SB104 ENROLLED



- 1 L6E5AY-2
- 2 By Senators Elliott, Carnley, Hovey, Sessions, Stutts, Melson,
- 3 Scofield, Allen, Butler, Jones, Chesteen, Price, Williams,
- 4 Gudger, Waggoner, Barfoot
- 5 RFD: Judiciary
- 6 First Read: 21-Mar-23

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SB104 Enrolled



1 Enrolled, An Act, 2 3 4 Relating to civil liability; to amend Section 6-5-71, 5 Code of Alabama 1975, to further provide for the right of action for injuries resulting from the illegal furnishing of 6 7 alcoholic beverages, by basing liability for a person who illegally furnishes alcoholic beverages to an individual who 8 9 injures a third party on what the furnisher knew or should have known under the circumstances; to specify when the right 10 11 of action is not available; and to provide legislative intent. BE IT ENACTED BY THE LEGISLATURE OF ALABAMA: 12 13 Section 1. Section 6-5-71, Code of Alabama 1975, is amended to read as follows: 14 15 "\$6-5-71 (a) (1) A person who sells, furnishes, or serves 16 17 alcoholic beverages to an individual of lawful drinking age 18 shall not thereby become liable for injury, death, or damage 19 caused by or resulting from the intoxication of that 20 individual, including injury or death to other individuals; 21 provided, however, Everyevery wifespouse, child, parent, or 22 other personindividual who shall be injured in person, 23 property, or means of support by any intoxicated 24 personindividual or in consequence of the intoxication of any 25 person shall have a right of action for all damages actually sustained as well as exemplary damages against any person who 26 shall, by selling, giving, or otherwise disposing of to 27 28 another, knowingly sells, furnishes, or serves alcoholic

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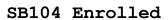
29	beverages to an individual contrary to the provisions of law,
30	any liquors or beverages, cause the intoxication of such
31	person for all damages actually sustained, as well as
32	exemplary damages who was visibly intoxicated, when the sale,
33	furnishing, or serving is the proximate cause of such injury
34	or damage.
35	(2) For purposes of this section, "knowingly" means
36	knew or should have known under the circumstances.
37	(b) Upon the death of any party, the action or right of
38	action will survive to or against his executor or
39	administrator the party's personal representative.
40	(c) The party injured, or his the party's legal
41	representative, may commence a joint or separate action
42	against the <pre>person</pre> individual intoxicated or the person who
43	furnished the <pre>liquor</pre> alcoholic beverages, and <pre>all such</pre> the
44	claims shall be by civil action in any court having
45	jurisdiction thereof.
46	(d) Evidence sufficient to establish that an individual
47	was visibly intoxicated as set forth in subdivision (a)(1)
48	shall be based on the totality of the circumstances present at
49	the time of service of the alcoholic beverages to the
50	individual. The evidence must either be by direct evidence or,
51	if circumstantial, must not require or allow the finder of
52	fact to speculate.
53	(e) Nothing contained in this section shall authorize

(e) Nothing contained in this section shall authorize
the consumer of any alcoholic beverage to recover from the
provider of the alcoholic beverage for injuries or damages
suffered by the consumer caused by the consumer's ingestion of

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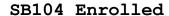
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5	7	alcohol.	**
J	/	alconol.	

58	Section 2. It is the intent of the Legislature in
59	enacting this act to provide a new standard of liability for
60	damages resulting from intoxication due to alcoholic
61	beverages. To the extent that McIsaac v. Monte Carlo Club,
62	Inc., 587 So. 2d 320 (Ala. 1991), enunciated a strict
63	liability standard, it is the intent of the Legislature to
64	repeal that standard and replace it with the new standard
65	provided in this act. It is not the intent of the Legislature
66	for any provision of this act to alter or amend Section 6-5-70
67	or 6-5-72, Code of Alabama 1975, nor is it the intent of the
68	Legislature to broaden liability to social hosts for serving
69	alcoholic beverages to an individual 21 years of age or older.
70	Section 3. This act shall become effective immediately
71	following its passage and approval by the Governor, or its
72	otherwise becoming law.





President and Presiding Officer of the Senate Speaker of the House of Representatives SB104 Senate 23-Mar-23 I hereby certify that the within Act originated in and passed the Senate. Patrick Harris, Secretary. House of Representatives Passed: 11-Apr-23 By: Senator Elliott