LIQUOR LIABILITY INSURANCE?
I’LL DRINK TO THAT:
A Complete Guide to Serving and Hosting Responsibly
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Introduction

For many, a boozy beverage is the difference between an occasion and a celebration. At weddings, we raise a toast to the new couple. To congratulate a friend on their promotion, you buy the first round. For Christmas, there’s spiked eggnog and on Valentine’s Day, red wine.

This is to say the obvious: a little libation can grease the wheels of a social situation. And when done responsibly, a couple beverages can accentuate a fun event. Perhaps this is why, according to Gallup’s 2012 Consumption Habits Poll, about 66 percent of Americans consume alcohol. On average, we imbibe just over four alcoholic drinks per week.

But there’s another side to the world of alcohol consumption, the one with headlines about another drunk driving accident. The story about the college student who died of alcohol poisoning. The bar fight that ended in hospitalizations.

Unfortunately, these instances aren’t rare. The Centers for Disease Control and Prevention’s “Alcohol and Public Health” fact sheet states that each year in the U.S., excessive alcohol consumption contributes to approximately 80,000 deaths.

Alcohol-related accidents, injuries, and deaths cost everyone. The CDC’s “Binge Drinking” fact sheet reports that excessive drinking, including binge drinking, cost the United States $223.5 billion in 2006. That’s about $1.90 a drink from losses in productivity, healthcare costs, crime, and other expenses.

And if you own a “dram shop” (a commercial establishment that sells alcohol) or are a “social host” (an individual who furnishes alcohol at a gathering), those costs can hit home in a tangible way.

When someone drinks too much at your establishment or event, you could be sued for the damage they cause – even if it happens away from your premises or home. That’s because most states have liquor liability laws that hold establishments or individuals responsible when people overindulge at bars or parties.

Every time you host an event or invite patrons to drink at your bar, you open yourself up to the risk of a liquor liability lawsuit. And just the cost of hiring an attorney can be enough to financially strap a small business or an individual party host.

So what can you do to protect yourself from the high cost of lawsuits, keep your guests safe, and still serve or offer alcohol? In this guide, we’ll examine...

• What liquor liability is and who has it.
• Liquor liability risks.
• How and when you can be liable for liquor-related damages.
• Everything you need to know about liquor liability lawsuits.
• How to mitigate your liquor liability risks.

Keep reading to learn the ins and outs of liquor liability and the steps you can take to reduce the chance of an alcohol-related accident!
Chapter 1:

What Is Liquor Liability & Who Has It?
What Is Liquor Liability & Who Has It?

As we mentioned, if you serve, furnish, or sell alcohol, you can be legally responsible for the havoc caused by people who drink your booze. But where does this responsibility come from? And who specifically is susceptible to liquor liability lawsuits?

In this chapter, we first take a peek at the history of dram shop and social host liability laws in this country. Then, we’ll take a closer look at the 21st century legal definition of “liquor liability” and discover which individuals are on the hook for liquor liability laws.

Part 1: A Brief History of Dram Shop Laws & Social Host Liability

Alcohol has been a social troublemaker since its inception, but it’s also a lucrative business and a darn good time. So while it’s been the culprit for many behavioral wrongs in our society, there’s plenty of incentive to keep alcohol available. Though dram shop laws and social host liability ordinances may seem outdated and kooky today, they are meant to impose a sort of check-and-balance system to make sure things don’t get too out of hand at the public’s expense.

Here’s a crash course in how these laws came about (we promise it’s interesting!).
Early Beginnings

Shortly after claiming independence, the young United States had a new problem: alcohol. By 1779, Connecticut had penned and passed 80 major laws governing alcoholic beverages (inspired by the teachings of the church).

But Americans were rambunctious and thirsty. Communities began to distill their own spirits, and excessive drinking was taking its toll on the colonies. The government attempted to impose taxes and controls on these businesses, but that was met with swift rebellion.

In 1794, the Whiskey Rebellion in Pennsylvania proved how powerful the liquor industry could be. After all, it took 13,000 troops (dispensed by President Washington, no less) to quell the uprising.

The Prohibition Era

Our country has long history of temperance movements, leading all the way up to the Prohibition Era in the 1920s. The 18th Amendment banned the sale, production, importation, and transportation of alcohol, but largely, the Prohibition just tested Americans’ ingenuity to bootleg booze.

