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**S. 133**

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Sponsors: Senator Kimbrell

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Summary: Tort Reform

**HISTORY OF LEGISLATIVE ACTIONS**

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 12/11/2024 Senate Referred to Committee on **Judiciary**

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 1/17/2025 Scrivener's error corrected

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**VERSIONS OF THIS BILL**

[12/11/2024](https://www.scstatehouse.gov/sess126_2025-2026/prever/133_20241211.docx)

[01/17/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/133_20250117.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 61-2-140, RELATING TO SUSPENSION OR REVOCATION OF LICENSES AND PERMITS FOR THE SALE OF ALCOHOLIC LIQUORS, BEER, AND WINE, SO AS TO A PERSON LICENSED OR PERMITTED UNDER THE PROVISIONS OF THIS TITLE WHO MAINTAINS A LIQUOR LIABILITY INSURANCE POLICY OR A GENERAL LIABILITY INSURANCE POLICY WITH A LIQUOR LIABILITY ENDORSEMENT PURSUANT TO SECTION 61-2-145 MUST SURRENDER HIS LICENSE UPON THE THIRD OCCURRENCE DURING ANY ONE CALENDAR YEAR OF AN EVENT OR SERIES OF EVENTS THAT ACTIVATES COVERAGE FOR THE INSURED; BY AMENDING SECTION 61-2-145, RELATING TO LIQUOR LIABILITY INSURANCE COVERAGE REQUIRED FOR ON-PREMISES CONSUMPTION, SO AS TO REDUCE THE REQUIREMENT FROM ONE MILLION DOLLARS TO TWO HUNDRED FIFTY THOUSAND DOLLARS; BY AMENDING SECTION 15-3-530, RELATING TO A THREE YEAR TIME PERIOD FOR THE COMMENCEMENT OF ACTIONS OTHER THAN FOR THE RECOVERY OF REAL PROPERTY SHALL BE AS PRESCRIBED IN THE FOLLOWING SECTIONS SO AS TO ADD ANY ACTION ON A POLICY OF INSURANCE REQUIRED PURSUANT TO SECTION 61-2-145; BY ADDING SECTION 15-38-12 SO AS TO PROVIDE A NECESSARY DEFINITION; BY AMENDING SECTION 15-38-15, RELATING TO JOINT AND SEVERAL LIABILITY, SO AS TO PROVIDE THAT A PLAINTIFF IS FIFTY PERCENT OR GREATER AT FAULT FOR THE INCIDENT RESULTING IN THE DAMAGES FOR WHICH HE IS SEEKING RECOVERY, THEN THE JURY SHALL RETURN A VERDICT FOR THE DEFENDANT, AND IF THE PLAINTIFF IS NOT FIFTY PERCENT OR MORE AT FAULT THEN THE DEFENDANTS ARE LIABLE FOR DAMAGES IN DIRECT PROPORTION TO THEIR PERCENTAGE OF FAULT; AND BY AMENDING SECTION 15-33-135, RELATING TO PUNITIVE DAMAGES, SO AS TO PROHIBIT PUNITIVE DAMAGES ON ANY ACTION ON A POLICY OF INSURANCE REQUIRED PURSUANT TO SECTION 61-2-145.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 61-2-140 of the S.C. Code is amended to read:

 Section 61-2-140. (A) A person promptly must surrender a license or permit issued under the provisions of this title upon request of the department.

 (B) A person licensed or permitted under the provisions of this title who maintains a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement pursuant to Section 61-2-145 must surrender his license upon the third occurrence during any one calendar year of an event or series of events that activates coverage for the insured.

 (B)(C) Licenses and permits are the property of the department and are not transferable. Licenses and permits must be surrendered immediately to the department upon the termination of a business, upon a change of ownership, possession, or control of a corporation or business entity, or upon a change in the character of the property, facilities, or nature of the business activity for which a license or permit has been issued. The transfer of twenty-five percent or more of corporate stock is considered a change in ownership.

 (C)(D) Licenses and permits must be issued for a designated location and may not be transferred to another location. A separate license or permit is required for each separate location of a business.

 (D)(E) When a license or permit is suspended or revoked, no partner or person with a financial interest in the business may be issued a license or permit for the premises concerned. No person within the second degree of kinship to a person whose license or permit is suspended or revoked may be issued a license or permit for the premises concerned for a period of one year after the date of suspension or revocation.

 (E)(F) A person whose license or permit has been suspended or revoked for a particular premises is not eligible to receive an additional new license or permit at another location during the period the suspension or revocation is in effect, and the department may suspend or revoke all other licenses or permits held by the person if the suspended or revoked premises is within close proximity.

SECTION 2. Section 61-2-145(A) of the S.C. Code is amended to read:

 (A) In addition to all other requirements, a person licensed or permitted to sell alcoholic beverages for on-premises consumption, which remains open after five o'clock p.m. to sell alcoholic beverages for on-premises consumption, is required to maintain a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement for a total coverage of at least one million two hundred fifty thousand dollars during the period of the biennial permit or license. Failure to maintain this coverage constitutes grounds for suspension or revocation of the permit or license.

