

# ILLINOIS SOCIAL HOST LAW

## The basic provisions of the law are:

1. Persons over 18 who willfully supply alcohol beverages or illegal drugs to a person under 18 years of age and cause impairment of such person are liable for death or injuries to persons or property caused by that impairment.
2. Recovery may be had by persons, and their surviving spouses and next of kin, who are injured, in person or property, by the impaired person (which is similar to the Dram Shop Act) and persons under age 18 who are injured in person or property by an impairment that was caused by the unlawful consumption of alcohol beverages or illegal drugs (which is dissimilar to the Dram Shop Act).
3. A right of action exists in a persons own name, jointly and severally, for damages against the person who sells, gives or delivers alcohol beverages or illegal drugs, causing or contributing to the impairment of the person under the age of 18; or willfully permits consumption of alcohol beverages or illegal drugs on non-residential premises owned or controlled by the person.
4. An action for damages under this new law must be brought within two years after the right of action arises or it is barred.

## Damages include economic damages, including, but not limited to:

- The cost of treatment and rehabilitation.
- Medical expenses.
- Loss of economic or educational potential.
- Loss of productivity.
- Absenteeism.
- Support expenses.
- Accidents or injury and any other pecuniary loss proximately caused by the impairment.

## And non-economic damages, including, but not limited to:

- Physical and emotional pain.
- Suffering.
- Physical impairment.
- Emotional distress.
- Mental anguish.
- Disfigurement.
- Loss of enjoyment.
- Loss of companionship.
- Services.
- Consortium and other non-pecuniary losses proximately caused.

Reasonable attorneys fees are recoverable, as are costs of suit, including, but not limited to, reasonable expenses for expert testimony and punitive damages.

Neither contributory negligence nor contributory willful and wanton conduct shall apply to any injured party claiming damages under the new law.

Under Illinois Liquor Control Act of 1934, actions may not be brought against a licensee or employee of a licensee who supplies alcohol beverages to a person under 21 years of age if the licensee or employee of the licensee complied with all applicable provisions of the Act.

The 10-month postponement of the accrual of causes of action under the new law was to allow insurance carriers to examine the impact of the legislation and write, or re-write, policy language.

While the new law addresses an area which was wanting for relief, many questions remain unanswered. For example, is existing insurance coverage applicable, and what is the effect of allowing for the recovery of non-economic damages, including punitive damages?

Despite these uncertainties, it still appears that the non-commercial provider of alcohol to an adult who over-consumes and causes injuries and damages to third parties may rely on the common law doctrine that adults are responsible for their own actions. However, everyone who sells or serves alcohol beverages would be wise to obtain professional advice regarding the contents and applicability of Illinois new Drug and Alcohol Impaired Minor Responsibility Act.