

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 203

6
7 H.P. 173

House of Representatives, January 17, 1983

8 Received by the Clerk of the House on January 17, 1983. Referred to the
9 Committee on Judiciary, and ordered printed pursuant to Joint Rule 14.

10 EDWIN H. PERT, Clerk

Presented by Representative McSweeney of Old Orchard Beach.
Cosponsor: Representative Joyce of Portland.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Make the Sellers of Intoxicating
18 Liquors Civilly Liable for Certain Injuries
19 Caused by the Intoxication of their Customers.
20

21 Be it enacted by the People of the State of Maine as
22 follows:

23 17 MRSA §2002 is amended to read:

24 §2002. Responsibility for injuries by drunken per-
25 sons

26 Every wife, child, parent, guardian, husband or
27 other person, who is injured in person, property,
28 means of support or otherwise by any intoxicated
29 person or by reason of the intoxication of any
30 person, shall have a right of action in his own name
31 against anyone who, by selling or giving any intoxi-
32 cating liquors or otherwise, to any intoxicated
33 person or in violation of law, has caused or contrib-

1 uted to the intoxication of such that person. In such
2 that action, the plaintiff may recover both actual
3 and exemplary damages. The owner, lessee or person
4 renting or leasing any building or premises, having
5 knowledge that intoxicating liquors are sold therein
6 ~~contrary to law~~, is liable, severally or jointly,
7 with the person selling or giving intoxicating liq-
8 uors. ~~In actions by a wife, husband, parent or child,~~
9 ~~general reputation of such relationship is prima~~
10 ~~facie evidence thereof,~~ and the amount recovered by a
11 ~~wife or child shall be her or his sole and separate~~
12 ~~property.~~

13 STATEMENT OF FACT

14 Maine first enacted a so-called Dram Shop Act in
15 1858. The Act, in one version or another, has been a
16 continuous part of the law of Maine since that time.
17 The purpose of this Act was to make the sellers of
18 intoxicating liquors civilly liable for certain of
19 the injuries caused by the intoxication of their cus-
20 tomers.

21 This bill is designed to broaden and update the
22 coverage of Maine's Dram Shop Act. The "violation of
23 law" requirement of the first sentence is in effect
24 eliminated by rewording the requirement to read "to
25 any intoxicated person or in violation of law."
26 Thus, a seller will be liable for selling liquor to
27 an intoxicated adult or sober minor. The "contrary
28 to law" requirement is simply removed from the 3rd
29 sentence, and the archaic phrase "severally or
30 jointly" is rewritten to read "severally and
31 jointly." The last sentence is eliminated completely
32 because it is archaic and unnecessary.

33 Of course, enactment of this bill will
34 strengthen Maine's recent efforts to reduce
35 alcohol-related traffic accidents. The bill will
36 also enhance the remedies available to the victims of
37 those accidents. The law proceeds on the theory that
38 one of the most effective ways to deal with potential
39 alcohol-impaired drivers is to encourage the sellers
40 or furnishers of alcohol to refrain from serving that
41 3rd or 4th drink to customers who will be driving.

1 It may be hoped that a standard part of drunk driving
2 cases in the future will be an investigation of the
3 source of the driver's alcohol and, if anyone has
4 been injured by the driver, a civil action against
5 the seller or furnisher of the alcohol. Only in this
6 way will drunk driving be reduced.

7

1095010883