155.00

The Drug or Alcohol Impaired Minor Responsibility Act

INTRODUCTION

Illinois courts have been consistent in relying on over a century of precedent prohibiting common-law actions for injuries arising out of the sale or gift of alcoholic beverages. Charles v. Seigfried, 165 Ill.2d 482, 209 Ill.Dec. 226, 651 N.E.2d 154 (1995). Our Supreme Court has held that the legislature, through the enactment of the Illinois Liquor Control Act of 1934, 235 ILCS 5/6-21 (West 2000), has preempted the field of alcohol-related liability, and that any changes in the law governing alcohol-related liability should be made by the General Assembly. Charles, supra.

Two exceptions have arisen, however, and common-law tort causes of action have been held to exist where a.) there have been violations of the Illinois Hazing Statute (720 ILCS 120/5) where plaintiffs were required to drink to intoxication to become members of a fraternity, Quinn v. Sigma Rho Chapter of Beta Theta Pi Fraternity, 155 Ill.App.3d 231, 107 Ill.Dec. 824, 507 N.E.2d 1193 (1987); Haben v. Anderson, 232 Ill.App.3d 260, 173 Ill.Dec. 681, 597 N.E.2d 655 (1992); Goodknight v. Piraino, 197 Ill.App.3d 319, 143 Ill.Dec.208, 554 N.E.2d 1(1990), expressly rejecting the extension of the Quinn-Haben analysis to situations other than those involving a college hazing incident and b.) where there has been a negligent performance of a voluntary undertaking (adopting Restatement (2nd) of Torts section 323) where one voluntarily undertakes the responsibility to care for an intoxicated person and does so negligently. Wakulich v. Mraz, 203 Ill.2d 223, 271 Ill.Dec. 649, 785 N.E.2d 843 (2003).

After Wakulich, 740 ILCS 58/5, et seq. became effective on January 1, 2004, applying to causes of action accruing on or after October 1, 2004.

Instruction approved January 2010.

155.01 The Drug or Alcohol Impaired Minor Responsibility Act--Injury to Person or Property by an Impaired Minor

There was in force in the State of Illinois at the time of the occurrence in question a statute called "The [Drug] [or] [Alcohol] Impaired Minor Responsibility Act," which states:

Any person 18 years of age or older who [willfully supplies, sells, gives or delivers (alcoholic liquor)(illegal drugs)] [willfully permits the consumption of (alcoholic liquor)(illegal drugs) on non-residential premises owned or controlled by that person] to a person under the age of 18 and causes or contributes to cause the impairment of that person, is liable for [death][or][injury] to a [person][or] [property] caused by the impairment of such person.

Instruction, Notes on Use and Comment approved January 2010.

Notes on Use

The above is a synopsis of the Act. The bracketed language should be used to comply with the facts of the case.

Comment

Note that paragraph (a) of the statute imposes liability on a person "at least 18 years of age" but paragraphs (b) and (b)(ii) refer to a person "over the age of 18." The committee believes it was the legislature's intent to impose liability on a person "18 years of age or older," and the legislative hearings so reflect.

155.02 The Drug or Alcohol Impaired Minor Responsibility Act--Issues/Burden of Proof--Willfully Supplied

[In this lawsuit] [In Count], [plaintiff's name] claims [he] [she] [it] is entitled to recover damages from [defendant's name]. The plaintiff must prove:

First, [defendant] is a person at least 18 years of age;

Second, [defendant] willfully [(supplied)(sold)(gave)(delivered)] [(alcoholic liquor)(illegal drugs)] to [AIP], a person under the age of 18, which

Third, caused or contributed to cause the impairment of [AIP].

Fourth, the impairment of [AIP] caused [injury to [plaintiff]] [the death of [plaintiff's decedent]][property damage to [plaintiff]].

[Defendant's name] [denies that he did (any)(one or more) of the things alleged by (plaintiff's name)][denies that any claimed act on his part was a cause of the impairment of [AIP]][denies that the impairment caused injury or damage to (plaintiff's name)] and denies that [plaintiff's name] has been injured to the extent claimed.

Instruction, Notes on Use and Comment approved January 2010.

Notes on Use

Use Issue/Burden of Proof 155.03 if the allegations involve consumption of liquor or drugs on non-residential property.

Comment

Note that the person injured may be the impaired person. Also, neither “willful” nor “impairment” is defined under the Act.

