SPONSOR: Sen. Peterson
Rep. Spence
Rep. Keeley

DELAWARE STATE SENATE
144th GENERAL ASSEMBLY

SENATE BILL NO. 173

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO DRAM SHOP LIABILITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 4, Delaware Code, by adding a new section 728, to read as follows:

"§728. Dram Shop; Seller liability for damages by intoxicated person.

If any person or holder of a license, individually, or through an agent, intentionally or recklessly sells any alcoholic liquor to an intoxicated person who consumes the liquor on premises, and such purchaser, in consequence of such intoxication, thereafter injures the person or property of another, such seller is liable for damages to the person or persons injured, not to exceed a total of $250,000.00. This section shall only a apply to the sale of alcoholic liquor for on premises consumption."

Section 2. This Act shall be known as "Shaun's Law".

SYNOPSIS

This Bill, known as "Shaun's Law", creates dramshop liability under the limited circumstances of when a bar or restaurant, intentionally or recklessly sells alcohol to an intoxicated person for on premises consumption, and that person later injures an innocent party. Delaware courts examining whether sellers of alcohol are liable for injuries to third persons have consistently recognized that a bar owner could not be found liable absent a statutory cause of action. This Bill creates such a cause of action, but only under the limited circumstances of intentional and reckless conduct by bar personnel. The Bill also caps the total damages awardable for an intentional or reckless sale at $250,000.00.

Author: Senator Peterson

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