

FILED FEB 18 1986

SENATE FILE 2167
BY COMMITTEE ON JUDICIARY
Approved (p. 308)

Passed Senate, Date 3-5-86 (p. 566) Passed House, Date _____
Vote: Ayes 37 Nays 10 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

- 1 An Act relating to the liability of social hosts for injuries to
- 2 persons as a result of intoxication.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2167

S-5074

- 1 Amend Senate File 2167 as follows:
 - 2 1. Page 1, line 6, by striking the word "sells,".
- S-5074 Filed February 18, 1986 BY SMALL
Loeb 3/5 (p. 566)

SENATE FILE 2167

S-5075

- 1 Amend Senate File 2167 as follows:
 - 2 1. Page 1, line 11, by inserting after the word
 - 3 "beer" the words "unless that person knows or should
 - 4 know the consumer is intoxicated".
- S-5075 Filed February 18, 1986 BY SMALL
Loeb 3/4 (p. 545)

SENATE FILE 2167

S-5089

- 1 Amend Senate File 2167 as follows:
 - 2 1. Page 1, line 6, by striking the words
 - 3 "licensee or permittee" and inserting the following:
 - 4 "person required to hold a license or permit under
 - 5 this chapter".
- S-5089 Filed February 19, 1986 BY RITSEMA
Adopted 3/4 (p. 545)

1 Section 1. Section 123.49, subsection 1, Code Supplement
2 1985, is amended to read as follows:

3 1. A person shall not sell, dispense, or give to any an
4 intoxicated person, or one simulating intoxication, any
5 alcoholic liquor, wine, or beer.

5099,50746 a. A person other than a licensee or permittee who sells,
7 dispenses, or gives an alcoholic beverage, wine, or beer in
8 violation of this subsection is not civilly liable to an
9 injured person or the estate of a person for injuries
10 inflicted on that person as a result of intoxication by the
5075 11 consumer of the alcoholic beverage, wine, or beer.

12 b. The general assembly declares that this subsection
13 shall be interpreted so that the holding of Clark v. Mincks,
14 364 N.W.2d. 226 (Iowa 1985) is abrogated in favor of prior
15 judicial interpretation finding the consumption of alcoholic
16 beverages, wine, or beer rather than the serving of alcoholic
17 beverages, wine, or beer as the proximate cause of injury
18 inflicted upon another by an intoxicated person.

19 EXPLANATION

20 This bill abrogates the Iowa supreme court decision in
21 Clark v. Mincks which held a social host liable for injuries
22 caused by an intoxicated guest and specifies that it is the
23 consumption of alcohol rather than the serving of alcohol
24 which is the proximate cause of the injury inflicted on
25 another by an intoxicated person.

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2 1985, is amended to read as follows:

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4 intoxicated person, or one simulating intoxication, any
5 alcoholic liquor, wine, or beer.

6 a. A person other than a person required to hold a license
7 or permit under this chapter who sells, dispenses, or gives an
8 alcoholic beverage, wine, or beer in violation of this
9 subsection is not civilly liable to an injured person or the
10 estate of a person for injuries inflicted on that person as a
11 result of intoxication by the consumer of the alcoholic
12 beverage, wine, or beer.

13 b. The general assembly declares that this subsection
14 shall be interpreted so that the holding of Clark v. Mincks,
15 364 N.W.2d. 226 (Iowa 1985) is abrogated in favor of prior
16 judicial interpretation finding the consumption of alcoholic
17 beverages, wine, or beer rather than the serving of alcoholic
18 beverages, wine, or beer as the proximate cause of injury
19 inflicted upon another by an intoxicated person.