155.03 The Drug or Alcohol Impaired Minor Responsibility Act--Issues/Burden of Proof--Willfully Permitted

[In this lawsuit] [In Count], [plaintiff's name] claims [he] [she] [it] is entitled to recover damages from [defendant's name]. The plaintiff must prove:

First, [defendant] is a person at least 18 years of age;

Second, [defendant] willfully permitted the consumption of [(alcoholic liquor)(illegal drugs)] on non-residential property owned or controlled by [defendant], to [AIP], a person under the age of 18, which

Third, caused or contributed to cause the impairment of [AIP].

Fourth, the impairment of [AIP] caused [injury to [plaintiff]] [the death of [plaintiff's decedent]][property damage to [plaintiff]].

[Defendant's name] [denies that he did (any)(one or more) of the things alleged by (plaintiff's name)][denies that any claimed act on his part was a cause of the impairment of [AIP]][denies that the impairment caused injury or damage to (plaintiff's name)] and denies that [plaintiff's name] has been injured to the extent claimed.

Instruction, Notes on Use and Comment approved January 2010.

Notes on Use

Use Issue/Burden of Proof 155.02 if the allegations do not involve consumption of liquor or drugs on non-residential property.

Comment

Note that the person injured may be the impaired person. Also, neither “willful” nor “impairment” is defined under the Act.

155.04 The Drug or Alcohol Impaired Minor Responsibility Act--Measure of Damages

If you decide for [plaintiff's name] on the question of liability, you must then fix the amount of money that will reasonably and fairly compensate [him] [her] [it] for any of the following elements of damages proved by the evidence to have resulted from the impairment of the person under the age of 18:

Economic Damages

[the cost of treatment and rehabilitation]

[medical expenses]

[loss of economic or educational potential]

[loss of productivity]

[absenteeism]

[support expenses]

[accidents or injury]

[any other pecuniary loss]

Non-Economic Damages

[physical and emotional pain]

[suffering]

[physical impairment]

[emotional distress]

[mental anguish]

[disfigurement]

[loss of enjoyment of life]

[loss of companionship]

[services]

[consortium]

[any other non-pecuniary losses]

Property

Damages

Punitive

Damages

Whether any of these elements of damages has been proved by the evidence is for you to decide.

Instruction, Notes on Use and Comment approved 2010. Instruction revised February 2023.

Notes on Use

The bracketed subparts should only be used if there is evidence of such damage(s). For property damage instructions, refer to IPI 30.10 to 30.20, when appropriate. For punitive damages, refer to the new instruction within this section.

Comment

In addition to the above damages, the statute, 740 ILCS 58/10 (3) and (4), allows attorneys' fees and costs of suit, including, but not limited to, reasonable expenses for expert testimony. The committee believes that these elements of damages should be assessed by the court rather than by a jury.

155.05 The Drug or Alcohol Impaired Minor Responsibility Act--Punitive Damages

In addition to compensatory damages, the law permits you to award punitive damages for conduct that violates the Act. If you believe that justice and the public good require it, you may award an amount of money that will punish [(defendant's name)] and discourage [it, him, her] and others from similar conduct.

In arriving at your decision as to the amount of punitive damages, you should consider the following three questions. The first question is the most important to determine the amount of punitive damages:

1. How reprehensible was [(defendant's name)] conduct?

On this subject, you should consider the following:

a) The facts and circumstances of defendant's conduct;

b) The [financial] vulnerability of the plaintiff;

c) The duration of the misconduct;

d) The frequency of defendant's misconduct;

e) Whether the harm was physical as opposed to economic;

f) Whether defendant tried to conceal the misconduct;

g) [other]

2. What actual and potential harm did defendant's conduct cause to the plaintiff in this case?

3. What amount of money is necessary to punish defendant and discourage defendant and others from future wrongful conduct [in light of defendant's financial condition]?

[In assessing the amount of punitive damages, you may not consider defendant's similar conduct in jurisdictions where such conduct was lawful when it was committed].

The amount of punitive damages must be reasonable and in proportion to the actual and potential harm suffered by the plaintiff.

Instruction and Notes on Use approved January 2010.

Notes on Use

The Act allows for punitive damages, and this instruction should be used instead of the common-law instruction for punitive damages (see IPI 35.01 for comparison).

155.06 The Drug or Alcohol Impaired Minor Responsibility Act--Contributory Negligence and Contributory Willful and Wanton Conduct--Not Defenses

[In this lawsuit] [In Count __] [contributory negligence][contributory willful and wanton conduct] is not a defense.

You must not consider whether there was [contributory negligence][contributory willful and wanton conduct] on behalf of [plaintiff or the injured party claiming damages].

Instruction and Notes on Use approved January 2010.

Notes on Use

Section 58/15 (740 ILCS 58/15) specifically excludes contributory negligence and willful and wanton conduct as defenses.