1	SENATE BILL NO. 230
2	AMENDMENT IN THE NATURE OF A SUBSTITUTE
3	(Proposed by the Senate Committee on the Judiciary
4	on)
5	(Patron Prior to SubstituteSenator Hanger)
6	A BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 8.01 a section numbered
7	8.01-44.8, relating to liability for sale of alcohol to an underage person.
8	Be it enacted by the General Assembly of Virginia:
9	1. That the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 8.01 a section
10	numbered 8.01-44.8 as follows:
11	<u>§ 8.01-44.8. Liability for sale of alcoholic beverage to underage person.</u>
12	A. As used in this section:
13	"Aggrieved party" means a person who sustains an injury to person or property as a consequence
14	of the actions of the underage driver, but does not include the underage person or a person who aided or
15	abetted in the sale or furnishing to the underage person.
16	"Licensee" means any person to whom a retail license has been granted by the Board of Directors
17	of the Virginia Alcoholic Beverage Control Authority.
18	"Proof of good practices" includes instruction of employees as to laws regarding the sale of
19	alcoholic beverages, training of employees, enforcement techniques, admonishment to patrons concerning
20	laws regarding the purchase or furnishing of alcoholic beverages, and detention of a person's identification
21	documents and inquiry about the age or degree of intoxication of the person.
22	B. An aggrieved party has a cause of action for damages against a licensee if:
23	1. The licensee or his agent or employee negligently sold or furnished an alcoholic beverage to a
24	person under the age of 21 who was visibly intoxicated;

DRAFT

25	2. The consumption of the alcoholic beverage that was sold or furnished to an underage person
26	caused or contributed to, in whole or in part, an underage driver operating any motor vehicle while
27	intoxicated as described in § 18.2-266 or 18.2-266.1 at the time of an injury to person or property; and
28	3. The underage driver's negligent operation of a vehicle while so impaired was a proximate cause
29	of the injury.
30	C. The plaintiff shall have the burden of proving by clear and convincing evidence that the sale or
31	furnishing of the alcoholic beverage to the underage person was negligent. Evidence of negligence, which
32	shall be admissible, may include proof of the sale or furnishing of the alcoholic beverage to an underage
33	person without request for identification. Proof of good practices, evidence that an underage person
34	misrepresented his age, or evidence that the sale or furnishing was made under duress is admissible as
35	evidence that the licensee was not negligent.
36	D. The liability of the negligent driver that caused the injury and the licensee that sold or furnished
37	the alcoholic beverage shall be joint and several, with right of contribution, but not indemnification.
38	#