

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 739

(Senators Ruben and Astle)

Judicial Proceedings

Alcoholic Beverages Seller Liability Act

This bill makes a seller of alcoholic beverages liable for damages in a civil action brought by a third party if the purchaser's intoxication was the proximate cause of injury, death, or property damage sustained by the third party, where the purchaser: (1) is either under 21 years old or is visibly intoxicated; and (2) subsequently operates a motor vehicle. The third party may recover economic or noneconomic damages. A civil action for damages for death is subject to statutory wrongful death provisions. The bill specifically prohibits any purchaser from bringing a civil action against the person who sold the purchaser alcohol to recover for property damage, injury, or death that is proximately caused by the purchaser's intoxication.

Fiscal Summary

State Effect: It is expected that any increase in the number of cases filed in court could be handled using existing resources.

Local Effect: None -- see above.

Small Business Effect: Potential meaningful. Small businesses that sell alcoholic beverages may be subjected to significantly increased liability and litigation costs as a result of this bill.

Analysis

Current Law: Maryland law does not allow a third party to recover damages proximately caused by a purchaser's intoxication from the seller of the alcoholic beverages.

Background: Maryland is now one of only three jurisdictions that does not allow “dram shop” lawsuits. *Wright v. Sue & Charles, Inc. et al.*, 131 Md. App. 466, 475 n.5, 749 A.2d 241, 246 n.5 (2000). A dram shop is a drinking establishment. Dram shop acts impose liability on the seller of alcoholic beverages when a third party is injured as a result of a buyer’s intoxication where the sale has caused or contributed to such intoxication. *Black’s Law Dictionary, Sixth Ed.*, West Publishing Co. (1990). Twenty-three states have statutes that allow such lawsuits against sellers of alcoholic beverages, and numerous other states have permitted these suits despite not having a dram shop liability statute. *Wright* at 475.

In the *Wright* case, a minor purchased alcohol from the defendants and, after consuming the alcohol, drove and was killed in a single-car automobile accident. The minor’s parents sued the liquor store and its owners using a dram shop liability theory (also sued under a social host liability theory were the parents of another individual, in whose home the alcohol was actually consumed). The lawsuit was dismissed based on the fact that Maryland law does not recognize this type of liability and the Court of Special Appeals of Maryland upheld the dismissal. The *Wright* court noted that the history of cases in this State addressing dram shop liability have all held that: (1) under the common law, the act of selling liquor is too remote to be a proximate cause of injury caused by a purchaser’s negligent act; and (2) the proper method of creating such liability is a legislative and not a judicial function.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Transportation (Motor Vehicle Administration), Department of Legislative Services

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