Speakeasies became popular underground drinking venues, and organized crime filled the demand for illegal alcohol. Needless to say, it wasn’t the most popular law the U.S. has passed.

So before Christmas of 1933, Congress repealed the 18th Amendment with the adoption of the 21st. Bye, bye, Prohibition! Ever since its repeal, states have taken control of alcohol sales and manufacture.

Modern Laws for a Modern Time

With the advent of new transportation technologies in the 20th Century — chiefly, the widespread use of the automobile — people began to reconsider where they should place the blame for the destruction and loss alcohol caused. Society began to appreciate the dangerous and often deadly consequences of drunk driving. So both state legislators and courts began to rethink the public policy behind exempting licensed vendors and social hosts from liquor liability.

And that’s why dram shop laws came to pass. These gave the states a way to hold liquor-licensed establishments responsible for their (potentially destructive) wares and their role in drunk-driving accidents. After dram shop laws were established, some states branched out to hold social hosts liable for their provision of alcohol, too.
According to an article in the Marquette Law Review, the New Jersey Supreme Court blazed the trail for social host liability in 1984. It ruled that social hosts could be liable for injuries resulting from the negligent driving of their intoxicated adult guests. Slowly, numerous other states adopted similar statutes.

Perhaps these laws are for the best. After all, each year more people die from alcohol-related incidents and health complications than deaths by obesity, high blood pressure, illicit drugs, or unsafe water. According to the World Health Organization’s “Global Status Report on Alcohol and Health,” which analyzes available evidence on alcohol consumption, the harmful use of alcohol is a global problem that claims 2.5 million lives annually. As it turns out, of 19 health concerns, alcohol is the third deadliest. Given this evidence, you can start to see why liquor liability laws have stuck around in the U.S.

Keep reading to delve deeper into what “liquor liability” means to small businesses and social hosts today.

Part 2: The Legal Scoop Behind Liquor Liability

The term “liquor liability” refers to your legal and / or financial responsibility for the actions of people who consume alcohol — and the consequences of those actions. Regardless of whether you are a small-business owner or an individual, you can be sued if a person who became intoxicated at your establishment or event causes harm to others or damages their property.

You are said to have liquor liability if you…

• Sell or distribute alcohol at your place of business.
• Allow patrons or guests to bring their own alcohol and consume it on your premises (i.e., you own a BYOB business).
• Serve alcohol at an event you’re hosting.
• Allow others to serve alcohol at your venue.

There are three different types of laws that enforce liquor liability in the United States. They are:

• Dram shop laws. For commercial entities, such as bars, restaurants, caterers, or reception halls, dram shop laws enforce your legal responsibilities. Currently, 43 states have some kind of dram shop law, though each state has its own version. To learn more, jump to the section How Do Dram Shop Laws Hold Commercial Liquor Sellers Liable?

Alcohol contributes to 2.5 million deaths each year.
• Commonplace negligence laws. Even if a state doesn’t have official dram shop laws on the books, it likely enforces commonplace negligence laws, which address culpability for negligent behavior (i.e., not doing what any reasonable person could be expected to do under a certain set of circumstances). With regard to alcohol, your establishment or servers could be sued if they fail to limit an intoxicated person’s potential for harm or self-harm.

• Social host liability laws. For individuals who host parties and events, social host liability laws enforce your legal responsibility. At the time of this publication, half of the states have some version of social host laws, which hold the (non-commercial) host liable for bodily injuries or property damage arising from serving or distributing alcoholic beverages. For more information, jump to the How Do Social Host Ordinances Hold Event Hosts Liable? section of this guide.

Now that you understand the basics of liquor liability law, the next section will take a closer look at the individuals and entities that must follow these ordinances.

Social host laws enforce a non-commercial individual’s liquor liability.


Now that you understand what liquor liability is, let’s take a look at who liquor liability affects. Below is a list of individuals who could be held responsible if something goes awry once the drinks start flowing.

One thing to keep in mind as you read this list is that many individuals can be sued and found liable for the same incident—even if they are only tangentially involved. In fact, the injured party will likely name as many people in the lawsuit as they can. These include:

• Owners of food services businesses. If you own a restaurant, bar, catering operation, or banquet hall, you take a risk with every poured alcoholic beverage. Let’s say, for example, one of your bartenders over-serves a visibly intoxicated patron. If that patron physically assaults another guest, you could be sued for the injured person’s medical expenses or property damage.