SECTION 3. Section 15-3-530 of the S.C. Code is amended by adding:

 (10) any action on a policy of insurance required pursuant to Section 61-2-145 whereby any person or property, resident or situate in this State, may be or may have been insured, or for on account of any loss arising under the policy, any clause, condition, or limitation contained in the policy.

SECTION 4. Chapter 38, Title 15 of the S.C. Code is amended by adding:

 Section 15-38-12. For the purposes of this chapter, “person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity.

SECTION 5. Section 15-38-15 of the S.C. Code is amended to read:

 Section 15-38-15. (A) In an action to recover damages resulting from personal injury, wrongful death, or damage to property or to recover damages for economic loss or for noneconomic loss such as mental distress, loss of enjoyment, pain, suffering, loss of reputation, or loss of companionship resulting from tortious conduct, if indivisible damages are determined to be proximately caused by more than one defendant person, joint and several liability does not apply to any defendant whose conduct is determined to be less than fifty percent of the total fault for the indivisible damages as compared with the total of: (i) the fault of all the defendants; and (ii) the fault (comparative negligence), if any, of plaintiff the trier of fact shall determine the percentage of fault of the plaintiff, the defendant, and any person who is a non-party to the action. A defendant whose conduct is determined to be less than fifty percent of the total fault shall only be liable for that percentage of the indivisible damages determined by the jury or trier of fact. In assessing the percentage of fault, trier of fact shall consider the fault of all persons who caused or contributed to cause the alleged damages, regardless of whether the person was or could have been named as a party. The percentage of fault of parties to the action may total less than one hundred percent if the trier of fact finds that the fault contributing to cause the plaintiff’s damages resulted from acts or omissions by a non-party.

 (B) Apportionment of percentages of fault among defendants is to be determined as specified in subsection (C).If the trier of fact finds that the plaintiff is fifty percent or greater at fault for the incident resulting in the damages for which he is seeking recovery, then the jury shall return a verdict for the defendant.

 (C) The jury, or the court if there is no jury, shall:If the trier of fact finds that the plaintiff’s percentage of fault is less than fifty percent, then the trier of fact shall determine the total amount of damages to which the claimant is entitled to recover. The plaintiff shall be awarded an amount equal to the percentage of fault for each defendant multiplied by the total amount of damages determined by the trier of fact.

 (1) specify the amount of damages;

 (2) determine the percentage of fault, if any, of plaintiff and the amount of recoverable damages under applicable rules concerning “comparative negligence”; and

 (3) upon a motion by at least one defendant, where there is a verdict under items (1) and (2) above for damages against two or more defendants for the same indivisible injury, death, or damage to property, specify in a separate verdict under the procedures described at subitem (b) below the percentage of liability that proximately caused the indivisible injury, death, damage to property, or economic loss from tortious conduct, as determined by item (1) above, that is attributable to each defendant whose actions are a proximate cause of the indivisible injury, death, or damage to property. In determining the percentage attributable to each defendant, any fault of the plaintiff, as determined by item (2) above, will be included so that the total of the percentages of fault attributed to the plaintiff and to the defendants must be one hundred percent. In calculating the percentage of fault attributable to each defendant, inclusion of any percentage of fault of the plaintiff (as determined in item (2) above) shall not reduce the amount of plaintiff's recoverable damages (as determined under item (2) above).

 (a) For this purpose, the court may determine that two or more persons are to be treated as a single party. Such treatment must be used where two or more defendants acted in concert or where, by reason of agency, employment, or other legal relationship, a defendant is vicariously responsible for the conduct of another defendant.

 (b) After the initial verdict awarding damages is entered and before the special verdict on percentages of liability is rendered, the parties shall be allowed oral argument, with the length of such argument subject to the discretion of the trial judge, on the determination of the percentage attributable to each defendant. However, no additional evidence shall be allowed.

 (D) A defendant shall retain the right to assert that another potential tortfeasor, whether or not a party, contributed to the alleged injury or damages and/or may be liable for any or all of the damages alleged by any other party.

 (E) Notwithstanding the application of this section, setoff from any settlement received from any potential tortfeasor prior to the verdict shall be applied in proportion to each defendant's percentage of liability as determined pursuant to subsection (C).

 (F) This section does not apply to a defendant whose conduct is determined to be wilful, wanton, reckless, grossly negligent, or intentional or conduct involving the use, sale, or possession of alcohol or the illegal or illicit use, sale, or possession of drugs.

SECTION 6. Section 15-33-135 of the S.C. Code is amended to read:

 Section 15-33-135. (A) In any civil action where punitive damages are claimed, the plaintiff has the burden of proving such damages by clear and convincing evidence.

 (B) Punitive damages may not be awarded in any action on a policy of insurance required pursuant to Section 61-2-145 whereby any person or property, resident or situate in this State, may be or may have been insured, or for on account of any loss arising under the policy, any clause, condition, or limitation contained in the policy.

SECTION 7. This act takes effect upon approval by the Governor.

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