involving the consumer wholly or partially on the basis of a provision or a violation of a provision of Title 16.

(3) Furnishing a person with an alcoholic beverage is not a cause of, or grounds for finding the furnishing person or entity liable for, injury or damage wholly or partly arising from an event involving the person who consumed the beverage unless:

(a) the consumer was under the legal drinking age and the furnishing person knew that the consumer was underage or did not make a reasonable attempt to determine the consumer's age;

(b) the consumer was visibly intoxicated; or

(c) the furnishing person forced or coerced the consumption or told the consumer that the beverage

contained no alcohol.

(4) A jury or trier of fact may consider ~~that the consumption of an alcoholic beverage rather than~~ IN ADDITION TO the sale, service, or provision of the alcoholic beverage ~~is the proximate~~ IN DETERMINING THE cause of injuries or damages inflicted upon another by ~~an intoxicated person~~ THE CONSUMER.

(5) A civil action may not be brought pursuant to subsection (3) by the consumer or by the consumer's estate, legal guardian, or dependent, unless ~~the person furnishing the alcohol:~~

(a) ~~willfully and knowingly furnished the alcohol to the consumer and the consumer was under the age of 21 years~~ THE CONSUMER WAS UNDER THE LEGAL AGE AND THE FURNISHING PERSON KNEW OR SHOULD HAVE KNOWN THAT THE CONSUMER WAS UNDER AGE; or

(b) ~~the consumption was forced or coerced or the person furnishing the alcohol knowingly told the consumer that the beverage contained no alcohol~~ THE FURNISHING PERSON FORCED OR COERCED THE CONSUMPTION OR TOLD THE CONSUMER THAT THE BEVERAGE CONTAINED NO ALCOHOL WHILE KNOWING THAT IT DID CONTAIN ALCOHOL.

(6) A CIVIL ACTION MAY NOT BE COMMENCED UNDER THIS SECTION AGAINST A PERSON WHO FURNISHED ALCOHOL UNLESS THE PERSON BRINGING THE CIVIL ACTION PROVIDES NOTICE OF AN INTENT TO FILE THE ACTION TO THE PERSON WHO FURNISHED THE ALCOHOL BY CERTIFIED MAIL WITHIN 180 DAYS FROM THE DATE OF SALE OR SERVICE. THE civil action must be commenced pursuant to this section within 2 years after the sale or service.

(7) In any civil action brought pursuant to this section, the total liability for noneconomic ~~or exemplary~~ damages may not exceed \$250,000.

(8) In any civil action brought pursuant to this section, the total liability for punitive damages may not exceed \$250,000.

(9) Evidence of intentional or criminal activity by a person causing injury in connection with any event or injury commenced pursuant to this part is admissible in any action brought pursuant to this section."

NEW SECTION. Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 3. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

NEW SECTION. **Section 5. Applicability.** [This act] applies to all proceedings begun after [the effective date of this act].

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