**DIVISION SIX – GENERAL LIABILITY**

45. LIQUOR LIABILITY COVERAGE (Subline Code 332)

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Paragraph **G.5.** is replaced by the following:

G. Liquor Liability Grades

**5.** The Liquor Liability Numerical Grade is 5.

Citation of Statute: MONT. CODE ANN. Section 27-1-710

Comments:

The statute provides, in part, that:

Furnishing a person with alcoholic beverages is not a cause of, or grounds for finding the vendor liable for, injury or damage wholly or partially arising from an event involving the person who consumed the beverage, unless:

⚫ The consumer was under the legal drinking age (21) and the vendor knew that the consumer was underage or did not make a reasonable attempt to determine the consumer's age;

⚫ The consumer was visibly intoxicated when furnished the alcoholic beverage; or

⚫ The vendor forced or coerced the consumption or told the consumer that the beverage contained no alcohol.

A civil action may not be brought by a passenger over 18 years of age in the consumer's car or by the passenger's estate, legal guardian, or dependent.

A civil action may not be brought by the consumer or by the consumer's estate, legal guardian, or dependent unless the consumer was under the legal age and the furnishing person knew or should have known that the consumer was underage, or the furnishing person forced or coerced the consumption or told the consumer that the beverage contained no alcohol while knowing that it did.

A civil action may not be commenced under this section against a person or entity who furnished alcohol to the consumer unless the person bringing the civil action provides notice of an intent to file the action to the person or entity who furnished the alcohol by certified mail within 180 days from the date of sale or service. The civil action must be commenced pursuant to this section within two years after the sale or service.

In addition, in determining the cause of injuries or damages inflicted on another by the consumer of an alcoholic beverage, in addition to other admissible evidence, a jury or trier of fact shall consider:

⚫ The consumption of the alcoholic beverage;

⚫ The actions of the consumer;

⚫ The negligence of the person allegedly harmed by the consumer;

⚫ The visible and audible intoxication indicators actually observed by the person furnishing the alcoholic beverage to the consumer, including but not limited to bloodshot eyes, loud and boisterous behavior, fighting behavior, stumbling, and slurred speech; and

⚫ Independent intervening cause or multiple causes.

Also, because a furnishing person or entity can perceive only visual or audible indicators of intoxication, when determining liability, a jury or trier of fact may not consider:

⚫ A hypothetical blood alcohol level in any way to impute that the server observed visibly intoxicated behavior of the consumer prior to service;

⚫ An actual blood alcohol level in any way to impute that the server observed visibly intoxicated behavior of the consumer prior to service;

⚫ The signs of visible intoxication displayed by the consumer after the furnishing of the alcoholic beverage;

⚫ The conduct of the furnishing person or entity after the furnishing of the alcoholic beverage; or

⚫ Whether the furnishing person or entity holds special events, alcohol specials, happy hours, or similar events or activities.

The maximum total liability is $250,000 for each event for noneconomic damages for all claimants and $250,000 for punitive damages. Service to a visibly intoxicated consumer is not enough to assess punitive damages against the person or entity furnishing the alcoholic beverage to the consumer. Conduct must be shown that meets the criteria of actual malice or fraud. The "5" designation reflects this limitation and the other statutory provisions.

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**DIVISION TEN – BUSINESSOWNERS**

29. ENDORSEMENTS

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Paragraph **B.13.b.(4)** is replaced by the following:

13. Liquor Liability Coverage

b. Liquor Liability Grades

**(4)** The Liquor Liability Numerical Grade is 5.

Citation of Statute: MONT. CODE ANN. Section 27-1-710

Comments:

The statute provides, in part, that:

Furnishing a person with alcoholic beverages is not a cause of, or grounds for finding the vendor liable for, injury or damage wholly or partially arising from an event involving the person who consumed the beverage, unless:

⚫The consumer was under the legal drinking age (21) and the vendor knew that the consumer was underage or did not make a reasonable attempt to determine the consumer's age;

⚫The consumer was visibly intoxicated when furnished the alcoholic beverage; or

⚫The vendor forced or coerced the consumption or told the consumer that the beverage contained no alcohol.

A civil action may not be brought by a passenger over 18 years of age in the consumer's car or by the passenger's estate, legal guardian, or dependent.

A civil action may not be brought by the consumer or by the consumer's estate, legal guardian, or dependent unless the consumer was under the legal age and the furnishing person knew or should have known that the consumer was underage, or the furnishing person forced or coerced the consumption or told the consumer that the beverage contained no alcohol while knowing that it did.

A civil action may not be commenced under this section against a person or entity who furnished alcohol to the consumer unless the person bringing the civil action provides notice of an intent to file the action to the person or entity who furnished the alcohol by certified mail within 180 days from the date of sale or service. The civil action must be commenced pursuant to this section within two years after the sale or service.

In addition, in determining the cause of injuries or damages inflicted on another by the consumer of an alcoholic beverage, in addition to other admissible evidence, a jury or trier of fact shall consider:

⚫The consumption of the alcoholic beverage;

⚫The actions of the consumer;

⚫ The negligence of the person allegedly harmed by the consumer;

⚫ The visible and audible intoxication indicators actually observed by the person furnishing the alcoholic beverage to the consumer, including but not limited to bloodshot eyes, loud and boisterous behavior, fighting behavior, stumbling, and slurred speech; and

⚫ Independent intervening cause or multiple causes.

Also, because a furnishing person or entity can perceive only visual or audible indicators of intoxication, when determining liability, a jury or trier of fact may not consider:

⚫ A hypothetical blood alcohol level in any way to impute that the server observed visibly intoxicated behavior of the consumer prior to service;

⚫ An actual blood alcohol level in any way to impute that the server observed visibly intoxicated behavior of the consumer prior to service;

⚫ The signs of visible intoxication displayed by the consumer after the furnishing of the alcoholic beverage;

⚫ The conduct of the furnishing person or entity after the furnishing of the alcoholic beverage; or

⚫ Whether the furnishing person or entity holds special events, alcohol specials, happy hours, or similar events or activities.

The maximum total liability is $250,000 for each event for noneconomic damages for all claimants and $250,000 for punitive damages. Service to a visibly intoxicated consumer is not enough to assess punitive damages against the person or entity furnishing the alcoholic beverage to the consumer. Conduct must be shown that meets the criteria of actual malice or fraud. The "5" designation reflects this limitation and the other statutory provisions.

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