



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

May 22, 2009

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 379, an Act relating to the use of insurance loss history in the issuance of dramshop liability insurance.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver".

Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





SENATE FILE 379

AN ACT

RELATING TO THE USE OF INSURANCE LOSS HISTORY IN THE ISSUANCE
OF DRAMSHOP LIABILITY INSURANCE.

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

Section 1. Section 123.92, Code 2009, is amended to read
as follows:

123.92 CIVIL LIABILITY FOR DISPENSING OR SALE AND SERVICE
OF BEER, WINE, OR INTOXICATING LIQUOR (DRAMSHOP ACT) --
LIABILITY INSURANCE -- UNDERAGE PERSONS.

1. a. Any person who is injured in person or property or
means of support by an intoxicated person or resulting from
the intoxication of a person, has a right of action for all
damages actually sustained, severally or jointly, against any
licensee or permittee, whether or not the license or permit
was issued by the division or by the licensing authority of
any other state, who sold and served any beer, wine, or
intoxicating liquor to the intoxicated person when the
licensee or permittee knew or should have known the person was
intoxicated, or who sold to and served the person to a point
where the licensee or permittee knew or should have known the
person would become intoxicated.

b. If the injury was caused by an intoxicated person, a
permittee or licensee may establish as an affirmative defense
that the intoxication did not contribute to the injurious
action of the person. ~~The remedy provided by this section
shall apply both prospectively, to actions filed on or after
July 1, 1992, and retrospectively, to actions pending in trial
or appellate courts prior to July 1, 1992.~~

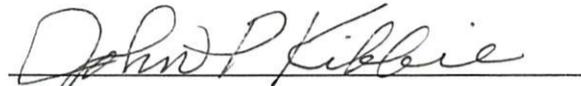
2. Every liquor control licensee and class "B" beer permittee, except a class "E" liquor control licensee, shall furnish proof of financial responsibility by the existence of a liability insurance policy in an amount determined by the division. If an insurer provides dramshop liability insurance at a new location to a licensee or permittee who has a positive loss experience at other locations for which such insurance is provided by the insurer, and the insurer bases premium rates at the new location on the negative loss history of the previous licensee or permittee at that location, the insurer shall examine and consider adjusting the premium for the new location not less than thirty months after the insurance is issued, based on the loss experience of the licensee or permittee at that location during that thirty-month period of time.

3. a. Notwithstanding section 123.49, subsection 1, any person who is injured in person or property or means of support by an intoxicated person who is under legal age or resulting from the intoxication of a person who is under legal age, has a right of action for all damages actually sustained, severally or jointly, against a person who is not a licensee or permittee and who dispensed or gave any beer, wine, or intoxicating liquor to the intoxicated underage person when the nonlicensee or nonpermittee who dispensed or gave the beer, wine, or intoxicating liquor to the underage person knew or should have known the underage person was intoxicated, or who dispensed or gave beer, wine, or intoxicating liquor to the underage person to a point where the nonlicensee or nonpermittee knew or should have known that the underage person would become intoxicated.

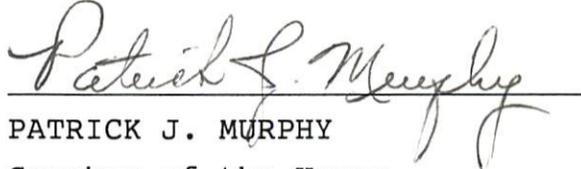
b. If the injury was caused by an intoxicated person who is under legal age, a person who is not a licensee or permittee and who dispensed or gave beer, wine, or intoxicating liquor to the underage person may establish as an affirmative defense that the intoxication did not contribute to the injurious action of the underage person.

c. For purposes of this paragraph subsection, "dispensed" or "gave" means the act of physically presenting a receptacle containing beer, wine, or intoxicating liquor to the underage person whose actions or intoxication results in the sustaining

of damages by another person. However, a person who dispenses or gives beer, wine, or intoxicating liquor to an underage person shall only be liable for any damages if the person knew or should have known that the underage person was under legal age.



JOHN P. KIBBIE
President of the Senate



PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 379, Eighty-third General Assembly.



MICHAEL E. MARSHALL
Secretary of the Senate

Approved May 22nd, 2009



CHESTER J. CULVER
Governor