

BILL ANALYSIS

C.S.H.B. 724
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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Dram Shop Act establishes a cause of action against a provider of alcoholic beverages for injuries caused by the consumers of those beverages, when:

- (1) at the time the provision occurred it was apparent to the provider that the individual being sold, served, or provided with an alcoholic beverage was obviously intoxicated to the extent that he presented a clear danger to himself and others; and
- (2) the intoxication of the recipient of the alcoholic beverage was a proximate cause of the damages suffered.

The Act also states that it shall be the exclusive remedy against a provider in such cases, in lieu of common law or other statutory law warranties and duties, for the actions of customers, members or guests. A separate sentence states that the Act shall be the exclusive cause of action for providing an alcoholic beverage to a person 18 years of age or older.

In some cases since the passage of the Act, providers have been sued under the Act for injuries caused by employees who consumed alcohol while on the job. There has been confusion as to whether the Act covers the actions of employees, since they are not specifically mentioned in the sentence on exclusivity. In one case, a victim's family was advised that they had no legal recourse through the Act or through common law, since the person consuming the alcohol was an employee over 18. The attorney believed that the first sentence of the exclusivity sections barred recovery under the Act since the person was not a "customer, member or guest", while the last sentence barred recovery under common law since the person was over 18.

C.S.H.B. 724 clarifies the exclusivity of remedy section of the Act, by adding employees to the list of "customers, members or guests".

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 724 amends Section 2.03, Alcoholic Beverage Code as follows:

New Title: EXCLUSIVITY OF STATUTORY REMEDY. Adds employees to the lists of persons for whom alcoholic beverages may be civilly liable.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 724 modifies the original bill by removing proposed new language requiring guests to be 21 years of age or older. The substitute also restores the exclusive cause of action for providing an alcoholic beverage from a person 21 years of age or older to a person 18 years of age or older.