

Report: Dram Shop laws fading in many states

Written by Australian Business

September 20, 2013 /**24-7PressRelease**/ -- According to a recent report published by the American Journal of Preventive Medicine, over the last several years many states have created new laws in order to protect various retailers, such as bars and taverns, from commercial host liability - otherwise known as dram shop liability.

Essentially, dram shop laws hold bars and taverns responsible when bartenders in these establishments serve alcohol to minors or visibly intoxicated patrons and these patrons subsequently injure third parties. These laws are most often used to hold bars liable when intoxicated bar patrons elect to get behind the wheel and injure others in car accidents.

However, the recent report compiled by researchers from the Center on Alcohol Marketing and Youth at the Johns Hopkins Bloomberg School of Public Health and Alcohol Policy Consultations, has discovered that dram shop laws are in gradual decline in many states. For instance, legislation has been enacted in several states that either limits the amount of liability for certain retailers or protects these retailers from liability altogether.

Specifically, the report found that from 1989 to 2011, the number of states with unrestricted dram shop laws dropped from 25 to 21. In addition, the number of states that added significant restrictions to their dram shop laws - thus protecting businesses from liability - increased from 11 to 16 during that same period.

Sadly, for those injured by drunk drivers in the Golden State, California is one such jurisdiction that currently protects bars and taverns from [dram shop liability](#) in a large number of circumstances.

Dram Shop laws in California

In California, it is a misdemeanor for anyone to sell, furnish or in any way give alcohol to anyone obviously intoxicated or a habitual drunkard. But, despite this potential criminal law liability, California law expressly states that no one who violates this law can "be civilly liable to any injured person [...] for injuries inflicted on that person as a result of intoxication by the consumer of such alcoholic beverage" - effectively eliminating dram shop liability in California.

However, there is one very important exception to this civil liability protection, and that is when

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the bar or tavern sells or furnishes alcohol to an "obviously intoxicated" minor. In these instances, that bar or tavern can be held liable for injuries to third parties if the act of providing or selling alcohol to the minor was the proximate cause of the injuries.

Interestingly, in many cases involving intoxicated minors and dram shop liability, the main question to be examined is what constitutes "obviously intoxicated." In the past when interpreting this phrase, California courts have instructed juries to consider any "outward manifestations" of intoxication, including loud or boisterous behavior, bloodshot eyes, slurred speech, alcohol on breath, loss of balance or impaired judgment, just to name a few.

Ultimately, establishing dram shop liability in California for intoxicated minors is a very fact specific inquiry. Consequently, it is generally best to seek the counsel of an experienced drunk driving accident attorney if an intoxicated minor has injured you and you believe dram shop liability may be possible. A skilled attorney can review the facts of your case and outline what your rights and options may be in your particular situation.

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