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Dram Shop Laws

Aside from the often devastating impacts of drunk driving, DUI collisions also can expose drunk drivers to lawsuits for a victim's injuries or death. Furthermore, "dram shop" laws in most states allow victims of drunk driving accidents (or their families) to hold bars and alcohol retailers accountable for the death, injury or other damages caused by an intoxicated customer.

"Dram shop" laws are named after establishments in 18th Century England that sold gin by the spoonful (called a "dram"). These laws are enforced through civil lawsuits, allowing DUI victims or their families to sue alcohol vendors or retailers for monetary damages. Typically, when the plaintiff wins a lawsuit against both an alcohol vendor and the intoxicated driver, the compensatory damages are divided between the two defendants.

In one such case, a New Jersey jury awarded \$135 million to the family of a girl paralyzed in 1999 after a drunk driver collided with the car in which she was riding. The drunk driver reportedly had a blood-alcohol concentration that was double the legal limit after leaving a New York Giants football game. It was determined that the concessionaire at Giants' Stadium shared the liability for the victim's serious injury.

But proving fault of the alcohol vendor is a relatively difficult task. For example, how do bartenders know whether a patron is drinking on an empty stomach, has a low tolerance or was intoxicated before entering the establishment? How do they know the patron even drove a car?

Plaintiffs invoking the Illinois Dramshop Act, to give an example, must be able to prove the following at trial:

1. Proof of sale of alcohol to the patron
2. Injuries sustained by the patron
3. Proximate cause between the alcohol sale and intoxication
4. Intoxication was at least one cause of the third-party damages

Currently 43 states and the District of Columbia have some sort of dram shop law in effect, varying in scope. Those states without dram shop laws are Delaware, Kansas, Louisiana, Maryland, Nebraska, Nevada, South Dakota and Virginia.

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