

SENATE BILL NO. 337—SENATOR WIENER

MARCH 24, 2005

Referred to Committee on Judiciary

SUMMARY—Establishes civil liability for serving, selling or otherwise furnishing alcoholic beverages or controlled substances to minors in certain circumstances. (BDR 3-784)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to civil actions; establishing civil liability for any person who is 21 years of age or older and who serves, sells or otherwise furnishes an alcoholic beverage or controlled substance to a person under 21 years of age in certain circumstances; removing the exception from criminal liability for a parent or guardian who sells, gives or otherwise furnishes an alcoholic beverage to his child or ward who is under 21 years of age; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 41.1305 is hereby amended to read as follows:
2 41.1305 1. ~~[No]~~ *Except as otherwise provided in subsection*
3 *3, a* person who serves or sells alcoholic beverages is *not* liable in a
4 civil action based on the grounds that the service or sale was the
5 proximate cause of injuries inflicted by an intoxicated person upon
6 himself or another person.
7 2. ~~[The]~~ *For the purposes of subsection 1, the* violation of any
8 statute, regulation or ordinance which regulates the sale or service of
9 alcoholic beverages to a minor or an intoxicated person does not
10 constitute negligence per se in any action brought against the server



1 or seller for injuries inflicted by an intoxicated person upon himself
2 or another person.

3 **3. A person who is 21 years of age or older and who serves,**
4 **sells or otherwise furnishes an alcoholic beverage or controlled**
5 **substance in a residential setting to a person under 21 years of age**
6 **is liable in a civil action based on the grounds that the service, sale**
7 **or furnishing was the proximate cause of any damages caused by**
8 **the intoxicated minor. This subsection does not apply to a person**
9 **who serves or otherwise furnishes an alcoholic beverage to a**
10 **person under 21 years of age for an established religious purpose.**

11 **4. For the purposes of subsection 3, a person who is 21 years**
12 **of age or older shall be deemed to have furnished an alcoholic**
13 **beverage or controlled substance if he has actual knowledge that,**
14 **and consents to, a person under 21 years of age consuming an**
15 **alcoholic beverage or controlled substance on the premises of the**
16 **residence.**

17 **5. If an injured person prevails in an action brought**
18 **pursuant to subsection 3, the court may award the injured person**
19 **the costs of the action, reasonable attorney's fees, economic**
20 **damages and punitive damages.**

21 **6. For the purposes of subsection 3, the violation of any**
22 **statute, regulation or ordinance which regulates the service, sale**
23 **or furnishing of alcoholic beverages to a minor constitutes**
24 **negligence per se in any action brought against the server, seller**
25 **or furnisher for any damages caused by an intoxicated minor.**

26 **Sec. 2.** NRS 202.055 is hereby amended to read as follows:

27 202.055 1. Every person who knowingly:

28 (a) Sells, gives or otherwise furnishes an alcoholic beverage to
29 any person under 21 years of age;

30 (b) Leaves or deposits any alcoholic beverage in any place with
31 the intent that it will be procured by any person under 21 years of
32 age; or

33 (c) Furnishes, gives ~~H~~ or causes to be given any money or thing
34 of value to any person under 21 years of age with the knowledge
35 that the money or thing of value is to be used by the person under 21
36 years of age to purchase or procure any alcoholic beverage,

37 ~~is guilty of a misdemeanor~~ ~~H~~ **and shall be punished by a fine of**
38 **not more than \$5,000. In lieu of a fine, the court may order a**
39 **defendant to perform not less than 48 hours, but not more than 96**
40 **hours, of community service or may order the defendant to**
41 **participate in and complete a program of professional counseling,**
42 **at his own expense.**

43 2. Paragraph (a) of subsection 1 does not apply to a ~~{parent;~~
44 ~~guardian or}~~ physician of the person under 21 years of age.



1 3. Every person who sells, gives or otherwise furnishes
2 alcoholic beverages through the use of the Internet shall adopt a
3 policy to prevent a person under 21 years of age from obtaining an
4 alcoholic beverage from the person through the use of the Internet.
5 The policy must include, without limitation, a method for ensuring
6 that the person who delivers the alcoholic beverages obtains the
7 signature of a person who is over the age of 21 years when
8 delivering the beverages and that the packaging or wrapping of the
9 alcoholic beverages when they are shipped is clearly marked with
10 words that describe the alcoholic beverages. A person who fails to
11 adopt a policy pursuant to this subsection is guilty of a misdemeanor
12 and shall be punished by a fine of not more than \$500.



