

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE SUBSTITUTE

FOR

HOUSE BILL NO. 421

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.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Section 537.053, RSMo 2000, is repealed and one
2 new section enacted in lieu thereof, to be known as section
3 537.053, to read as follows:

4 537.053. 1. Since the repeal of the Missouri Dram Shop Act
5 in 1934 (Laws of 1933-34, extra session, page 77), it has been
6 and continues to be the policy of this state to follow the common
7 law of England, as declared in section 1.010, RSMo, to prohibit
8 dram shop liability and to follow the common law rule that
9 furnishing alcoholic beverages is not the proximate cause of
10 injuries inflicted by intoxicated persons.

11 2. The legislature hereby declares that this section shall
12 be interpreted so that the holdings in cases such as Carver v.
13 Schafer, 647 S.W.2d 570 (Mo. App. 1983); Sampson v. W. F.
14 Enterprises, Inc., 611 S.W.2d 333 (Mo. App. 1980); and Nesbitt v.
15 Westport Square, Ltd., 624 S.W.2d 519 (Mo. App. 1981) be
16 abrogated in favor of prior judicial interpretation finding the

1 consumption of alcoholic beverages, rather than the furnishing of
2 alcoholic beverages, to be the proximate cause of injuries
3 inflicted upon another by an intoxicated person.

4 3. Notwithstanding subsections 1 and 2 of this section, a
5 cause of action may be brought by or on behalf of any person who
6 has suffered personal injury or death against any person licensed
7 to sell intoxicating liquor by the drink for consumption on the
8 premises [who, pursuant to section 311.310, RSMo, has been
9 convicted, or has received a suspended imposition of the sentence
10 arising from the conviction, of] if the sale of such intoxicating
11 liquor to a person under the age of twenty-one years or an
12 obviously intoxicated person [if the sale of such intoxicating
13 liquor] is the proximate cause of the personal injury or death
14 sustained by such person. The sale of such intoxicating liquor
15 to a person under the age of twenty-one years or to an obviously
16 intoxicated person must have been done knowingly and must be
17 proven beyond a reasonable doubt.

18 4. For the purposes of this section, a person is "obviously
19 intoxicated" when inebriated to such an extent that a person's
20 physical faculties are substantially impaired and the impairment
21 is shown by significantly uncoordinated physical action or
22 significant physical dysfunction, that would have been obvious to
23 a reasonable person.