

JAN 9 2006
STATE GOVERNMENT

HOUSE FILE 2007
BY ZIRKELBACH

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

A BILL FOR

1 An Act concerning dram shop liability for injuries sustained by
2 an intoxicated person.

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

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HF 2007

1 Section 1. Section 123.92, unnumbered paragraph 1, Code
2 2005, 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 for all
6 damages actually sustained, severally or jointly, against any
7 licensee or permittee, whether or not the license or permit
8 was issued by the division or by the licensing authority of
9 any other state, who sold and served any beer, wine, or
10 intoxicating liquor to the intoxicated person when the
11 licensee or permittee knew or should have known the person was
12 intoxicated, or who sold to and served the person to a point
13 where the licensee or permittee knew or should have known the
14 person would become intoxicated. However, if the person
15 injured is the intoxicated person, that person shall not have
16 a right of action under this paragraph for any and all damages
17 actually sustained by the intoxicated person due to the
18 injury. If the injury was caused by an intoxicated person, a
19 permittee or licensee may establish as an affirmative defense
20 that the intoxication did not contribute to the injurious
21 action of the person. The remedy provided by this section
22 shall apply both prospectively, to actions filed on or after
23 July 1, 1992, and retrospectively, to actions pending in trial
24 or appellate courts prior to July 1, 1992.

25 EXPLANATION

26 This bill concerns dram shop liability. The bill provides
27 that a liquor licensee or permittee is not liable for injuries
28 sustained by the intoxicated person to whom the licensee or
29 permittee sold or served alcohol. The bill retains dram shop
30 liability to any other person injured by the intoxicated
31 person.

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