• Owners of retail stores that sell alcohol. If your cashiers fail to check IDs before selling alcohol to a customer, your store could lose its liquor license and be sued for civil or criminal charges (especially if the customer is underage).

• Business owners who host company parties where liquor is served or sold. The National Highway Traffic Safety Administration’s “Economic Burden of Traffic Crashes on Employers” report states that vehicle crashes in which at least one driver was alcohol-impaired cost employers more than $9 billion (including wage-risk premiums) each year. Say your organization is hosting a holiday party where a catering company is serving alcoholic beverages. If an attendee overindulges, gets in her car, and wrecks it against someone’s house, the homeowner could sue for damages. In their lawsuit, they may name the host facility, the caterer, and even your organization for hosting the event.

• Individuals who host events where liquor is served. Parents, if you throw a graduation party for your teen at a venue that is not your home, you open yourself up to liquor liability risks. For example, let’s say your teen’s friends sneak a few drinks at the party. You could be liable for alcohol-impaired traffic accidents.
for supplying alcohol to minors. In some states, the minor could sue you for injuries they incur while intoxicated at your event. Or if you’re throwing a wedding shower for your (21 and up) friends at the place where they met, you could be held responsible if a guest becomes too drunk, drives, and hits someone on the way home. The injured person could sue you, the driver, and the venue owner.

- **College organizations that host events where alcohol is served.** If a pledge dies due to alcohol poisoning, the parents may sue the fraternity or sorority and its local chapter members in a lawsuit. There are countless examples of such cases, but we’ll delve into those later. For now, know that if you are a member of a fraternity, sorority, or other college organization, or if you lead such an organization, you can be held responsible for the alcohol-related incidents that happen at gatherings, parties, and events.

Think back to the last party or event you attended. Chances are, you can recall at least one person who overindulged. And if your neck or business was on the line for their actions, you’d probably ask for their keys and make an effort to ensure they stayed out of trouble.

That’s the point of these liquor liability laws – to give people in key roles the incentive to reduce the risk of alcohol-related accidents, damages, and deaths. In the next chapter, we’ll take a closer look at liquor liability risks and what can go wrong when you’re legally responsible for someone’s intoxicated actions.
Chapter 2:

How and When Can You Be Liable for Liquor-Fueled Accidents?
How and When Can You Be Liable for Liquor-Fueled Accidents?

In the previous chapter, you learned what liquor liability is, and you now know that you can be held responsible (sued) for the damaging actions of the people to whom you’ve served alcohol. But what, exactly, can you be held accountable for? And how?

Before you can take the steps necessary to protect yourself from liquor liability, these questions must be answered.

This chapter takes a look at the various types of injuries and damages for which small-business owners and social hosts can be held responsible — and the lawsuits that often follow. Then we’ll explore state dram shop and social host laws that enforce this liability.


A “risk” is the potential for a negative outcome. So a liquor liability risk is the potential for an imbibing guest to cause someone a loss at your personal or professional expense. There are ways to decrease the probability of these threats, a process we insurance types call “risk management.”

We will discuss these risk-reducing techniques in Chapter 4: How to Mitigate Your Liquor Liability Risks and Avoid Lawsuits. But first, you must be able to recognize the liquor-related situations that threaten your business. Read on to learn more.
What Can Go Wrong?

When it comes to alcohol, many things can go wrong. Below we take a look at the drunken incidents that most often trigger dram shop / social host liability suits:

Driving

According to the Centers for Disease Control’s article “Impaired Driving: Get the Facts,” nearly 30 people die each day in car crashes that involve a drunk driver. That’s roughly one death every 48 minutes. The NHTSA also found in its National Survey of Drinking and Driving Attitudes and Behaviors: 2008 report that 20 percent of the public (16 and older) drove drunk within the past 30 days. They estimate that to be about 85.5 million drunk-driving trips per month.

If you take one thing away from these statistics, let it be that alcohol-related accidents are a real and present risk. People who drive drunk not only risk their own lives – they also endanger those around them. In turn, your bar or organization could be held responsible for the damages caused by your guests’ alcohol-impaired driving.

Take the landmark lawsuit in Texas: Poole v. El Chico. Mr. and Mrs. A. Bryan Poole sued the El Chico Corporation under the Texas Wrongful Death Act. The Pooles alleged that El Chico restaurant employees negligently sold drinks to an intoxicated person, and as a result, their son was killed in a car accident.

