

HOUSE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1532

1 AN ACT

2 To repeal section 537.053, RSMo, and to enact  
3 in lieu thereof one new section relating to  
4 consumption of intoxicating beverage as  
5 proximate cause of injury in tort actions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
7 AS FOLLOWS:

8 Section A. Section 537.053, RSMo, is repealed and one new  
9 section enacted in lieu thereof, to be known as section 537.053,  
10 to read as follows:

11 537.053. 1. Since the repeal of the Missouri Dram Shop Act  
12 in 1934 (Laws of 1933-34, extra session, page 77), it has been  
13 and continues to be the policy of this state to follow the common  
14 law of England, as declared in section 1.010, RSMo, to prohibit  
15 dram shop liability and to follow the common law rule that  
16 furnishing alcoholic beverages is not the proximate cause of  
17 injuries inflicted by intoxicated persons.

18 2. [The legislature hereby declares that this section shall  
19 be interpreted so that the holdings in cases such as Carver v.  
20 Schafer, 647 S.W.2d 570 (Mo. App. 1983); Sampson v. W. F.

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in boldface type in the above law is new proposed language.**

1 Enterprises, Inc., 611 S.W.2d 333 (Mo. App. 1980); and Nesbitt v.  
2 Westport Square, Ltd., 624 S.W.2d 519 (Mo. App. 1981) be  
3 abrogated in favor of prior judicial interpretation finding the  
4 consumption of alcoholic beverages, rather than the furnishing of  
5 alcoholic beverages, to be the proximate cause of injuries  
6 inflicted upon another by an intoxicated person.

7 3.] Notwithstanding [subsections 1 and 2] subsection 1 of  
8 this section, a cause of action may be brought by or on behalf of  
9 any person who has suffered personal injury or death against any  
10 person licensed to sell intoxicating liquor by the drink for  
11 consumption on the premises [who, pursuant to section 311.310,  
12 RSMo, has been convicted, or has received a suspended imposition  
13 of the sentence arising from the conviction, of the sale of  
14 intoxicating liquor to a person under the age of twenty-one years  
15 or an obviously intoxicated person if the sale of such  
16 intoxicating liquor is the proximate cause of the personal injury  
17 or death sustained by such person.] when it is proven by clear  
18 and convincing evidence that the seller knew or should have known  
19 that intoxicating liquor was served to a person under the age of  
20 twenty-one years or knowingly served intoxicating liquor to a  
21 visibly intoxicated person.

22 3. For purposes of this section, a person is "visibly  
23 intoxicated" when inebriated to such an extent that the  
24 impairment is shown by significant uncoordinated physical action

1 or significant physical dysfunction. A person's blood alcohol  
2 content does not constitute prima facie evidence to establish  
3 that a person is visibly intoxicated within the meaning of this  
4 section. The court may, in its discretion, consider evidence of  
5 a person's blood alcohol content as relevant evidence of  
6 intoxication.

7 4. Nothing in this section shall be interpreted to provide  
8 a right of recovery to a person who suffers injury or death  
9 proximately caused by the person's voluntary intoxication unless  
10 the person is under the age of twenty-one years. No person over  
11 the age of twenty-one years or their dependents, personal  
12 representative, and heirs may assert a claim for damages for  
13 personal injury or death against a seller of intoxicating liquor  
14 arising out of the person's voluntary intoxication.

15 5. In an action alleging the sale of intoxicating liquor to  
16 a person under the age of twenty-one years, proof that the seller  
17 or the seller's agent or employee demanded and was shown a  
18 driver's license or official state or federal personal  
19 identification card, appearing to be genuine and showing that the  
20 minor was at least twenty-one years of age, shall be relevant in  
21 determining the relative fault of the seller or seller's agent or  
22 employee in the action.

23 6. Sellers shall have the right of contribution from the  
24 alleged intoxicated person or minor for all damages awarded

1        against the seller.

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