

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Originating

House Bill 3513

By Delegates Akers and Maynor

[Originating in the Committee on the Judiciary;

Reported on March 28, 2025]

A BILL to amend the Code of West Virginia, 1931, as amended by adding thereto two new sections, designated §60-7-12b and §60-7-12c, relating to standards of liability and insurance requirements in certain civil actions; clarifying liability for injury, death, or damages caused by an owner, lessor or licensee of a private club; clarifying liability of intoxicated persons; clarifying liability of persons or licensees for knowingly unlawful sales; setting forth findings and purposes; setting forth standards of liability to bring cause of action for damages resulting from intoxication against an owner, lessor or licensee of a private club; setting forth a rebuttable presumption and exceptions to liability; creating certain insurance requirements; defining terms; and clarifying liability for owners or lessors of property for gross negligence.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-12b. Liability of intoxicated persons; liability of persons or licensees for knowingly unlawful sales; rebuttable presumptions and exceptions.

(a) Notwithstanding any other provision of this article to the contrary, a person or licensee who sells, furnishes, or serves an alcoholic beverage to a person is not thereby liable in a civil action for damages for injury, death, or damage caused by or resulting from the impairment or intoxication of the person who was furnished the alcoholic beverage, including injury or death to other individuals, unless either of the following two circumstances apply:

(1) The person or licensee knowingly sells, furnishes, or serves alcoholic beverages to a person who is not of lawful drinking age; or

(2) The person or licensee knowingly sells, furnishes, or serves alcoholic beverages to a person who was visibly intoxicated at the time the alcoholic beverage was furnished.

(b) Where either of the circumstances set forth in subsection (a) are met by a preponderance of the evidence, a person or licensee may become liable for injury or damage caused by or resulting from the intoxication of such minor or person when the sale, furnishing, or

serving of alcoholic beverages to such minor or person is the proximate cause of such injury or damage.

(c) In determining whether the sale, furnishing, or serving of alcoholic beverages to a person not of legal drinking age is done knowingly, as provided in subsection (a)(1), a rebuttable presumption that the alcoholic beverages were not sold, furnished or served knowingly exists if:

(1) The person selling, furnishing, or serving alcoholic beverages has installed a transaction scan device on its licensed premises and can demonstrate that it requires each employee, servant or agent to verify the age of any individual to whom alcoholic beverages have been furnished; or,

(2) The person selling, furnishing or serving alcoholic beverages can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom an alcoholic beverage is sold by providing evidence:

(A) That it has developed a written policy which requires each employee, servant, or agent to verify the age of each individual to whom an alcoholic beverage will be sold, furnished, or given away;

(B) That it has communicated this policy to each employee, servant, or agent; and

(C) That it monitors the actions of its employees, servants, or agents regarding the sale, furnishing, or giving away of any alcoholic beverage and that it has taken corrective action for any discovered noncompliance with this policy.

(d) For purposes of this section, neither an intoxicated person of lawful drinking age driving in a motor vehicle, nor an executor or administrator of the intoxicated person's estate, nor any person voluntarily riding in a motor vehicle driven by a person known to be intoxicated, shall have a cause of action against any licensee, nor owner or lessor of any building of a licensee, for injuries to their person or property arising from the actions of such intoxicated driver.

(e) For any cause of action brought pursuant to this section against a person or licensee that maintains liquor liability insurance in an amount not less than \$1 million per occurrence and at

least \$2 million in the aggregate, a verdict of past medical expenses is limited to \$1 million, and an award of punitive damages may not exceed two times the amount of compensatory damages awarded.

(f) For the purposes of this section, the following terms have the following meanings:

(1) "Alcoholic beverage" shall include alcohol, beer, including nonintoxicating beer and nonintoxicating craft beer, wine, spirits and any other liquid or solid capable of being used as a beverage.

(2) "Knowing" or "knowingly" means knew or should have known under a totality of the circumstances;

(3) "Transaction scan device" means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information enclosed on the magnetic strip or bar code of a driver's license or other governmental identity card.

(4) "Visible intoxication" or "visibly intoxicated" means actual evidence of a person's action or series of actions that present objective signs of intoxication. Neither a person's blood alcohol content nor the number of alcoholic beverages a person consumes shall constitute prima facie evidence to establish that a person is visibly intoxicated within the meaning of this section but may be admissible as relevant evidence of the person's intoxication.

(5) Notwithstanding any other effective date to the contrary, the amendments to this article, enacted during the 2025 regular legislative session, shall apply to all cases filed on or after August 1, 2025.

§60-7-12c. Liability of owners or lessors for gross negligence.

(a) No person, and no executor or administrator of the person, who suffers personal injury, death, or property damage as a result of the actions of an intoxicated person has a cause of action against an owner or lessor who rents their building or premises to a licensee against whom a cause of action may be brought under §60-7-12b of this code, except when:

5 (1) The owner and the licensee are the same person, and the licensee violated a provision
6 of §60-7-12b; or

7 (2) There is clear and convincing evidence that the owner or lessor acted willfully,
8 wantonly, or with gross negligence with respect to the renting of the owner or lessor's building or
9 premises to a licensee against whom a cause of action has been brought.

10 (b) For any cause of action brought under this section in which the trier of fact has
11 determined that punitive damages are to be awarded, the limitations on punitive damages
12 provided under §55-7-29 of this code shall apply.

13 (c) Notwithstanding any other effective date to the contrary, the amendments to this article,
14 enacted during the 2025 regular legislative session, shall apply to all cases filed on or after August
15 1, 2025.

NOTE: The purpose of this bill is to establish standards of liability and insurance requirements in certain civil actions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.