

Offered: 2/14/86
Referred: Judiciary

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 345 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to civil liability of persons who
7 provide alcoholic beverages; and providing for an
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 04.21.020 is amended to read:

11 Sec. 04.21.020. CIVIL LIABILITY OF PERSONS PROVIDING ALCOHOLIC
12 BEVERAGES. A person who provides alcoholic beverages to another
13 person may not be held civilly liable for injuries resulting from the
14 intoxication of that person unless the person who provides the alco-
15 holic beverages holds a license authorized under AS 04.11.080 - 04.-
16 11.220, or is an agent or employee of such a licensee, or is required
17 by AS 04.11.010 to hold a license or permit, and

18 (1) the alcoholic beverages are provided to a person under
19 the age of 21 years in violation of AS 04.16.051, unless the licensee,
20 agent, or employee secures in good faith from the person a signed
21 statement, liquor identification card, or driver's license meeting the
22 requirements of AS 04.21.050(a) and 04.21.050(b), that indicates that
23 the person is 21 years of age or older; or

24 (2) the alcoholic beverages are provided to a drunken
25 person [IN VIOLATION OF AS 04.16.030].

26 * Sec. 2. AS 04.21.020 is amended by adding new subsections to read:

27 (b) In determining whether a licensee, agent, or employee of a
28 licensee has provided alcoholic beverages to a drunken person or a
29 minor, competent evidence establishing that the licensee, agent, or

1 employee of a licensee adhered to responsible business practices shall
2 be relevant to determining if the person served was a minor or drunken
3 person.

4 (c) In this section, "responsible business practices" are those
5 business policies, procedures and actions that an ordinarily prudent
6 person would follow in like circumstances. The service of alcoholic
7 beverages to a person with actual or constructive knowledge that the
8 person is intoxicated or a minor constitutes an unreasonable business
9 practice. Evidence of responsible business practices is relevant to
10 determining whether a person who does not have actual knowledge should
11 have known of the person's intoxicated condition or age. Evidence of
12 responsible business practices may include comprehensive training of
13 the licensee and licensee's employees and agents who are present at
14 the time of service of alcoholic beverages and responsible management
15 policies, procedures, and actions that are in effect at the time of
16 the service. For the purposes of service to intoxicated persons,
17 evidence of comprehensive training includes the development of knowl-
18 edge and skills regarding the responsible service of alcoholic bever-
19 ages and the handling of intoxicated persons. This training must be
20 appropriate to the level, kind, and type of responsibility for each
21 employee and agent to be trained.

22 (d) For the purposes of service to intoxicated persons, evidence
23 of responsible management policies, procedures, and actions may
24 include policies, procedures, and actions that are implemented at the
25 time of service that

26 (1) encourage persons not to become intoxicated if they
27 consume alcoholic beverages on the licensee's premises;

28 (2) promote availability of nonalcoholic beverages and
29 food;

1 (3) promote safe transportation alternatives other than
2 driving while intoxicated;

3 (4) prohibit employees and agents of the licensee from
4 consuming alcoholic beverages while acting in their capacity as
5 employee or agent;

6 (5) establish promotions and marketing efforts that publi-
7 cize responsible business practices to the licensee's customers and
8 community;

9 (6) implement comprehensive training procedures;

10 (7) maintain an adequate, trained number of employees and
11 agents for the type and size of the licensee's business;

12 (8) are written in a policy and procedures handbook or
13 similar format, and made available to employees;

14 (9) establish a standardized method for hiring qualified
15 employees; and

16 (10) reprimand employees who violate employer policies and
17 procedures.

18 (e) For the purposes of service to minors, evidence of
19 responsible business practices may include management policies that
20 are implemented at the time of service and that ensure the examination
21 of proof of identification for all persons seeking service of alco-
22 holic beverages who may reasonably be suspected to be minors and
23 comprehensive training of employees who are responsible for the
24 detection of false or altered identification.

25 (f) Proof of responsible business practices shall be based on
26 the totality of the circumstances including the availability of
27 training programs and alternative public transportation; the licen-
28 see's type and size of business; and previous contacts with the intox-
29 icated person or minor who is served. Proof of the existence or

1 omission of one or more elements of responsible business practices
2 does not constitute the proof or disproof of the responsible business
3 practices.

4 * Sec. 3. AS 04.21.080(b)(7) is amended to read:

5 (7) "drunken person" means a person whose physical or
6 mental conduct is substantially impaired as a result of the introduc-
7 tion of an alcoholic beverage into the person's [HIS] body, and who
8 exhibits those observable or reasonably discoverable [PLAIN AND EASILY
9 OBSERVED OR DISCOVERED] outward manifestations of behavior commonly
10 known to be produced by the overconsumption of alcoholic beverages;

11 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
12 10.070(c).