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SENATE BILL NO. 555

Offered January 12, 2022

Prefiled January 12, 2022

A *BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 8.01 a section numbered 8.01-44.8, relating to liability for sale of alcohol to an underage person.*

Patron—Obenshain

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 8.01 a section numbered 8.01-44.8 as follows:

§ 8.01-44.8. Liability for sale of alcoholic beverage to underage person.

A. As used in this section:

"Aggrieved party" means a person who sustains an injury to person or property as a consequence of the actions of the underage driver, but does not include the underage person or a person who aided or abetted in the sale or furnishing to the underage person.

"Licensee" means any person to whom a retail license has been granted by the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Proof of good practices" includes instruction of employees as to laws regarding the sale of alcoholic beverages, training of employees, enforcement techniques, admonishment to patrons concerning laws regarding the purchase or furnishing of alcoholic beverages, and detention of a person's identification documents and inquiry about the age or degree of intoxication of the person.

B. An aggrieved party has a cause of action for damages against a licensee if:

1. The licensee or his agent or employee negligently sold or furnished an alcoholic beverage to a person under the age of 21 who was visibly intoxicated;

2. The consumption of the alcoholic beverage that was sold or furnished to an underage person caused or contributed to, in whole or in part, an underage driver operating any motor vehicle while intoxicated as described in § 18.2-266 or 18.2-266.1 at the time of an injury to person or property; and

3. The underage driver's negligent operation of a vehicle while so impaired was a proximate cause of the injury.

C. The plaintiff shall have the burden of proving by clear and convincing evidence that the sale or furnishing of the alcoholic beverage to the underage person was negligent. Evidence of negligence, which shall be admissible, may include proof of the sale or furnishing of the alcoholic beverage to an underage person without request for identification. Proof of good practices, evidence that an underage person misrepresented his age, or evidence that the sale or furnishing was made under duress, is admissible as evidence that the licensee was not negligent.

D. The liability of the negligent driver that caused the injury and the licensee that sold or furnished the alcoholic beverage shall be joint and several, with right of contribution, but not indemnification.

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