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SENATE FILE 2167

H-5619

1 Amend House amendment H-5303 to Senate File 2167 as
2 amended, passed, and reprinted by the Senate as
3 follows:

4 1. Page 1, by striking lines 3 through 26 and
5 inserting the following:

6 "1. Page 1, by striking lines 3 through 5 and
7 inserting the following:

8 "1. A person shall not sell, dispense, or give to
9 ~~any-intoxicated-person, or one simulating~~
10 ~~intoxication, any alcoholic liquor, wine, or beer to~~
11 ~~another person who is intoxicated or simulating~~
12 ~~intoxication, if the person selling, dispensing, or~~
13 ~~giving knows or should know that the other is~~
14 ~~intoxicated or simulating intoxication."~~

15 2. Page 1, lines 6 and 7, by striking the words
16 "other than a person required to hold a license or
17 permit under this chapter".

18 3. Page 1, line 12, by inserting after the word
19 "beer." the following: "This paragraph does not apply
20 to a person required to hold a license or permit under
21 this chapter, except on those occasions when the
22 person dispenses or gives alcoholic liquor, wine, or
23 beer to others during a noncommercial event and the
24 person does not receive monetary or promotional
25 consideration in return for dispensing or giving the
26 alcoholic liquor, wine, or beer."

27 4. Page 1, by inserting after line 19 the
28 following:

29 "Sec. 2. Section 123.92, unnumbered paragraph 1,
30 Code Supplement 1985, is amended to read as follows:

31 Every husband, wife, child, parent, guardian,
32 employer, or other person who is injured in person or
33 property or means of support by any an intoxicated
34 person or resulting from the intoxication of any a
35 person, has a right of action for all damages actually
36 sustained, severally or jointly, against any licensee
37 or permittee, who ~~sells or gives~~ sold or gave any
38 beer, wine, or intoxicating liquor to a the
39 intoxicated person ~~while the person is~~ when the
40 licensee or permittee knew or should have known the
41 person was intoxicated, or ~~serves a~~ who served the
42 person to a point where the ~~person is~~ licensee or
43 permittee knew or should have known the person would
44 become intoxicated. If the injury was caused by an
45 intoxicated person, a permittee or licensee may
46 establish as an affirmative defense that the
47 intoxication did not contribute to the injurious
48 action of the person. This section does not apply on
49 those occasions when a licensee or permittee dispenses
50 or gives alcoholic liquor, wine, or beer to others

H-5619
Page Two

1 during a noncommercial event at which the licensee or
2 permittee does not receive monetary or promotional
3 consideration in return for dispensing or giving the
4 alcoholic liquor, wine, or beer."

H-5619 FILED APRIL 1, 1986 BY VAN CAMP of Scott
NOT GERMANE (p. 110 2)

SENATE FILE 2167

H-5613

1 Amend Senate File 2167 as amended, passed and
2 reprinted by the Senate as follows:
3 1. Page 1, line 12, by inserting after the word
4 "beer" the following: ", unless the person who
5 consumed the alcoholic beverage, wine, or beer was
6 under legal age".

H-5613 FILED APRIL 1, 1986 BY LAGESCHULTE of Bremer
ADOPTED (p. 110 5)

SENATE FILE 2167

5619
amended
200 H-5303

1 Amend Senate File 2167 as amended, passed, and
2 reprinted by the Senate as follows:
3 1. By striking everything after the enacting
4 clause and inserting the following:
5 "Section 1. NEW SECTION. 123.92A CIVIL LIABILITY
6 FOR INJURIES CAUSED BY INTOXICATED GUESTS.
7 A person injured by an intoxicated guest of a host
8 has a right of action against the host for damages
9 sustained if all the following occur:
10 1. The guest was intoxicated.
11 2. The host personally was actually aware the
12 guest was intoxicated.
13 3. The host then made available alcoholic
14 beverages, wine, or beer to the guest after being
15 aware that the guest was intoxicated.
16 4. The guest drank alcoholic beverages, wine, or
17 beer made available by the host.
18 5. The guest operated a motor vehicle while still
19 intoxicated.
20 6. The host took no action to prevent the guest
21 from operating a motor vehicle while intoxicated.
22 7. The guest operated the motor vehicle while
23 intoxicated in a manner which caused injury to the
24 person by reason of the intoxication."
25 2. Title page, line 1, by striking the word
26 "social".