The Texas Supreme Court ruled in their favor, forever changing the legal landscape surrounding liquor liability and Texas’s tort laws. Before the case, Texas didn’t have any dram shop liability laws, but the ruling paved the way for passage of the state’s Dram Shop Act.
Fighting

An OregonLive.com story reports a recent case of dram shop liability caused by a brutal bar fight. Shaun Hartley, a patron at Wichita Pub, apparently stabbed Michael Ray Gaston multiple times in the chest and left Timothy G. Reed with a permanent brain injury. The row was on the heels of a disagreement over Hartley’s brother harassing Gaston’s wife.

Because the pub reportedly continued to serve Hartley even though he was visibly intoxicated, Gaston and Reed are each seeking $1.75 million in damages.

Unfortunately, these claims aren’t rare. Bar fights and assaults are among the most common causes of liquor liability claims. Plus, if others witness a violent event, they could sue you, your establishment, or your organization for mental damages.

Sexual Assault and Sexual Harassment

According to an article in the Madison-St. Clair Record, a woman is suing Joe Man’s Bar and Grill in East St. Louis over a sexual attack perpetrated by an intoxicated patron of the establishment. She is seeking a judgment of more than $100,000, plus costs.

In addition to sexual assault lawsuits, you can be held accountable for sexual harassment incidents if someone who became intoxicated at your establishment or event commits them.

Tripping, Falling, and Other Accidents

The National Safety Council states that falls are the second-leading cause of unintentional death in homes and communities. In 2009, these accidents resulted in more than 25,000 deaths. And when alcohol is mixed in the equation, the likelihood of trips, slips, and falls only amplifies.

If you are a business owner, these incidents can lead to premises liability claims. And if you operate in one of the 10 states that allow intoxicated patrons to sue bars and liquor-license holders for their alcohol-related injuries, you could face a liquor liability suit as well. (Find out if you live in one of these states by jumping to Does Your State Have Dram Shop Laws?)

Each year, nearly 25,000 people die from tripping, slipping, and falling.
Alcohol Poisoning

Alcohol poisoning events are usually the trigger for social host liability claims. For example, let’s say the family of a student who died of alcohol poisoning filed a lawsuit against the student’s fraternity chapter, its national association, and several fraternity members.

If the incident happened in a state with social host liability laws, every named defendant could be successfully sued, especially if the fraternity members didn’t seek medical help for the student. And if an autopsy finds the student’s blood-alcohol content was 0.36 percent the night he died, the family has further proof that the hosts were negligent.

If you furnish someone with alcohol and one of the above situations happens, you could be sued for damages. Read on to learn whether these charges are considered criminal or civil offenses.

Criminal Charges or Punitive Damages?

Dram shop liability and social host liability cases usually fall under the realm of civil suits. These are lawsuits that seek punitive damages, rather than criminal charges.

“Punitive damages” refers to the amount of money a judge orders a defendant to pay to deter him from repeating his behavior. Generally speaking, state laws determine the amount of punitive damages awarded for liquor liability (and other) cases.

However, when these lawsuits are filed over an innocent party’s death due to the action of an intoxicated person, both civil and criminal charges may be brought against the person or organization that furnished the booze. The cases are decided independently as far as culpability and punishment are concerned.

In criminal liability cases, the state may bring a suit against...

• The licensee or owner of a licensed establishment.
• Individuals employed by that establishment.
• Social hosts.
• Employers.

Unlike civil suits, these address the criminal aspect of serving alcohol to visibly intoxicated people or minors. And while a civil suit is predicated on monetary awards or judgments, the result of a criminal suit can be a jail or prison sentence.

In the next section, we take a closer look at dram shop laws and how they affect small-business owners like you.

Liquor liability lawsuits can result in both civil and criminal charges.
Part 2: How Do Dram Shop Laws Hold Commercial Liquor Sellers Liable?

Recall from The Legal Scoop Behind Liquor Liability section of Chapter 1 that dram shop liability laws allow a third party injured by a drunk person to sue a commercial entity – that’s you – for contributing to that person’s intoxication. A “third party” is someone not involved in the transaction or drinking of alcohol. For example, a bicyclist hit by a drunk driver is considered a third party.

Small businesses can be held liable for alcohol-related crimes or accidents if they…

• Sell alcohol in a commercial capacity (e.g., bars and liquor retailers).
• Furnish or serve alcohol in a commercial capacity (e.g., catering operations).
• Allow patrons to bring their own alcohol and imbibe at their establishments (e.g., restaurants or banquet halls).

