

Dram Shop Liability and Reducing Alcohol-Related Harms *Increasing Accountability for Responsible Beverage Service*

Dram shop laws are a potentially powerful tool for changing the environment in which alcohol is sold by focusing on alcohol accessibility, pricing, promotion, and other factors that influence individual attitudes, behaviors, and probabilities of damaging consequences.

Dram shop laws work

- **What are dram shop laws?** Dram shop laws impose civil liability on those individuals, licensed establishments, or alcoholic beverage retailers who sell alcohol to minors or obviously intoxicated adults when the minor or adult is subsequently involved in an alcohol-related crash resulting in death or injuries to third-parties.
- **How do dram shop laws prevent underage drinking?** Dram shop laws provide an incentive for owners of alcohol establishments to train their employees in responsible beverage service, to check IDs and verify age, and to eliminate “happy hour” and other drink promotions which encourage excess alcohol consumption. States with a high level of dram shop liability have more publicity about the impact of illegal alcohol sales. Additionally, more servers and managers in licensed establishments are aware of potential liability, and as a result, practice more responsible beverage service.
- **Studies show that dram shop laws are effective.** Qualified studies identified by the U.S. Task Force review found a median decrease of 6.4 percent in alcohol-related motor vehicle fatalities associated with the presence of dram shop liability.¹

Why are dram shop liability laws needed?

- Research suggests that dram shop liability laws can significantly reduce single vehicle nighttime crash deaths, alcohol-related traffic crashes, and total traffic crash deaths among minors.^{2,3}
- In 2001, researchers found a 5.8 percent decrease in fatal crashes from dram shop liability. Other studies have shown a similar deterrent effect from dram shop liability from 3 to 5 percent.⁴
- The U.S. Task Force on Community Preventive Services, based on the systematic review of 11 qualifying studies, “concludes on the basis of **strong evidence** that dram shop liability is effective in preventing and reducing alcohol-related harms.”⁵ (emphasis added)
- Research has found that the implementation of dram shop liability reduced not only the traffic crash death rate, but also deaths from primary alcohol causes, such as alcoholic cirrhosis of the liver and homicide.⁶
- Studies show that up to 50 percent of people driving under the influence had their last drinks at licensed establishments, indicating that the enforcement and prosecution of laws governing the

¹ Eisenberg, D., 2001

² Chaloupka et al., 1993

³ Sloan et al., 1994, 2000

⁴ Eisenberg, D., 2001

⁵ Guide to Community Preventive Services. Preventing Excessive Alcohol Consumption: Dram Shop Liability.

⁶ Sloan et al., 1994, 2000

consumption and distribution of alcohol should have a significant impact on the reduction of injuries and fatalities resulting from the consumption of alcohol.^{7,8}

- The rate of on-sale establishment sales to obviously intoxicated patrons is around 55-65%, despite the fact that such sales are illegal in 48 states, including Nebraska.^{9,10}
- More than 85% of alcohol-impaired driving episodes among U.S. adults involve binge drinkers. According to a recent study from the CDC, most binge drinkers (54.3%) who reported driving after their most recent binge-drinking episode drank at an on premises retail alcohol establishment (i.e., a bar, club, or restaurant), and 25.7% of this group reported consuming 10 or more drinks before getting behind the wheel.¹¹

The Nebraska experience

In 2007, Nebraska passed a limited dram shop and social host liability measure that extended liability to individuals or liquor licensed establishments who provide alcohol to minors who are later involved in an incident resulting in injury or death. However, Nebraska is one of only a handful of states that does not hold alcohol establishments and servers partly responsible for deaths or injuries caused by their serving an intoxicated person aged 21 or older.

The alcohol industry has fought dram shop laws in Nebraska for decades. In the 2009 and 2011 legislative sessions, senators introduced dram shop bills that would have made liquor licensed establishments liable for injury or death caused by serving an intoxicated person. The bills, which had broad support, never got out of committee.

