

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1313

By: Representative Collier

For An Act To Be Entitled

"AN ACT TO PROVIDE THAT A PROVIDER OF ALCOHOLIC BEVERAGES WHO SELLS OR SERVES ALCOHOLIC BEVERAGES TO AN INTOXICATED PERSON SHALL BE LIABLE FOR DAMAGES CAUSED BY THE INTOXICATED PERSON; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. As used in this Act:

(1) "Alcoholic beverages" means any beverage designed for human consumption which is capable of causing a person to become intoxicated;

(2) "Intoxicated" means an impairment of a person's mental or physical faculties as a result of consumption of alcoholic beverages so as to diminish that person's ability to think and act in a manner in which an ordinary prudent and cautious person, in full possession of his or her faculties and using reasonable care would act under like circumstances;

(3) "Intoxicated person" means an individual who is intoxicated;

(4) "Person" means every natural person and legal entity;

(5) "Provider" means any person who sells or serves alcoholic beverages under authority of a license or permit issued by the Arkansas Alcoholic Beverage Control Board.

SECTION 2. (a) Any provider who serves alcoholic beverages to an intoxicated person is civilly liable for resulting damages caused by the intoxicated person, if the provider knows or if a reasonably prudent person in like circumstances would know that the person being served is intoxicated. A provider is liable for damages caused by the intoxicated person to the person or property of another up to the amount of ten thousand dollars (\$10,000). Regardless of the number of persons injured, no provider shall be liable for more than an aggregate amount of fifty thousand dollars (\$50,000) per

incident.

(b) No person shall bring an action under this Act unless written notice of his intention to bring such action has been given to the provider within sixty (60) calendar days after the occurrence of such injury to person or property. The notice shall specify the time, the date and the person to whom the alcoholic beverage was served or sold, the name and address of the person injured or whose property was damaged, and the time, date and place where the injury to person or property occurred. Actions under this Act shall be commenced within one year after the date of the act complained of.

(c) An intoxicated person causing injuries to himself or his property shall not bring an action against the provider for damages.

SECTION 3. This Act shall apply only to actions for damages which occur on or after the effective date of this Act.

SECTION 4. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 5. All laws and parts of laws in conflict with this Act are hereby repealed.