



If you have questions or would like further information regarding the Drug or Alcohol Impaired Minor Responsibility Act, please contact:

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## **ILLINOIS LAW MANUAL**

### **CHAPTER IV**

### **STATUTORY CAUSES OF ACTION**

#### **G. THE DRUG OR ALCOHOL IMPAIRED MINOR RESPONSIBILITY ACT**

##### **1. Introduction**

The Drug or Alcohol Impaired Minor Responsibility Act creates a cause of action against any person, at least eighteen years of age, who willfully supplies alcohol or illegal drugs to a minor, causing the impairment of such person which results in injury or death. This law changes a long history of court cases holding that social hosts are not liable for injuries or damages for the non-commercial provision of alcoholic beverages. It was adopted by the general assembly in 2004 and applies to all causes of action that accrue on or after October 1, 2004.

##### **2. Statutory Language**

The Drug or Alcohol Impaired Minor Responsibility Act provides an action for damages caused by intoxication and is unique in that it allows for the recovery of attorney fees and punitive damages and specifically provides that contributory

negligence and contributory willful and wanton conduct are not defenses. The elements of a cause of action under this Act are set forth in the following sections:

Section 5. Responsibility of person who supplies alcoholic liquor or illegal drugs to a person under 18 years of age.

- (a) Any person at least 18 years of age who willfully supplies alcoholic liquor or illegal drugs to a person under 18 years of age and causes the impairment of such person shall be liable for death or injuries to persons or property caused by the impairment of such person.
- (b) A person, or the surviving spouse and next of kin of any person, who is injured, in person or property, by an impaired person under the age of 18, and a person under age 18 who is injured in person or property by an impairment that was caused by alcoholic liquor or illegal drugs that were willfully supplied by a person over 18 years of age, has a right of action in his or her own name, jointly and severally, for damages (including reasonable attorney's fees and expenses) against any person:
  - (i) who, by willfully selling, giving, or delivering alcoholic liquor or illegal drugs, causes or contributes to the impairment of the person under the age of 18; or
  - (ii) who, by willfully permitting consumption of alcoholic liquor or illegal drugs on non-residential premises owned or controlled by the person over the age of 18, causes or contributes to the impairment of the person under the age of 18.
- (c) An action for damages under this Section is barred unless commenced within 2 years after the right of action arises.

740 ILCS 58/5.

Section 10. A person entitled to bring an action under this Act may recover all of the following damages:

- (1) 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 of the person under the age of 18;
- (2) 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, and consortium, and other non-pecuniary losses proximately caused by the impairment of the person under the age of 18;

- (3) reasonable attorneys' fees;
- (4) costs of suit, including, but not limited to, reasonable expenses for expert testimony; and
- (5) punitive damages.

Section 15. Contributory negligence and contributory willful and wanton conduct. Neither contributory negligence nor contributory willful and wanton conduct shall apply to any injured party claiming damages under this Act.

Section 20. Applicability.

- (a) A person may not bring an action under this Act against a licensee or employee of a licensee under the Liquor Control Act of 1934 who supplies alcoholic liquor to a person under 21 years of age for that act if the licensee or employee of the licensee complied with all applicable provisions of the Liquor Control Act of 1934.

740 ILCS 58/10.

### **3. Application**

It appears that the most common setting for liability arising from this Act may be circumstances where an adult improperly provides a minor alcoholic beverages or illegal drugs in a social host setting. One common scenario may be injury caused by that intoxicated minor after consuming alcohol or illegal drugs. Unlike other personal injury cases, however, the statute not only provides for compensation to the injured party or estate, but is quite punitive, with the allowance for reasonable attorney fees, costs of expert witnesses and punitive damages. The Act specifically prohibits the use of contributory negligence or contributory willful and wanton as defenses. This is a significant departure from damages allowed in the normal personal injury case.

#### **4. Case Law**

Because of its recent adoption (2004), there are no reported appellate court opinions interpreting this statute