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SENATE BILL NO. 1113

Offered January 11, 2023

Prefiled January 10, 2023

A *BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 8.01 a section numbered 8.01-44.8, relating to liability for sale of alcohol to impaired customer; injury to another person due to operation of vehicle while intoxicated.*

Patrons—Hanger and Obenshain

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 8.01 a section numbered 8.01-44.8 as follows:

§ 8.01-44.8. *Liability for sale of alcoholic beverage to customer who subsequently injures another by driving while impaired.*

A. As used in this section:

"Aggrieved party" means a person who sustains an injury to person or property as a consequence of the actions of the impaired customer but does not include the impaired driver or a person who aided or abetted in the sale or furnishing to the impaired customer.

"Licensee" means any person to whom a retail license has been granted by the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Proof of good practices" includes instruction of employees as to laws regarding the sale of alcoholic beverages, training of employees, enforcement techniques, admonishment to patrons concerning laws regarding the purchase or furnishing of alcoholic beverages, and detention of a person's identification documents and inquiry about the age or degree of intoxication of the person.

B. An aggrieved party has a cause of action for damages against a licensee if:

1. The licensee or his agent or employee negligently sold or furnished an alcoholic beverage to a customer;

2. The consumption of the alcoholic beverage that was sold or furnished to such customer caused or contributed to, in whole or in part, such customer operating any motor vehicle while intoxicated as described in § 18.2-266 at the time of an injury to person or property; and

3. The injury that resulted was proximately caused by the customer's negligent operation of a vehicle while so impaired.

C. The plaintiff shall have the burden of proving that the sale or furnishing of the alcoholic beverage to the customer was negligent. Proof of good practices or evidence that the sale or furnishing was made under duress is admissible as evidence that the licensee was not negligent.

D. The liability of the negligent driver that caused the injury and the licensee that sold or furnished the alcoholic beverage shall be joint and several, with right of contribution, but not indemnification.

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