

3-18-93 Judiciary

MAR 18 1993

SENATE FILE 352  
BY WELSH

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to application of comparative fault to an action  
2 brought pursuant to the Iowa dramshop Act.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SF 352

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1 Section 1. Section 123.92, unnumbered paragraph 1, Code  
2 1993, is amended to read as follows:

3 Any person who is injured in person or property or means of  
4 support by an intoxicated person or resulting from the  
5 intoxication of a person, has a right of action pursuant to  
6 chapter 668 for all damages actually sustained, severally or  
7 jointly, against any licensee or permittee, whether or not the  
8 license or permit was issued by the division or by the  
9 licensing authority of any other state, who sold and served  
10 any beer, wine, or intoxicating liquor to the intoxicated  
11 person when the licensee or permittee knew or should have  
12 known the person was intoxicated, or who sold to and served  
13 the person to a point where the licensee or permittee knew or  
14 should have known the person would become intoxicated. If the  
15 injury was caused by an intoxicated person, a permittee or  
16 licensee may establish ~~as-an-affirmative-defense~~ that the  
17 intoxication did not contribute to the injurious action of the  
18 person and establishment of such fact shall be considered  
19 evidence of comparative fault for purposes of section 668.3,  
20 subsection 1. The remedy provided by this section shall apply  
21 both prospectively, to actions filed on or after July 1, 1992,  
22 and retrospectively, to actions pending in trial or appellate  
23 courts ~~prior-to~~ on July 1, 1992.

24 EXPLANATION

25 This bill provides that chapter 668, relating to  
26 comparative fault, applies to an action brought pursuant to  
27 section 123.92, the dramshop Act. If the injury is caused by  
28 an intoxicated person, establishment of the fact that the  
29 intoxication did not contribute to the injurious action of  
30 such person shall be considered evidence of comparative fault.

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