

HCS HB 1532 -- INTOXICATION TORTS

Drafting Number: 3984L.02C

SPONSOR or CO-SPONSORS: Hoppe

Chairman (for HCS):

Handler:

COMMITTEE ACTION: Voted "do pass" yes "do pass by consent"

by the Committee on Local Government and Related Matters by a vote of 18 to 0 present:

Use Introduced Summary Verbatim:

Modify above as follows:

New summary as follows: This bill limits the tort liability of the sellers of alcohol for damages caused by persons consuming the alcohol. Current case law allows any person who is injured by an intoxicated person to sue the bar or restaurant that furnished the intoxicated person with the alcohol. (The Missouri Supreme Court ruled that the statute limiting such liability was in conflict with Article I, Section 14 of the Missouri Constitution, which guarantees every person equal access to the courts.) The bill makes the consumption of alcohol -- and not the furnishing of that alcohol -- the "proximate cause" of injuries inflicted upon another by an intoxicated person, with one exception. The victim of an intoxicated person may have a cause of action against a bar or restaurant when the seller sold the alcohol to a person who the seller knows is either visibly intoxicated or under 21, and that unlawful sale of alcohol is the "proximate cause" of the victim's injury.

A person who suffers injury or death proximately caused by the person's voluntary intoxication has no right of recovery. Such person and such person's dependents, personal representatives, and heirs may not assert a claim for damages for personal injury or death against a seller of intoxicating liquor arising out of the person's voluntary intoxication. Any action brought under this law must commence within one year of the date of the alleged violation of this law. Every plaintiff seeking damages under this law must give proper written notice to all defendants within 180 days of the date of the seller's conduct creating liability. No error or omission in the notice voids the effect of the notice, if otherwise valid, unless the error or omission is substantially material.

A seller of intoxicating liquor will have a complete defense to any prosecution if the purchaser of the intoxicating liquor falsely represented in writing that he or she was at least 21 years old, that the appearance of the person was such that an ordinary and prudent person would believe that the person to be at least 21 years old, and that the sale was made in good faith reliance on the written representation and appearance.

Emergency Clause:        or Effective Date of:

HCA(s) --

FISCAL NOTE:    Attached:        Not available:

PROPOSERS: Supporters say that insurance rates for restaurant that serve liquor and bars is excessive. Many can not afford to pay the high insurance premiums.

Testifying for the bill were Representative Hoppe; Missouri Retailers Association; Missouri Association of Beverage Retailers; and Missouri Hotel and Motel Association.

OPPOSERS: Those who oppose the bill say that the bill assumes that a waiter can tell when a person is intoxicated. In the bill selling intoxicating liquor to a person under the age of 21 or an obviously intoxicated person must be proven beyond a reasonable doubt. The reasonable doubt standard does not belong in a civil lawsuit.

Testifying against the bill were Missouri Association of Trial Attorneys.

Analyst: