

SUBJECT: Imposing civil liability for provision of alcohol to a minor

COMMITTEE: Civil Practices — favorable, without amendment

VOTE: 5 ayes — Rose, King, Madden, Martinez Fischer, Raymond
0 nays —
4 absent — Nixon, Strama, Talton, Woolley

WITNESSES: For — Kevin Jones, Mothers Against Drunk Driving; Alice London; Jack London; Ware Wendell, Texas Watch
Against — None
On — Jay Harvey, Texas Trial Lawyers Association; Steve Ross, Texans Standing Tall

BACKGROUND: Under Family Code, sec. 41.001, a parent is liable for any property damage caused by the negligent conduct of his or her child if the conduct is reasonably attributable to the negligent failure of the parent to exercise the parent's duty. Alcoholic Beverage Code, sec. 106.06 makes it a crime for a person to purchase or provide alcohol to a minor if the person does so with criminal negligence. The statute does not apply to a minor's parent, guardian, spouse, or an adult in whose custody the minor has been committed by a court.

DIGEST: HB 2868 would make an adult 21 years of age or older liable for damages caused by the intoxication of a minor under the age of 18 if the adult negligently served or provided alcohol to the minor or if the adult allowed the minor to be served or provided with alcohol on the adult's premises. Liability would not extend to the minor's parent, guardian, spouse, or an adult in whose custody the minor had been committed by a court.

The bill would take effect September 1, 2005.

SUPPORTERS
SAY:

HB 2868 appropriately would impose civil liability on an adult who negligently serve d or provided alcohol to a minor. Texas has the highest rate of alcohol-related automobile crash deaths in the country among people age 15 to 20. In addition to the personal costs to families who lose children to drunk driving are the medical costs associated with this crime. Through the Crime Victims Compensation Fund and Medicare, taxpayers in Texas pay for much of the medical care required after a drunk driving accident. Imposing liability for damages associated with drunk driving on adults who negligently provide minors with alcohol would decrease the costs to the taxpayers and very likely would result in fewer adults providing alcohol to minors, which could lead to fewer drunk driving accidents.

Parents who permit the consumption of alcohol by minors in their homes and then allow intoxicated children to leave in automobiles are not providing a safe environment in which to drink. On the contrary, they are contributing to the problem of drunk driving on Texas roads, and they should be liable for damage caused by intoxicated teenagers who drive away from their homes.

OPPONENTS
SAY:

A large percentage of minors drink and can find a way to obtain alcohol. In order to help protect their children, some parents allow their children to drink as long as they do so in the safety of their home. Some parents allow their children to hold parties with drinking in an effort to keep drunk teens off the road. HB 2868 would impose liability on any parent who allowed a child to have a party with alcohol if one of the children at the party caused damage because of being intoxicated. This would discourage parents from providing a safe environment in which their children and their children's friends could drink and might result in those teenagers drinking and driving elsewhere.

OTHER
OPPONENTS
SAY:

Requiring a standard of negligence before imposing civil liability on an adult could expose to liability too many people who had too tenuous a connection to the provision of alcohol to the minor. The bill should instead require that the adult *intentionally* serve or allow alcohol to be served to a minor before negligence may be imposed.