

# MAINE STATE LEGISLATURE

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D. OF R.

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L.D. 1568

(Filing No. S-263 )

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STATE OF MAINE  
SENATE  
112TH LEGISLATURE  
FIRST REGULAR SESSION

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COMMITTEE AMENDMENT " A " to S.P. 598, L.D.  
1568, Bill, "AN ACT Concerning Liability for Injuries  
Caused by Drunken Persons."

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Amend the bill by striking out everything after  
the enacting clause and inserting in its place the  
following:

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'17 MRSA §2002 is amended to read:

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§2002. Responsibility for injuries by drunken persons

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Every wife, child, parent, guardian, husband or  
other person, who is injured in person, property,  
means of support or otherwise by any intoxicated person  
or by reason of the intoxication of any person,  
shall have a right of action in his own name against  
anyone who, by selling or giving any intoxicating liquors  
or otherwise, in violation of law, has caused or  
contributed to the intoxication of such person. In  
such action the plaintiff may recover both actual and  
exemplary damages. The owner, lessee or person  
renting or leasing any building or premises, having  
knowledge that intoxicating liquors are sold therein  
contrary to law, is liable, ~~severally or jointly,~~  
with the person selling or giving intoxicating liquors.  
In actions by a wife, husband, parent or child,  
general reputation of such relationship is prima facie  
evidence thereof, and the amount recovered by a wife  
or child shall be her or his sole and separate property.  
The law of comparative negligence shall apply to any  
action under this section, except that each defendant shall  
be severally liable and not jointly liable, for that  
percentage of the plaintiff's damages which corresponds to  
that defendant's percentage of fault as determined by the court

COMMITTEE AMENDMENT "A " to S.P. 598, L.D. 1568

1 or a jury. To recover damages under this section, the  
2 injured person shall give written notice to the sell-  
3 er or giver within 2 years of the occurrence of the  
4 injury. Notice shall specify: The injured person's  
5 intention to bring an action under this section; the  
6 time, the date and the person to whom that sale or  
7 gift was made; the name and address of the person in-  
8 jured or whose property was damaged; and the time,  
9 date and place where the injury to person or property  
10 occurred.'

11 STATEMENT OF FACT

12 The purpose of this amendment is to limit the li-  
13 ability of a person sued under this section to that  
14 proportion of the plaintiff's judgment which corre-  
15 sponds to the person's actual fault and to prevent a  
16 person who has been found only partly at fault from  
17 having to pay the full amount of the judgment.

18 This amendment imposes a notice period of 2  
19 years. The injured person must give the required in-  
20 formation in writing to the seller or giver within 2  
21 years or cannot recover under this Dram Shop Act.  
22 This does not mean that suit must be filed within  
23 those 2 years, but only that the intention to sue  
24 within the 6-year statute of limitations be communi-  
25 cated, in addition to the pertinent details, in writ-  
26 ing to the intended defendant. This gives the seller  
27 or giver time to take depositions and preserve evi-  
28 dence relevant to the suit.

29 4262061085

Reported by the Majority for the Committee on Legal Affairs.  
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