

HB247- Alcohol Control Amendments

Why Utah needs HB247?

On April 26, 2022, about 6:00 PM, 13-year-old Eli Mitchell was riding his bike home from a grocery store where he bought some candy in West Jordan. Meanwhile, a man had been drinking at a local bar for approximately **6 hours**. He had **seven** 20-ounce drinks (Over 1 gallon) and had a blood alcohol level **four-times** the legal limit. He left the bar drunk and **ran over Eli in the crosswalk on a red light, killing him**. The driver did not stop to render aid, fled the scene, and stopped later to take the bicycle out from underneath the truck.



Eli Mitchell

Intoxicated persons are leaving retail establishments and driving vehicles, causing crashes with severe injuries and fatalities. When this has occurred, enforcement of laws against “serving to intoxicated persons” under the Alcohol Beverage Control Act has been **difficult or non-existent** due to wording ambiguities in the definition of “intoxication” along with deficiency in the Statute not allowing for a timely and complete investigation and collection of all of the evidence.

What does the bill do?

1. Clarifies definition of intoxication
2. Clarifies that records can't be destroyed and must be turned over to law enforcement in an investigation in the event of an injury or fatality related to overservice
3. Clarifies what a plaintiff would have to prove to have their day in court

The Mitchel Family

UCV

Utah Chiefs of Police Association

CCJJ

Mothers Against Drunk Driving

USAVV+

Utah Association for Justice

SWAP (Statewide Association of Prosecutors)



sponsored by Rep. Ivory and Sen. Sandair, proposes sensible remedies to gaps in both Dram Shop civil law and certain record-keeping responsibilities of businesses selling alcohol. This bill is strongly supported by the Utah Chiefs of Police Association and the Utah Sheriffs Associations, as well as many other public safety organizations. You may be aware that the bill is directly related to the tragic death of Eli Mitchell, one of my city's stellar youth.

**Ken Wallentine
Chief of Police
West Jordan Police Department
President, Utah Chiefs of Police Association**

The Utah Association for Justice strongly supports this measure. Utahns who are injured or killed as a result of bar patrons being overserved have had a difficult time proving over service. The bar often is the only source of evidence to prove this claim. This legislation will give injured Utahns another way of proving overservice. The Utah Association for Justice asks for your support in passing this Bill.

**Steve Sullivan
Sullivan Consulting**

The current law is unenforceable. In the past five years, the State Bureau of Investigation (SBI) has not successfully filed a criminal case of "overservice" stemming from a TRACE investigation. This is due to the vagueness of the statute and the inability to collect sufficient evidence to prove the elements of the offense.

Captain Troy Denney, SBI

In the last 5 years nobody's been convicted of over-serving alcohol in Utah for two key reasons: 1 - it's unclear how to prove anybody is "intoxicated" as that term is defined and 2 - bars and restaurants are consistently destroying the evidence after they find out an investigation is underway. This bill will clarify what intoxicated means and will require companies to retain records when they're officially put on notice of an overservice investigation. This will move the needle in making Utah's overservice laws enforceable.

**Will Carlson, Chief Policy Advisor
Salt Lake County District Attorney's Office**

With the current definition, as borne out by the lack of cases filed in the past ten years, prosecutors do not feel they have a reasonable likelihood of success proving intoxication under this section. SWAP believes the definitional changes in lines 337-347 will provide clarity for establishments serving