

Article 1A.

Compensation for Injury Caused by Sales to Underage Persons.

§ 18B-120. Definitions.

As used in this Article:

- (1) "Aggrieved party" means a person who sustains an injury as a consequence of the actions of the underage person, but does not include the underage person or a person who aided or abetted in the sale or furnishing to the underage person.
- (2) "Injury" includes, but is not limited to, personal injury, property loss, loss of means of support, or death. Damages for death shall be determined under the provisions of G.S. 28A-18-2(b). Nothing in G.S. 28A-18-2(a) or subdivision (1) of this section shall be interpreted to preclude recovery under this Article for loss of support or death on account of injury to or death of the underage person or a person who aided or abetted in the sale or furnishing to the underage person.
- (3) "Underage person" means a person who is less than the age legally required for purchase of the alcoholic beverage in question.
- (4) "Vehicle" shall have the same meaning as prescribed by G.S. 20-4.01(49). (1983, c. 435, s. 37.)

§ 18B-121. Claim for relief created for sale to underage person.

An aggrieved party has a claim for relief for damages against a permittee or local Alcoholic Beverage Control Board if:

- (1) The permittee or his agent or employee or the local board or its agent or employee negligently sold or furnished an alcoholic beverage to an underage person; and
- (2) The consumption of the alcoholic beverage that was sold or furnished to an underage person caused or contributed to, in whole or in part, an underage driver's being subject to an impairing substance within the meaning of G.S. 20-138.1 at the time of the injury; and
- (3) The injury that resulted was proximately caused by the underage driver's negligent operation of a vehicle while so impaired. (1983, c. 435, s. 37.)

§ 18B-122. Burden of proof and admissibility of evidence.

The plaintiff shall have the burden of proving that the sale or furnishing of the alcoholic beverage to the underage person, as defined, was, under the circumstances, negligent. Proof of the sale or furnishing of the alcoholic beverage to an underage person, as defined, without request for identification shall be admissible as evidence of negligence. Proof of good practices (including but not limited to, instruction of employees as to laws regarding the sale of alcoholic beverages, training of employees, enforcement techniques, admonishment to patrons concerning laws regarding the purchase or furnishing of alcoholic beverages, or detention of a person's identification documents in accordance with G.S. 18B-129 and inquiry about the age or degree of intoxication of the person), evidence that an underage person misrepresented his age, or that the sale or furnishing was made under duress is admissible as evidence that the permittee was not negligent. (1983, c. 435, s. 37.)

§ 18B-123. Limitation on damages.

The total amount of damages that may be awarded to all aggrieved parties pursuant to any claims for relief under this Article is limited to no more than five hundred thousand dollars (\$500,000) per occurrence. When all claims arising out of an occurrence exceed five hundred thousand dollars (\$500,000), each claim shall abate in the proportion it bears to the total of all claims. (1983, c. 435, s. 37.)

§ 18B-124. Joint and several liability.

The liability of the negligent driver or owner of the vehicle that caused the injury and the permittee or ABC board which sold or furnished the alcoholic beverage shall be joint and several, with right of contribution but not indemnification. (1983, c. 435, s. 37.)

§ 18B-125. Exceptions.

This Article does not create a claim for relief against the following:

- (1) One who holds only a brown bagging permit, a special occasions permit, or a limited special occasions permit;
- (2) One who holds only a special one-time permit under G.S. 18B-1002;
- (3) One who holds only permits listed in G.S. 18B-1100;
- (4) One who holds any combination of the permits listed in this section. (1983, c. 435, s. 37.)

§ 18B-126. Statute of limitations.

The statute of limitations is as provided in G.S. 1-54. (1983, c. 435, s. 37.)

§ 18B-127. Duty of clerk of superior court.

When execution on a judgment on a cause of action under G.S. 18B-121 is returned unsatisfied, in whole or in part, the clerk of superior court to whom such return is made shall transmit to the Commission certified copies of the judgment, the execution and return and any other proceedings upon the judgment. (1983, c. 435, s. 37.)

§ 18B-128. Common-law rights not abridged.

The creation of any claim for relief by this Article may not be interpreted to abrogate or abridge any claims for relief under the common law, but this Article does not authorize double recovery for the same injury. (1983, c. 435, s. 37.)

§ 18B-129. No liability for refusal to sell or for holding documents.

(a) No permittee or his agent or employee may be held liable for damages resulting from the refusal to sell or furnish an alcoholic beverage to a person who fails to show proper identification as described in G.S. 18B-302(d), or who appears to be an underage person.

(b) No permittee or his agent or employee may be held civilly liable if the permittee or his agent or employee holds a customer's identification documents for a reasonable length of time in

a good faith attempt to determine whether the customer is of legal age to purchase an alcoholic beverage, provided the permittee or his agent or employee informs the customer of the reason for his actions. (1983, c. 435, s. 37.)

§§ 18B-130 through 18B-199. Reserved for future codification purposes.