While the laws vary from state to state, common dram shop statutes outlaw…

• Selling or serving alcohol to minors (illegal in all 50 states).
• Selling or serving alcohol to visibly intoxicated individuals.
• Selling or serving alcohol to the “habitually intoxicated” (i.e., someone known in the community for their addiction to alcohol).

In some states (such as Texas and New Jersey), minors can sue establishments that served them for the injuries they suffered while intoxicated. Though 10 states do allow intoxicated patrons to sue establishments for selling the alcohol that led to their injuries, most dram shop laws are designed to protect innocent third parties.
How Do Dram Shop Laws Affect Small Businesses?

The only unifying law across all 50 states is that serving alcohol to minors is illegal. Beyond this, things get murky. Each state seems to have its own stipulations as to what even qualifies as “obviously intoxicated.”

Most states allow a plaintiff to sue for damages when the liquor-licensed establishment’s employees knew or should have reasonably known that they were serving an intoxicated person. But because this is a common-sense-based notion, it can be incredibly difficult to prove one way or the other in court.

To shed some light on the matter, some states have attempted to create more specific criteria for intoxicated behavior. For example:

- **Missouri** deems “significantly uncoordinated physical action or significant physical dysfunction” to be proof of intoxication.
- **Massachusetts** holds that “drunk, loud, and vulgar” behavior counts as “visibly intoxicated.”
- **New York** allows toxicologists who never saw the “visibly intoxicated” patron to give their expert opinions based on the patron’s blood alcohol levels.

Other states are much broader in their approach. For instance, Illinois’s dram shop laws allow innocent third parties to recover damages after demonstrating:

- Proof that alcohol was sold to the patron.
- The plaintiff (third party) sustained injuries.
- The sale of alcohol was the proximate cause of the patron’s intoxication.
- The patron’s intoxication was at least one cause of the plaintiff’s damages.

This law kicks the door wide open for liability suits. Gone are the prerequisites that the seller knew or should have known that the patron was intoxicated. That means that everyone who sold the patron alcohol could be sued, regardless of whether or not that person was intoxicated at the time.

Remember that many people can be named in a single liquor liability suit. In the hands of a skilled lawyer, the plaintiff could sue the restaurant where the patron had their first couple of drinks, the casino where they stopped for beer and a round of poker, and the bar where they drank themselves to a pulp before putting their keys in the ignition and hurting the third party.

In Texas, “The Safe Harbor” clause can grant your establishment immunity from dram shop liability. If you can prove that your employees have completed a TABC Seller/Server Training Program, a plaintiff can only successfully sue your business if they can prove that you encouraged your TABC-approved employee to violate the Texas Dram Shop Act.
Does Your State Have Dram Shop Laws?

While most states have some kind of dram shop law, not all of them do. Take a look at the map below to see if you live in a state with no formal dram shop laws on the books:

Dram Shop Laws by State

If you live elsewhere, you must consider your state’s dram shop laws—which can vary a great deal from place to place. To learn more about your state’s legislation, check out the National Conference of State Legislatures article, “Dram Shop Civil Liability and Criminal Penalty State Statutes.”

It’s also important to keep in mind that even if your state doesn’t have a formal dram shop law, your business can still be held liable for an alcohol-related incident.

Earlier, we mentioned that states without dram shop laws likely enforce commonplace negligence laws, which can hold you responsible if your actions don’t align with what most people would have done in a similar situation.

For example, if you sold beer to an already visibly intoxicated person, saw them get into their car, and found out later they crashed and hurt a pedestrian, there’s a good chance your business could be sued by the pedestrian and held liable for the damages.

The injured party could argue that most people would have refused the drunkard service and perhaps even alerted the police to a drunk driver.

### Part 3: How Do Social Host Ordinances Hold Event Hosts Liable?

As we mentioned in Chapter 1, it’s not just businesses and business owners who have to worry about liquor liability. Owners of residential property have liquor liability regardless of who purchased and consumed the alcohol. Social host laws enforce this liability.

Social host laws vary drastically from state to state. While some states do not impose any liability on social hosts, others states hold social hosts responsible for injuries that occur on their premises. Read on to learn more.

