| 1 | SENATE BILL NO. 555 |
|----|--------------------------------------------------------------------------------------------------------------|
| 2 | AMENDMENT IN THE NATURE OF A SUBSTITUTE |
| 3 | (Proposed by the Senate Committee on the Judiciary |
| 4 | on) |
| 5 | (Patrons Prior to SubstituteSenators Obenshain and Hanger [SB 230]) |
| 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 | § 8.01-44.8. Liability for sale of alcoholic beverage to underage person. |
| 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; |

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