BY DODERER of Johnson
CARPENTER of Polk
McINTEE of Black Hawk
H-5303 FILED MARCH 10, 1986

OSTERBERG of Linn
JOHNSON of Winneshiek
ROSENBERG of Story

Look 4/1/86 (p. 110 3)

SENATE FILE 2167

H-5620

1 Amend Senate File 2167 as amended, passed, and
2 reprinted by the Senate as follows:

3 1. Page 1, by striking lines 3 through 5 and
4 inserting the following:

5 "1. A person shall not sell, dispense, or give to
6 ~~any-intoxicated-person, or one simulating~~
7 ~~intoxication, any~~ alcoholic liquor, wine, or beer to
8 another person who is intoxicated or simulating
9 intoxication, if the person selling, dispensing, or
10 giving knows or should know that the other is
11 intoxicated or simulating intoxication."

12 2. Page 1, lines 6 and 7, by striking the words
13 "other than a person required to hold a license or
14 permit under this chapter".

15 3. Page 1, line 12, by inserting after the word
16 "beer." the following: "This paragraph does not apply
17 to a person required to hold a license or permit under
18 this chapter, except on those occasions when the
19 person dispenses or gives alcoholic liquor, wine, or
20 beer to others during a noncommercial event and the
21 person does not receive monetary or promotional
22 consideration in return for dispensing or giving the
23 alcoholic liquor, wine, or beer."

24 4. Page 1, by inserting after line 19 the
25 following:

26 "Sec. 2. Section 123.92, unnumbered paragraph 1,
27 Code Supplement 1985, is amended to read as follows:
28 Every husband, wife, child, parent, guardian,
29 employer, or other person who is injured in person or
30 property or means of support by any an intoxicated
31 person or resulting from the intoxication of any a
32 person, has a right of action for all damages actually
33 sustained, severally or jointly, against any licensee
34 or permittee, who sells-or-gives sold or gave any
35 beer, wine, or intoxicating liquor to a the
36 intoxicated person while-the-person-is when the
37 licensee or permittee knew or should have known the
38 person was intoxicated, or serves-a who served the
39 person to a point where the person-is licensee or
40 permittee knew or should have known the person would
41 become intoxicated. If the injury was caused by an
42 intoxicated person, a permittee or licensee may
43 establish as an affirmative defense that the
44 intoxication did not contribute to the injurious
45 action of the person. This section does not apply on
46 those occasions when a licensee or permittee dispenses
47 or gives alcoholic liquor, wine, or beer to others
48 during a noncommercial event at which the licensee or
49 permittee does not receive monetary or promotional
50 consideration in return for dispensing or giving the

Page Two

1 alcoholic liquor, wine, or beer."

JUDICIARY: Mann, Chair: Gentleman and Carr

*New
SF 2167*

SENATE/HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the liability of social hosts for injuries to
2 persons as a result of intoxication.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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6 a. A person other than a licensee or permittee who sells,
7 dispenses, or gives an alcoholic beverage, wine, or beer in
8 violation of this subsection is not civilly liable to an
9 injured person or the estate of a person for injuries
10 inflicted on that person as a result of intoxication by the
11 consumer of the alcoholic beverage, wine, or beer.

12 b. The general assembly declares that this subsection
13 shall be interpreted so that the holding of Clark v. Mincks
14 (No. 36183-343, 83-1164, Supreme Court of Iowa, March 20,
15 1985) is abrogated in favor of prior judicial interpretation
16 finding the consumption of alcoholic beverages, wine, or beer
17 rather than the serving of alcoholic beverages, wine, or beer
18 as the proximate cause of injury inflicted upon another by an
19 intoxicated person.

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EXPLANATION

21 This bill abrogates the Iowa supreme court decision in
22 Clark v. Mincks which held a social host liable for injuries
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