### How Do Social Host Laws Affect Individuals?

The aim of most social host liability laws is to reduce alcohol-related injuries and deaths of minors who drink illegally. They accomplish that goal by giving party hosts (typically parents or another adult in charge) incentive not to serve or make alcohol available to minors.
But just as dram shop laws vary from state to state (and even county to county), so do social host laws. State laws may:

- Impose social host liability.
- Explicitly grant immunity to social hosts.
- Relate only to adult hosts furnishing alcohol to minors.
- Relate to adult hosts furnishing alcohol to both minors and intoxicated adults.

Some states have even more specific laws. In New Hampshire, for example, a minor who serves other minors may be held liable. And if the host was unaware that underage drinking was taking place in their home, they could still be liable for injuries—even though they weren’t present and didn’t provide the alcohol.

For an example of how these statutes work, let’s take a look at another state: New Jersey. In the Garden State, social hosts can be liable for the injuries a “visibly intoxicated” guest causes, so long as the third party’s injuries were caused by the guest driving while under the influence. In the eyes of New Jersey’s courts, the provision of alcohol by a host and self-service by guests are one and the same. The blame comes back to the host.

Some states have only recently adopted formal social host laws. According to a press release by the Illinois Liquor Control Commission, the state passed its social host law in 2012 in response to the fact that friends and family members are often the primary source of alcohol for underage drinking. Those who violate the social host law can be charged with a misdemeanor and fined no less than $500 if they knowingly permit underage drinking in their home.

If the intoxicated minor engages in an activity that harms or kills another person, the social host can be charged with a felony. But so long as the social host has taken all reasonable steps to prevent the activity (such as drunk driving) from occurring, they won’t be charged.

**Does Your State Have Social Host Laws?**

As you have seen, social host laws are common, but the specifics of the laws vary wildly from state to state. The map below indicates which states have laws that relate to social host liability and underage parties and which ones have general social host laws.

Remember, even if your state doesn’t have social host laws, you could still be charged with civil or criminal liability over an alcohol-related incident. Many states without these ordinances apply other laws to hold party hosts criminally responsible for allowing underage guests to consume alcohol or over-serving adult guests who then harm third parties.
Chapter 3: Liquor Liability Lawsuits: Everything You Need to Know
Liquor Liability Lawsuits: Everything You Need to Know

Few things strike fear in the heart of an American business owner or individual more than the prospect of being sued. Perhaps that’s because in 2008 alone, tort liability cost small businesses (those with less than $10 million in annual revenue) more than $105.4 billion, according to the U.S. Chamber Institute for Legal Reform study “Tort Liability Costs for Small Business.”

Relatedly, the actuarial firm Towers Watson reports in its “2011 Update on Tort Cost Trends” that the total cost of all torts in the U.S. was $264.6 billion in 2010. These lawsuits cost U.S. citizens roughly $857 per person.

No wonder business owners and individuals shiver at the thought of facing a lawsuit! Even if a case is ultimately dismissed, the cost of legal defense fees alone can be enough to bankrupt a person or a small business. So what can you do to fend off the chance of a liquor liability lawsuit?

To build a risk management plan, first you have to know what you’re dealing with. Let’s start peeling back the layers behind these lawsuits so you know what you’re up against. In this chapter, we’ll look at how liquor liability lawsuits work and what to do if you’re sued.
Part 1: How Do Liquor Liability Lawsuits Work?

In 2001, a patron was served 14 drinks – seven rounds of cognac shots with beer “chasers” – over a two-hour span at the Club Caravan bar in Massachusetts. The patron was stumbling by the time he left at 2:00 a.m. After leaving the bar, the patron hopped in his car and headed south on Route 24.

Not far from where the driver was barreling down the highway, State Trooper Gerald Shea had pulled over to help Juan Rivera in the breakdown lane. Then, the driver slammed into the police cruiser. Both Shea and Rivera were severely injured.

Shea and Rivera brought negligence claims against the driver, Club Caravan Inc., Caravan Realty Inc., and individuals who owned or operated the bar that had served the driver. Club Caravan Inc. held the liquor license and ran the business that served the driver, while Caravan Realty Inc. owned the underlying real estate.

A Superior Court jury found all of the defendants liable. In turn, they awarded the plaintiff almost $5 million in damages.

The case, Rivera v. Club Caravan Inc., is a good example of how liquor liability lawsuits work – and how a business owner like you could be implicated.

