

HOUSE BILL REPORT

SHB 2733

*As Passed House
February 15, 1992*

Title: An act relating to liability for furnishing liquor to minors.

Brief Description: Imposing liability for furnishing liquor to minors.

Sponsor(s): By House Committee on Judiciary (originally sponsored by Representatives Brough, Appelwick, Padden, Ludwig, Forner, Vance, Wineberry, P. Johnson and Mitchell).

Brief History:

Reported by House Committee on:
Judiciary, February 7, 1992, DPS;
Passed House, February 15, 1992, 94-0.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 18 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Belcher; Broback; Forner; Hargrove; Inslee; Locke; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; and Vance.

Staff: Andrea McNamara (786-5793).

Background: Individuals who furnish intoxicating liquor to minors may be charged under Washington law with a misdemeanor. However, they may not be held accountable through civil lawsuits for any injury to persons or damage to property resulting from the minor's consumption except in a few limited situations. Washington statutes do not authorize civil law suits in these areas, and Washington courts have repeatedly rejected suits based on the common-law theory of negligence. The courts reason that the injuries are not caused by the person who furnishes the liquor but by the independent act of the minor who drinks it.

The limited common law exceptions to non-liability include situations where someone furnishes liquor to an obviously

intoxicated person, to a person in a state of helplessness, or to a person in a special relationship to the furnisher. To date, these exceptions have not been used successfully against a person who supplies liquor to another in a purely social setting. Over the past several years, the court has vacillated on the possibility of extending a common-law exception to situations where a person supplies liquor to a minor.

In an action based on negligence, the fact that a defendant violated a law of conduct, such as the law prohibiting the sale of liquor to a minor, can be used to help a plaintiff prove the defendant acted negligently. Generally, courts will accept such evidence as either absolute proof of negligence ("negligence per se") or as merely one fact to be considered among many. The Washington Tort Reform Act of 1986, however, expressly requires that violation of a statute may not be considered negligence per se, but only as one factor among many in determining negligence.

Damages recoverable in negligence cases may include economic or non-economic damages or both. Washington law defines economic damages as objectively verifiable monetary losses such as medical expenses or costs of property repair. Non-economic damages mean subjective, non-monetary damages such as pain and suffering or disfigurement.

Summary of Bill: When an adult over the age of 18 years furnishes liquor to a minor under the age of 21 years in a commercial, social, or any other setting, a civil cause of action is created whereby the adult may be held liable for the economic damages resulting from the minor's consumption.

Violation of the statute that prohibits furnishing liquor to minors is negligence per se in such actions.

The creation of this right of action does not prohibit any person from pursuing an alternative cause of action based on other statutes, ordinances, regulations, or the common law.

Fiscal Note: Not requested.

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

Testimony For: A Washington court has indicated in a recent decision that social host liability is an issue that needs to be addressed by the Legislature. Many citizens are surprised to learn that Washington has no civil cause of action against adults who furnish liquor to minors.

Testimony Against: Extending a civil cause of action against social hosts would likely increase homeowners' liability insurance rates due to the costs associated with defending against such actions.

Witnesses: Representative Brough, prime sponsor; Dennis Martin, Washington State Trial Lawyers Association (both in favor); Cliff Webster, American Insurance Association (no position); and Mel Sorenson, Association of Independent Insurers (no position).