



LIQUOR LIABILITY: WHAT IS IT AND WHAT DOES IT MATTER?

Liquor Liability Coverage is designed to protect a seller/provider of alcohol, such as a restaurant or a bar, from the financial consequences of their legal liability when a patron or a third-party is injured as a result of the negligent serving of the alcohol or negligence in not preventing an individual from injuring a third-party.

The legal liability comes from each state enacting legislation, which defines the extent to which a provider is liable in that state. The definition of legal liability varies by state because each state applies its own codified and judicially interpreted laws to the businesses in that state.

These laws have evolved over the years since their inception in the mid-nineteenth century in the United States. Originally there were no laws that would impose any responsibility upon sellers/providers of alcohol for the consequences of the consumption of beverages under the theory that the person consuming the alcohol bore the primary responsibility.

Over time there were many influences to the emergence of liquor liability legislation, which attempts to place some liability upon the business serving the alcohol. In recent times, public concern over problems associated with drunk driving became a major factor in increasing the liability of alcohol providers and social hosts for the dispensing of alcoholic beverages, the most notable influence being Mothers Against Drunk Driving (MADD).

These laws are often times referred to as “dram shop” laws. The term “dram” dates back to eighteenth century England where businesses sold gin by the spoonful called a dram.

The legal liability or tort laws passed in each state do vary; however, there are two basic tenets:

- Give persons a civil right of action against providers of alcoholic beverages when they are injured or their property damaged through the actions of an intoxicated adult and/or a minor.
- Existence of a law generally imposes higher liability against a provider of alcoholic beverages.

Each state's legal liability laws are unique, and the elements of each provide the extent to the degree of liability placed on the establishment serving the alcohol.

- In some states, every establishment in which the intoxicated person drank can be pulled into the lawsuit; the establishment then has to prove that the person was not or did not appear intoxicated while there. Each establishment in these states can be held liable.
- At least one state holds the establishment liable if the patron appears intoxicated even if they came into the establishment that way and did not drink while they were there.
- Other states require proof that the establishment sold alcohol to the intoxicated individual, injuries were sustained and the intoxication was the proximate cause of the injury (ies).

There are a few states that have not established legal or tort law defining the provider's liability should an injury or property damage occur by one of its patrons consuming alcohol. Therefore, many courts have modified the rule of non-liability (no tort law) based on new "standards of care" imposed by modern negligence principles or regulatory statutes. The states will either recognize tort law, common law principle or both in the course of legal liability of a provider of alcohol.

Regardless of what state a provider is operating in, there will be some type of liability imposed by the courts for the serving of alcohol. This responsibility is ultimately insured under what is referred to as a Liquor Liability Policy, which is separate from their General Liability or Business Liability Policy. The premium charges that the insurance company makes for the exposure of serving alcohol is state-specific and takes into consideration that particular state's laws on liability for providers of alcoholic beverages.

Good risk management should be used in determining the providers that you wish to use for your functions. As such, you should only engage an establishment that has comprehensive and adequate liability insurance, including liquor liability when the function includes the serving of alcoholic beverages.

We have run into a procedure that some of our clients have implemented that we believe has unintentionally created some confusion, which we would like to draw to your attention. The procedure is that when a chapter rents a venue for a function and the venue is serving alcohol, the chapter is required to check for the liquor license and occasionally are being asked to secure a copy of the liquor license.

The confusion arises with the risk management recommendation that the venue have both General Liability coverage as well as Liquor Liability coverage. What happens has been that once this chapter secures a copy of the liquor license, they think they have also satisfied the requirement of the Liquor Liability coverage.

Not only does it cause confusion, but we believe that the requirement of getting a copy of this liquor license is unnecessary for two reasons:

1. Liquor distribution and the serving of alcohol are highly regulated. We are of the opinion that the governmental agency responsible for monitoring the licensing and the distribution business provides sufficient confidence to a patron that the proper licensing has taken place.
2. Insurance companies providing Liquor Liability coverage require evidence of a valid liquor license so by requiring Liquor Liability insurance, you have effectively also validated that the venue has a valid license.

There is no debate on the fact that the venue having the Liquor Liability coverage is critical. The entity serving the alcohol should be primarily liable for the claims that arise out of this service. The insurance coverage under your national insurance policy would apply regardless of whether the venue has the necessary license or not.

Should you have any additional questions or concerns, please do not hesitate to [contact us](#).

See also: [Reviewing Contracts](#) and [Contract Review 101](#) at www.mjsorority.com