

MICHIGAN LIQUOR CONTROL CODE OF 1998 (EXCERPT)
Act 58 of 1998

436.1801 Granting or renewing license; selling, furnishing, or giving alcoholic liquor to minor or to person visibly intoxicated; right of action for damage or personal injury; actual damages; institution of action; notice; survival of action; general reputation as evidence of relation; separate actions by parents; commencement of action against retail licensee; indemnification; defenses available to licensee; rebuttable presumption; prohibited causes of action; section as exclusive remedy for money damages against licensee; civil action subject to revised judicature act.

Sec. 801.

(1) A retail licensee shall not directly, individually, or by a clerk, agent, or servant sell, furnish, or give alcoholic liquor to a minor except as otherwise provided in this act. A retail licensee shall not directly or indirectly, individually or by a clerk, agent, or servant sell, furnish, or give alcoholic liquor to an individual who is visibly intoxicated.

(2) Except as otherwise provided in this section, an individual who suffers damage or who is personally injured by a minor or visibly intoxicated person by reason of the unlawful selling, giving, or furnishing of alcoholic liquor to the minor or visibly intoxicated person, if the unlawful sale is proven to be a proximate cause of the damage, injury, or death, or the spouse, child, parent, or guardian of that individual, has a right of action in his or her name against the person who by selling, giving, or furnishing the alcoholic liquor has caused or contributed to the intoxication of the person or who has caused or contributed to the damage, injury, or death. In an action under this section, the plaintiff has the right to recover actual damages in a sum of not less than \$50.00 in each case in which the court or jury determines that intoxication was a proximate cause of the damage, injury, or death.

(3) An action under this section must be instituted within 2 years after the injury or death. A plaintiff seeking damages under this section shall give written notice to all defendants within 120 days after entering an attorney-client relationship for the purpose of pursuing a claim under this section. Failure to give written notice within the time specified is grounds for dismissal of a claim as to any defendants that did not receive that notice unless sufficient information for determining that a retail licensee might be liable under this section was not known and could not reasonably have been known within the 120 days. In the event of the death of either party, the right of action under this section survives to or against his or her personal representative. In each action by a husband, wife, child, or parent, the general reputation of the relation of husband and wife or parent and child is prima facie evidence of the relation, and the amount recovered by either the husband, wife, parent, or child is his or her sole and separate property. The damages, together with the costs of the action, must be recovered in an action under this section. If the parents of the individual who suffered damage or who was personally injured are entitled to damages under this section, the father and mother may sue separately, but recovery by 1 is a bar to action by the other.

(4) An action under this section against a retail licensee must not be commenced unless the minor or the alleged intoxicated person is a named defendant in the action and is retained in the action until the litigation is concluded by trial or settlement.

(5) Any licensee subject to subsection (2) regarding the unlawful selling, furnishing, or giving of alcoholic liquor to a visibly intoxicated person has the right to full indemnification from the alleged visibly intoxicated person for all damages awarded against the licensee.

(6) All defenses of the alleged visibly intoxicated person or the minor are available to the licensee. In an action alleging the unlawful sale of alcoholic liquor to a minor, proof that the defendant retail licensee or the defendant's agent or employee demanded and was shown a Michigan driver license or official state personal identification card, appearing to be genuine and showing that the minor was at least 21 years of age, is a defense to the action.

(7) There is a rebuttable presumption that a retail licensee, other than the retail licensee who last sold, gave, or furnished alcoholic liquor to the minor or the visibly intoxicated person, has not committed any act giving rise to a cause of action under subsection (2).

(8) The alleged visibly intoxicated person does not have a cause of action under this section and a person does not have a cause of action under this section for the loss of financial support, services, gifts, parental training, guidance, love, society, or companionship of the alleged visibly intoxicated person.

(9) This section provides the exclusive remedy for money damages against a licensee arising out of the selling, giving, or furnishing of alcoholic liquor to a minor or intoxicated person.

(10) Except as otherwise provided for under this section and section 815, a civil action under subsection (2) against a retail licensee is subject to the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2008, Act 11, Imd. Eff. Feb. 29, 2008 ;-- Am. 2019, Act 131, Imd. Eff. Nov. 21, 2019

Compiler's Notes: Former sections 22 to 22h of Act 8 of 1933 (Ex. Sess.), being MCL 436.22 to 436.22h, and which were repealed by Act 58 of 1998, Eff. Apr. 14, 1998, were formerly known and cited as the "Dram Shop Act."

Popular Name: Dram Shop Act