

SENATE BILL NO. 337—SENATOR WIENER

MARCH 24, 2005

Referred to Committee on Judiciary

SUMMARY—Makes changes pertaining to intoxicating substances.
(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 intoxicating substances; establishing civil liability under certain circumstances for unlawfully serving, selling or otherwise furnishing an alcoholic beverage to a minor or for unlawfully serving, selling or otherwise furnishing a controlled substance to another person; establishing civil liability under certain circumstances for knowingly or recklessly permitting the unlawful consumption of an alcoholic beverage or a controlled substance on the premises; revising the provisions pertaining to the crime of selling, giving or otherwise furnishing an alcoholic beverage to a minor; 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. ~~Not~~ ***Except as otherwise provided in this***
3 ***section, a*** person who serves or sells alcoholic beverages is ***not***
4 liable in a civil action based on the grounds that the service or sale
5 was the proximate cause of injuries inflicted by an intoxicated
6 person upon 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



1 constitute negligence per se in any action brought against the server
2 or seller for injuries inflicted by an intoxicated person upon himself
3 or another person.

4 **3. Except as otherwise provided in subsection 5, a person who**
5 **is 18 years of age or older and who unlawfully serves, sells or**
6 **otherwise furnishes:**

7 **(a) An alcoholic beverage to another person who is under 21**
8 **years of age; or**

9 **(b) A controlled substance to another person of any age,**
10 **↪ is liable in a civil action for any damages resulting from the**
11 **consumption of the alcoholic beverage or controlled substance**
12 **caused by the person who consumed the alcoholic beverage or**
13 **controlled substance.**

14 **4. Except as otherwise provided in subsection 6, a person who**
15 **is 18 years of age or older and who:**

16 **(a) Has control over any premises and is in a reasonable**
17 **position to prevent the unlawful consumption on the premises of**
18 **an alcoholic beverage by a person who is under 21 years of age or**
19 **a controlled substance by another person of any age; and**

20 **(b) Knowingly or recklessly permits the unlawful consumption**
21 **on the premises of an alcoholic beverage by a person who is under**
22 **21 years of age or a controlled substance by another person of any**
23 **age,**

24 **↪ is liable in a civil action for any damages resulting from the**
25 **consumption of the alcoholic beverage or controlled substance**
26 **caused by the person who consumed the alcoholic beverage or**
27 **controlled substance.**

28 **5. The provisions of subsection 3 do not apply to the service,**
29 **sale or furnishing of an alcoholic beverage by a person who is**
30 **licensed to serve or sell alcoholic beverages or the agent of such a**
31 **person.**

32 **6. The provisions of subsection 4 do not apply to a person**
33 **who is licensed to serve or sell alcoholic beverages or the agent of**
34 **such a person who permits the consumption of an alcoholic**
35 **beverage on the premises.**

36 **7. If an injured person prevails in an action brought**
37 **pursuant to subsection 3 or 4, the injured person may recover his**
38 **actual damages, attorney's fees, costs and punitive damages as the**
39 **facts may warrant.**

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

41 202.055 1. Every person who knowingly:

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



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

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

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

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

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



