

# Proposed Legislation Seeks to Decrease Liquor Liability Insurance Cost

The Iowa Restaurant Association has worked with Iowa legislators to bring common sense insurance reform and increased personal responsibility to situations wherein damages have taken place due to overconsumption of alcohol. The proposed reform does increase the level of assumed responsibility of the alleged intoxicated person for his or her own actions and mitigates somewhat the overwhelming burden on restaurants and bars. Perhaps more importantly the legislation, if passed, should help drive down the cost of liquor liability insurance for restaurant and bar owners. The net result is that restaurants and bars will be able to purchase higher amounts of insurance protection at lower cost.

## Current

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.

### Changes in SSB1179

- Change to "innocent third party" so the intoxicated person himself cannot seek damages
- Change to a maximum of \$75,000
- Change to ensure those crossing the border were actually overserved in an Iowa establishment
- Replace so only someone directly serving someone who is obviously intoxicated is held to account. Ensures a trainable and defensible standard.
- Add the word "proximately" to ensure that the alcohol was actually the cause of incident.

## Proposed

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 innocent third-party** 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 **damages up to \$75,000** actually sustained, severally or jointly, **against any licensee or permittee, whether or not the license or permit was issued by the division**, who sold and served any beer, wine, or intoxicating liquor **directly to a visibly intoxicated person.**

b. If the injury was **proximately** 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.