

HOUSE BILL REPORT

HB 1815

As Reported By House Committee On:

Law & Justice

Title: An act relating to liability for cleanup and repair of damaged lodging or accommodation premises.

Brief Description: Placing liability on parents of unemancipated minors who damage lodging or accommodation premises.

Sponsors: Representatives Delvin, Morris and Padden.

Brief History:

Committee Activity:

Law & Justice: 2/22/95, 2/28/95 [DPS].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Sheahan; Smith; Thibaudeau and Veloria.

Staff: Lissa Kaufman (786-5793).

Background: Parents may be liable for their children's actions at common law and under certain statutory provisions.

At common law, a parent is liable for the intentional torts of his or her minor child if:

1. The child has a dangerous proclivity;
2. The parent knows of the proclivity; and
3. The parent fails to exercise reasonable care in controlling the child's dangerous behavior.

Generally, under this doctrine, known as "negligent supervision," the child must have previously committed an act similar in nature to the act that is the subject of the current claim for damages. The parent subject to liability must be aware of the child's prior act.

There are two statutory provisions which hold parents liable for the actions of their children. First, parents are liable for up to \$5,000 for damages caused by a child who willfully and maliciously destroys property or injures another person. A parent is liable under this provision if the child resides with the parent. Second, a parent of an unemancipated minor who shoplifts or leaves a restaurant or lodging accommodation without paying is liable for up to \$500 toward the value of the goods or services taken. Under the second provision, a parent is also liable for a penalty of between \$100 and \$200, reasonable attorneys' fees, and court costs.

Summary of Substitute Bill: The substitute bill authorizes hotels, motels, and other lodgings to require identification with proof of age or emancipation prior to renting a room or facility to any person.

Parents having custody of unemancipated minors are liable for damages their children cause to lodging facilities only if the lodging: (1) required the minor to present identification with proof of age prior to renting the room or facility; and (2) either required the minor's parent to be physically present in the room along with the minor or required the minor's parent to assume in writing liability for any damage caused by the minor.

The substitute bill places a limitation on parental liability. Parents can be liable for up to \$500 toward the cost of cleanup or repair of the premises, plus an additional fine of between \$100 and \$200, plus all reasonable attorneys' fees and court costs.

Substitute Bill Compared to Original Bill: The substitute bill creates a new section which is added to the chapter of the code dealing with lodgings and restaurants. Owners and employees of lodgings are authorized to require identification prior to renting a room. A parent is liable only if an owner or employee of the lodging checked the minor's identification and required the parent to assume liability for damages. Parental liability is limited to a specified monetary amount plus attorneys' fees and court costs.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Hotels and motels have experienced problems with minors damaging their facilities. Current Washington law prevents lodgings from entering into enforceable contracts with minors. Therefore, minors are under no obligation to pay for any damages they cause. Although lodgings are currently under no obligation to

rent a room to someone under 18 years of age, a minor who was denied accommodations could try to sue for discrimination against minors.

Testimony Against: None.

Testified: Becky Bogard, Washington State Hotel/Motel Association (pro); and Brandon Russell, Seattle Westin Hotel (pro).