

PROPOSED CHANGES TO ALABAMA'S DRAM SHOP (LIQUOR LIABILITY) LAW

CURRENT

Right of action of wife, child, parent, or other person for injury in consequence of illegal sale or disposition of liquor or beverages.

(a) Every wife, child, parent, or other person who shall be injured in person, property, or means of support by any intoxicated person or in consequence of any person shall have a right of action against any person who shall, by selling, giving, or otherwise disposing of to another, 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.

SIX SIGNIFICANT CHANGES IN SECTION 6-5-71

Requires knowledge of visible intoxication

Adds visible intoxication to Dram Shop Statute

Changes present law to require proof of legal causation—proximate cause

Knowledge of visible intoxication must be present "at the time of service"

Adds prohibition against offering speculative evidence

Repeals strict liability standard

PROPOSED

Right of action of spouse, child, parent, or other individual for injury in consequence of illegal sale or disposition of liquor or beverages.

(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; provided, however, every spouse, child, parent, or other individual who shall be injured in person, property, or means of support by any intoxicated individual shall have a right of action for all damages actually sustained as well as exemplary damages against any person who knowingly sells, furnishes, or serves alcoholic beverages to an individual contrary to the provisions of law, who was visibly intoxicated, when the sale, furnishing, or serving is the proximate cause of such injury or damage. (2) "Knowingly" means knew or should have known under the circumstances.

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

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 *Mclsaac 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.