

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILLS NOS. 433 & 248**  
**91ST GENERAL ASSEMBLY**

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Reported from the Committee on Local Government and Related Matters, May 8, 2001, with recommendation that the House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 433 & 248 Do Pass.

TED WEDEL, Chief Clerk

1801L.05C

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**AN ACT**

To repeal section 537.053, RSMo 2000, relating to consumption of intoxicating beverage as proximate cause of injury in tort actions, and to enact in lieu thereof one new section relating to the same subject.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 537.053, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 537.053, to read as follows:

537.053. 1. Since the repeal of the Missouri Dram Shop Act in 1934 (Laws of 1933-34, extra session, page 77), it has been and continues to be the policy of this state to follow the common law of England, as declared in section 1.010, RSMo, to prohibit dram shop liability and to follow the common law rule that furnishing alcoholic beverages is not the proximate cause of injuries inflicted by intoxicated persons.

2. The legislature hereby declares that this section shall be interpreted so that the holdings in cases such as *Carver v. Schafer*, 647 S.W.2d 570 (Mo. App. 1983); *Sampson v. W. F. Enterprises, Inc.*, 611 S.W.2d 333 (Mo. App. 1980); and *Nesbitt v. Westport Square, Ltd.*, 624 S.W.2d 519 (Mo. App. 1981) be abrogated in favor of prior judicial interpretation finding the consumption of alcoholic beverages, rather than the furnishing of alcoholic beverages, to be the proximate cause of injuries inflicted upon another by an intoxicated person.

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

3. Notwithstanding subsections 1 and 2 of this section, a cause of action may be brought by or on behalf of any person who has suffered personal injury or death against any person licensed to sell intoxicating liquor by the drink for consumption on the premises [who, pursuant to section 311.310, RSMo, has been convicted, or has received a suspended imposition of the sentence arising from the conviction, of] **if the sale of such intoxicating liquor to a person under the age of twenty-one years or an obviously intoxicated person [if the sale of such intoxicating liquor] is the proximate cause of the personal injury or death sustained by such person. The sale of such intoxicating liquor to a person under the age of 21 years or to an obviously intoxicated person must be knowing and must be proven beyond a reasonable doubt.**

Unofficial

Bill

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