

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 knowingly serving, selling or otherwise furnishing a controlled substance to another person and for knowingly serving, selling or otherwise furnishing an alcoholic beverage to a minor; establishing civil liability under certain circumstances for knowingly 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:**

Existing law provides immunity from civil liability to a person who serves or sells an alcoholic beverage to another person for damages caused by an intoxicated person as a result of that service or sale. (NRS 41.1305) **Section 2** of this bill limits that immunity to a person who serves, sells or furnishes an alcoholic beverage to another person who is at least 21 years of age. In contrast, **section 2** makes a person liable in a civil action for damages caused as a result of the consumption of alcohol by an underage person if he knowingly served, sold or furnished alcohol to the underage person or allowed the underage person to consume alcohol on premises or in a conveyance belonging to him or over which he had control. The liability created does not apply to a person who is licensed to serve, sell or furnish alcoholic beverages or to an employee or agent of such a person.



\* S B 7 R 1 \*

**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 knowingly 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.

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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) Knowingly and unlawfully serves, sells or otherwise furnishes a controlled substance to another person; or*

*(b) Knowingly 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,*

*↪ 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) Knowingly serves, sells or otherwise furnishes an alcoholic beverage to an underage person; or*

*(b) Knowingly 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.

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

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

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

