

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3685-01
Bill No.: SB 978
Subject: Civil Procedure; Evidence; Liability; Alcohol.
Type: Original
Date: January 22, 2002

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON STATE FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| None | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> State Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| None | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|------------|------------|------------|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| Local Government | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 3 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Courts Administrator** and the **Office of the Attorney General** each assume this proposal would not fiscally impact their respective agencies.

In response to similar proposals from the 2001 session, the **Department of Public Safety - Division of Liquor Control** assumed this proposal would not fiscally impact their agency.

| <u>FISCAL IMPACT - State Government</u> | FY 2003 (10 Mo.) | FY 2004 | FY 2005 |
|---|---------------------|------------|------------|
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

| <u>FISCAL IMPACT - Local Government</u> | FY 2003 (10 Mo.) | FY 2004 | FY 2005 |
|---|---------------------|------------|------------|
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT - Small Business

Small businesses that sell intoxicating beverages by the drink would, seemingly, be asserted a level of protection from liability with this proposal.

DESCRIPTION

This proposal revises the dram shop liability statute. The proposal provides that a cause of action may be brought against a person licensed to sell intoxicating liquor by the drink when it is proven by clear and convincing evidence that the seller knowingly served a person under 21 or served a visibly intoxicated person. A "visibly intoxicated person" is defined as a person when inebriated to such an extent that the person's physical faculties are substantially impaired and the impairment is shown by significantly uncoordinated physical action or significant physical dysfunction. A person's blood alcohol content will not constitute prima facie evidence to establish "visible intoxication." The person who

DESCRIPTION (continued)

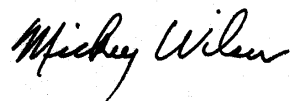
became intoxicated may not sustain such a lawsuit. Liability for such actions is limited for \$100,000 per incident or occurrence and property damage liability is capped at \$20,000 regardless of the number of persons involved.

Actions must be brought within one year of the date of the alleged violation. Plaintiffs are required to give written notice to all defendants within 180 days of the conduct and must specify the time, place, and circumstances of seller's conduct creating liability as well as the time, place and circumstances of any resulting damage. Substantially material errors or omissions in the notice may void the notice. Failure to provide the required written notice may subject the case to dismissal.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the State Courts Administrator
Office of the Attorney General
Department of Public Safety - Division of Liquor Control



Mickey Wilson, CPA
Acting Director
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