

AMENDMENTS TO LB 573

Introduced by Judiciary

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. Sections 1 to 9 of this act shall be known and  
4 may be cited as the Minor Alcoholic Liquor Liability Act.

5           Sec. 2. The purposes of the Minor Alcoholic Liquor  
6 Liability Act are to prevent intoxication-related traumatic  
7 injuries, deaths, and other damages and to establish a legal basis  
8 for obtaining compensation for persons suffering damages as a  
9 result of provision or service of alcoholic liquor to minors under  
10 circumstances described in the act.

11           Sec. 3. For purposes of the Minor Alcoholic Liquor  
12 Liability Act:

13           (1) Alcoholic liquor has the definition found in section  
14 53-103;

15           (2) Intoxication means an impairment of a person's mental  
16 or physical faculties as a result of his or her use of alcoholic  
17 liquor so as to diminish the person's ability to think and act in  
18 the manner of a reasonably prudent person in full possession of his  
19 or her faculties using reasonable care under the same or similar  
20 circumstances;

21           (3) Licensee means a person holding a license issued  
22 under the Nebraska Liquor Control Act to sell alcoholic liquor at  
23 retail;

1           (4) Minor has the definition found in section 53-103;

2           (5) Retailer means a licensee, any agent or employee of  
3 the licensee, or any person who at the time of the events leading  
4 to an action under the Minor Alcoholic Liquor Liability Act was  
5 required to have a license issued under the Nebraska Liquor Control  
6 Act in order to sell alcoholic liquor at retail;

7           (6) Service of alcoholic liquor means any sale, gift, or  
8 other manner of conveying possession of alcoholic liquor; and

9           (7) Social host means a person who knowingly allows  
10 consumption of alcoholic liquor in his or her home or on property  
11 under his or her control by one or more minors. Social host  
12 does not include (a) a parent providing alcoholic liquor to  
13 only his or her minor child, and to no other minors, in  
14 such parent's or his or her minor child's own home or (b)  
15 a religious corporation, organization, association, or society,  
16 and any authorized representative of such religious corporation,  
17 organization, association, or society, dispensing alcoholic liquor  
18 as part of any bona fide religious rite, ritual, or ceremony.

19           Sec. 4. Any person who sustains injury or property  
20 damage, or the estate of any person killed, as a proximate result  
21 of the negligence of an intoxicated minor shall have, in addition  
22 to any other cause of action available in tort, a cause of action  
23 against:

24           (1) A social host who allowed the minor to consume  
25 alcoholic liquor in the social host's home or on property under his  
26 or her control;

27           (2) Any person who procured alcoholic liquor for the

1 minor when such person knew or should have known that the minor was  
2 a minor; or

3 (3) Any retailer who sold alcoholic liquor to the minor.  
4 The absolute defenses found in section 53-180.07 shall be available  
5 to a retailer in any cause of action brought under this section.

6 Sec. 5. It shall be a complete defense in any action  
7 brought under the Minor Alcoholic Liquor Liability Act that the  
8 intoxication did not contribute to the negligent conduct.

9 Sec. 6. No cause of action under the Minor Alcoholic  
10 Liquor Liability Act shall be available to the intoxicated person,  
11 his or her estate, or anyone whose claim is based upon injury to or  
12 death of the intoxicated person.

13 Sec. 7. In an action under the Minor Alcoholic Liquor  
14 Liability Act, damages may be awarded for all actual damages,  
15 including damages for wrongful death, as in other tort actions.

16 Sec. 8. Notwithstanding any other provision of law, any  
17 action under the Minor Alcoholic Liquor Liability Act shall be  
18 brought within two years after the occurrence causing the injury,  
19 property damage, or death.

20 Sec. 9. (1) A plaintiff's settlement and release of one  
21 defendant in an action under the Minor Alcoholic Liquor Liability  
22 Act does not bar claims against any other defendant.

23 (2) The amount paid to a plaintiff in consideration for  
24 the settlement and release of a defendant in an action under the  
25 act shall be offset against all other subsequent judgments awarded  
26 to the plaintiff.

27 (3) The retailer, licensee, social host, person procuring

1 alcoholic liquor for a minor, and minor who are defendants in an  
2 action brought under the act are jointly and severally liable in  
3 such action as provided in section 25-21,185.10 for those who act  
4 in concert to cause harm.

5 (4) In an action based on the act, the retailer,  
6 licensee, social host, person procuring alcoholic liquor for a  
7 minor, and minor shall have a right of contribution and not a right  
8 of subrogation from one another.

9 Sec. 10. This act becomes operative on January 1, 2008.