

Dram Shop Laws Keep the Public Safe, Alcohol Out of the Hands of Minors

Dram shop laws are similar, but not entirely the same as another topic we've investigated here on the blog known as *social host liability*. Both of these laws are in place to discourage willingly serving alcohol to someone who is obviously already under the influence. However, this is not the only reason dram shop laws were enacted.

Unlike *social host liability*, which can hold the host of a private gathering responsible for an injury or death directly caused by serving alcohol to a guest, dram shop laws are in place to hold an establishment such as a bar or a restaurant liable for the negligent actions of a patron.

Alcohol-related motor vehicle accidents are devastating to those injured and their families, but they also pose an inherent risk to public safety. Bartenders become liable, as do social hosts, when an intoxicated patron drives away from the establishment and hurts themselves or another. Within this article we will specifically address an area of personal injury related to DUI known as *dram shop laws*.

Dram shop laws have origins dating back to 18th Century England

What is dram shop, and where did the term originate? Dram shop is named after 18th Century English shops that served gin by the spoonful. These spoons were known as "drams". Dram shop is an outdated term for a problem that has seemingly stood the test of time, and has the laws enforced to prove it.

Dram shop laws are known for being enforced using civil action. These civil actions allow victims or their surviving families to sue the establishment that sold the alcohol for compensation. Without an experienced attorney, proving fault of the establishment that sold the defendant the alcohol is an arduous task.

Proving fault in dram shop cases is difficult, but not impossible with an experienced attorney

There are questions that need be asked to better understand whether the plaintiff's claim is able to be heard in court:

- Was the defendant drinking prior to ordering alcohol at the establishment?
- Was the defendant drinking with a medical condition known to impair their judgement?
- How is the defendant's tolerance for alcohol?
- Is there proof the defendant arrived or left in a car?

Florida's dram shop laws are minimal

Not all states enforce the same level of dram shop laws and therefore, it is important that your board certified legal counsel have a thorough understanding of how enforceable the dram shop laws in your state are. In the state of Florida, there are extremely limited dram shop laws, which begin and end with the following according to official state statutes:

768.125 Liability for injury or damage resulting from intoxication. A person who sells or furnishes alcoholic beverages to a person of lawful drinking age shall not thereby become liable for injury or damage caused by or resulting from the intoxication of such person, except that a person who willfully and unlawfully sells or furnishes alcoholic beverages to a person who is not of lawful drinking

age or who knowingly serves a person habitually addicted to the use of any or all alcoholic beverages may become liable for injury or damage caused by or resulting from the intoxication of such minor or person.

43 states have dram shop laws, but only one thing in common

Nearly every state has some form of dram shops laws, however not every state imposes the same laws or goes to the same lengths to explain the laws; Florida is an example of a state with extremely limited dram shop enforcement. The common ground in every state that upholds dram shop laws is the well-known “obvious intoxication test”. This test is meant to determine whether the alcohol vendor knew or should have reasonably known prior to serving alcohol, that the defendant was intoxicated to the point that consuming more alcohol posed a risk to their or another person’s safety.

Serving alcohol to a minor is a crime

Dram shop laws are meant to protect minors as well. Alcohol vendors such as bars and restaurants that serve alcoholic beverages who willingly serve alcohol to a minor, who then causes harm to themselves or another person, can be held liable under dram shop laws.

Contact us to schedule a complimentary consultation. There’s no obligation. Take the first step and call today: (877). 529-0080



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