Nebraska has seen a rash of drunken driving cases in recent years; a dram shop law is one tool that could be used to encourage responsible beverage service among alcohol servers and retailers. Other benefits that a dram shop law could bring to Nebraska include:

- The most recent statistical analysis in 2011 found states that adopted such laws saw a median 6.4 percent reduction in drunken driving deaths.¹² In Nebraska, that drop would save an average of five lives every year.
- Better enforcement of the Nebraska Liquor Control Commission's rule that prohibits bars from serving drunken patrons.
- The promotion of a mandatory Responsible Beverage Server (RBS) training for owners, managers, and employees of establishments licensed to sell alcohol in Nebraska.
- Tracking last drink data by law enforcement officials when responding to an alcohol-related incident.

⁷ O' Donnell, 1985

⁸ Gallup, 2000

⁹ Toomey, et al., 2004

¹⁰ Toomey, et al., 2008

¹¹ Mosher, et al., 2013

¹² Rammohan et al., 2011

References

- Chaloupka, F.J., Saffer, H., and Grossman, M. (1993). Alcohol control policies and motor vehicle fatalities. *Journal of Legal Studies*, 22, 161-186.
- Eisenberg, Daniel. "Evaluating the Effectiveness of a 0.08 Percent BAC Limit and Other Policies Related to Drunk Driving." Stanford Institute for Economic Policy Research Discussion Paper No. 00-23. Stanford, CA: Stanford Institute for Economic Policy Research, January 2001. <http://siepr.stanford.edu/papers/pdf/00-23.pdf>
- Gallup Organization. (2000) - Volume I: Findings, Racial and Ethnic Group Comparisons, National Surveys of Drinking and Driving, June 2000, Attitudes and Behavior - 1993, 1995, and 1997. National Highway Traffic Safety Administration: Washington DC, DTNH22-96-C-05081
- Guide to Community Preventive Services. Preventing excessive alcohol consumption: Dram Shop Liability. Accessed on December 15, 2015 from <http://www.thecommunityguide.org/alcohol/dramshop.html>
- Mosher, J.F., Cohen, E.N., & Jernigan, D.H. (2013). Commercial host (dram shop) liability: current status and trends. *American Journal of Preventive Medicine*, 45(3), 347-53.
- O'Donnell, M. (1985). Research on drinking locations of alcohol-impaired drivers: Implications for prevention policies. *Journal of Public Health Policy*. Vol. 6: 510-525.
- Rammohan, V., Hahn, R.A., Elder, R.E., Brewer, R., Fielding, J., Naimi, T.S., Toomey, T.L., Chattopadhyay, S.K., & Zometa, C. (2011). Effects of Dram Shop Liability and Enhanced Overservice Law Enforcement Initiatives on Excessive Alcohol Consumption and Related Harms: Two Community Guide Systematic Reviews. *American Journal of Preventive Medicine*, 41(3), 334-343. Accessed on December 15, 2015 from http://www.thecommunityguide.org/library/Dram%20Shop_Overservice%20evidence%20review.pdf
- Sloan, F.A., Reilly, B.A., and Schenzler, C. (1994). Effects of prices, civil and criminal sanctions, and law enforcement on alcohol-related mortality. *Journal of Studies on Alcohol*, 55, 454-465.
- Sloan, F.A., Stout, E.M., Whetten-Goldstein, K., and Liang, L. (2000). *Drinkers, drivers, and bartenders: Balancing private choices and public accountability*. Chicago: University of Chicago Press.
- Toomey, T. L., Wagenaar, A. C., Erickson, D. J., Fletcher, L. A., Patrek, W., & Lenk, K. M. (2004). Illegal alcohol sales to obviously intoxicated patrons at licensed establishments. *Alcoholism: Clinical and Experimental Research*, 28(5), 769-774
- Toomey, T. L., Erickson, D. J., Lenk, K. M., & Kilian, G. R. (2008). Likelihood of illegal alcohol sales at professional sport stadiums. *Alcoholism: Clinical and Experimental Research*, 32(11), 1859-1864. doi:10.1111/j.1530-0277.2008.00770.x

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