

SENATE BILL NO. 7—SENATOR WIENER

PREFILED DECEMBER 11, 2006

JOINT SPONSOR: ASSEMBLYMAN HORNE

Referred to Committee on Judiciary

SUMMARY—Establishes civil liability for certain acts involving the use of controlled substances and the consumption of alcoholic beverages. (BDR 3-53)

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 under certain circumstances for unlawfully serving, selling or otherwise furnishing a controlled substance to another person and for serving, selling or otherwise furnishing an alcoholic beverage to a minor; establishing civil liability under certain circumstances for allowing the unlawful use of a controlled substance by another person or the consumption of an alcoholic beverage by a minor on certain premises or in certain conveyances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides immunity from civil liability to a person who serves or
2 sells an alcoholic beverage to another person for damages caused by an intoxicated
3 person as a result of that service or sale. (NRS 41.1305) **Section 2** of this bill limits
4 that immunity to a person who serves, sells or furnishes an alcoholic beverage to
5 another person who is at least 21 years of age. In contrast, **section 2** makes a person
6 liable in a civil action for damages caused as a result of the consumption of alcohol
7 by an underage person if he served, sold or furnished alcohol to the underage
8 person or allowed the underage person to consume alcohol on premises or in a
9 conveyance belonging to him or over which he had control. Such liability only
10 applies if the person knew or should have known that the underage person was in
11 fact less than 21 years of age. The liability created does not apply to a person who
12 is licensed to serve, sell or furnish alcoholic beverages or to an employee or agent
13 of such a person.



Section 1 of this bill further makes a person liable in a civil action for damages caused as a result of the use of a controlled substance by another person if the person unlawfully served, sold or furnished the controlled substance or allowed the other person to use a controlled substance in an unlawful manner on premises or in a conveyance belonging to the person allowing the use or over which he has control.

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

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who:

(a) Unlawfully serves, sells or otherwise furnishes a controlled substance to another person; or

(b) Allows another person to use a controlled substance in an unlawful manner on premises or in a conveyance belonging to the person allowing the use or over which he has control when he knows or reasonably should know that such use is unlawful,

↪ is liable in a civil action for any damages caused as a result of the person using the controlled substance.

2. A person who prevails in an action brought pursuant to subsection 1 may recover his actual damages, attorney's fees and costs and any punitive damages that the facts may warrant.

Sec. 2. NRS 41.1305 is hereby amended to read as follows:

41.1305 1. ~~[No] A person who serves , [or] sells or otherwise furnishes an alcoholic [beverages is] beverage to another person who is 21 years of age or older is not~~ liable in a civil action ~~[based on the grounds that the service or sale was the proximate cause of injuries inflicted by an intoxicated person upon himself or another person.]~~

~~—2. The violation of any statute, regulation or ordinance which regulates the sale or service of alcoholic beverages to a minor or an intoxicated person does not constitute negligence per se in any action brought against the server or seller for injuries inflicted by an intoxicated person upon himself or another person.]~~ **for any damages caused by the person to whom the alcoholic beverage was served, sold or furnished as a result of the consumption of the alcoholic beverage.**

2. Except as otherwise provided in this section, a person who:

(a) Serves, sells or otherwise furnishes an alcoholic beverage to an underage person; or

(b) Allows an underage person to consume an alcoholic beverage on premises or in a conveyance belonging to the person or over which he has control,



1 ↪ is liable in a civil action for any damages caused by the
2 underage person as a result of the consumption of the alcoholic
3 beverage if he knew or reasonably should have known that the
4 person was an underage person.

5 3. The liability created pursuant to subsection 2 does not
6 apply to a person who is licensed to serve, sell or furnish alcoholic
7 beverages or to a person who is an employee or agent of such a
8 person for any act or failure to act that occurs during the course
9 of business or employment and any such act or failure to act may
10 not be used to establish proximate cause in a civil action and does
11 not constitute negligence per se.

12 4. A person who prevails in an action brought pursuant to
13 subsection 2 may recover his actual damages, attorney's fees and
14 costs and any punitive damages that the facts may warrant.

15 5. As used in this section, "underage person" means a person
16 who is less than 21 years of age.

