

Senate Study Bill 1179 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON ANDERSON)

A BILL FOR

1 An Act limiting the liability of an alcoholic beverage licensee
2 or permittee for certain alcohol-related injuries.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.92, subsection 1, Code 2017, is
2 amended to read as follows:

3 1. *a.* Any ~~person~~ innocent third party who is injured in
4 person or property or means of support by an intoxicated person
5 or resulting from the intoxication of a person, has a right
6 of action for ~~all~~ damages actually sustained, severally or
7 jointly, up to the amount specified in paragraph "c" or "d",
8 against any licensee or permittee, whether or not the license
9 or permit was issued by the division or by the licensing
10 authority of any other state, who sold and served any beer,
11 wine, or intoxicating liquor directly to the intoxicated
12 person, ~~when the licensee or permittee knew or should have~~
13 ~~known the person was intoxicated, or who sold to and served~~
14 ~~the person to a point where the licensee or permittee knew or~~
15 ~~should have known the person would become intoxicated~~ provided
16 that the person was visibly intoxicated at the time of the sale
17 or service.

18 *b.* If the injury was proximately caused by an intoxicated
19 person, a permittee or licensee may establish as an affirmative
20 defense that the intoxication did not contribute to the
21 injurious action of the person.

22 *c.* For all claims under this subsection involving injury in
23 person or property, the judgment or recovery for such injury
24 for a person incurring damages shall not exceed seventy-five
25 thousand dollars.

26 *d.* For all claims under this subsection involving loss of
27 means of support or loss of services, companionship, society,
28 or consortium resulting from the death or injury of a person,
29 the judgment or recovery of any person shall not exceed one
30 hundred thousand dollars.

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 This bill limits the liability of an alcoholic beverage
35 licensee or permittee for certain alcohol-related injuries,

1 commonly referred to as the dram shop Act.

2 Under current law, an alcoholic beverage licensee or
3 permittee, whether or not the license or permit was issued
4 by the division or by the licensing authority of any other
5 state, is liable to a person for all damages resulting from an
6 intoxicated person if the licensee or permittee sold or served
7 the alcohol to the intoxicated person when the licensee or
8 permittee knew or should have known the person was intoxicated,
9 or who sold to and served the person to a point where the
10 licensee or permittee knew or should have known the person
11 would become intoxicated.

12 The bill provides that damages are available to an innocent
13 third party, and that a licensee or permittee is liable only
14 if the licensee or permittee sold and served any beer, wine,
15 or intoxicating liquor directly to the intoxicated person,
16 provided that the person was visibly intoxicated at the time
17 of the sale or service.

18 The bill provides that damages available to an innocent
19 third party from a licensee or permittee are limited to \$75,000
20 for claims involving injury to a person or property, and to
21 \$100,000 for claims involving loss of means of support or loss
22 of services, companionship, society, or consortium resulting
23 from the death or injury of a person.