This case was a civil trial, meaning the defendants were not being tried for criminal charges (though the driver did jail time for driving under the influence). Instead, the defendants were being sued for compensatory damages – money lost as a result of the defendant’s negligence, as well as compensation for pain and suffering.

Civil wrongs like these are called “torts.” Let’s break this tort down into steps so you can see how a lawsuit plays out.

Step 1: The Triggering Incident

This is the event that started it all. In the Rivera case, the “triggering” incident is the car crash. As soon as that drunk driver hurt Shea and Rivera, the injured parties had reason to seek compensation for their losses (such as time lost from work and through-the-roof medical bills).

Then there is the “trigger of liability” – the action that ties your establishment to the incident in question. Each state has its own definition of this trigger, but here are some common stipulations:

- If you serve a person who appears to be intoxicated, you’re probably on the hook for any third-party injuries that may happen as a result of his intoxication.
- You must see that the person is intoxicated.
- The alcohol must be the “proximate” (i.e., primary) cause of the injuries. You can ask yourself: if the alcohol weren’t consumed, would this injury have happened? If the answer is no, then alcohol is likely the proximate cause.

If the injured party believes your establishment is on the hook for any of the above, they may name you in the lawsuit.

Step 2: Settling Out of Court

Whenever possible, most parties try to settle an issue out of court. Some states even require an attempt at dispute resolution before a case can be tried in court. And if you have a Liquor Liability Insurance policy, there’s a solid chance your provider would rather settle than progress with a trial. The costs of litigation are exorbitant and only add up as a trial drags on.

(To learn more about why these lawsuits cost so much, jump to “Part 3: Why Are Liquor Liability Lawsuits So Expensive?”)
Step 3: Pleadings

In the case of Rivera v. Club Caravan Inc., a settlement was off the table. So each party in the lawsuit filed initial papers called “pleadings.” These papers explain each party’s side of the dispute, which includes:

- **The complaint.** The party who filed the lawsuit is called the “plaintiff” (in this case, it’s Rivera). The plaintiff’s pleading is called the “complaint,” which triggers litigation. The plaintiff files a complaint with the court and formally delivers a copy to the defendant. This document outlines the defendant’s negligence that caused the plaintiff harm. In liquor liability cases, this would be serving alcohol to an intoxicated person or a minor.

- **The answer.** The accused party in a lawsuit is called the “defendant” (in this case, it’s Club Caravan Inc.). The “answer” is the defendant’s response to the complaint, and it provides the defendant’s side of the story. Sometimes, the defendant will file counter-claims against the plaintiff. There are some instances when a defendant will request the other party to clarify its legal theories or ask the court to dismiss the suit altogether. How the defendant responds will determine whether a new complaint is filed and a new answer requested. Once the parties have completed this process, the pleadings are submitted so the court knows the problem that needs to be resolved.
Step 4: The Discovery Process

This is where the legwork of a lawsuit takes place. After the lawsuit is filed with the court, discovery begins. Each party asks each other and third parties about facts and issues surrounding the case. Lawyers on either side research the law, interview witnesses to assess the merits of claims and defenses, and organize their cases.

During this phase, information is compiled through formal means, such as written questions, requests for copies of documents, and requests for admission (which ask a party to admit or deny statements of fact).

Attorneys will also conduct depositions where they question witnesses under oath and have them recorded by a court reporter. These may be used at trial to highlight inconsistencies in the other party’s story. Here are some other important elements of the discovery period:

- **Expert witnesses.** If a claim requires technical information to validate an argument, an expert witness may be called on to weigh in. If the liquor liability suit were being tried in New York, for example, the plaintiff’s attorney may have a toxicologist testify that the blood alcohol level of the driver was enough that he would invariably exhibit visible signs of intoxication. In Massachusetts, the patron need only to have been served a “large number of strong alcoholic drinks” for the bar to have had sufficient information that it was serving a man who could potentially endanger others.
- **Motions.** Even before a trial ever takes place, the parties in the lawsuit may use motions to ask the court to rule or act. Some motions ask the court to dismiss part or all of a plaintiff’s case or a defendant’s defense without trial. Other motions might ask the court to order a party to exclude certain evidence from trial.
- **Timing.** Under the rules of court, the parties decide the amount of time for discovery. The court, however, sets trial dates.

Step 5: The Trial

Before the case is tried, each party submits a “brief” to the judge, which outlines the arguments and evidence to be used at trial. If a trial does not have a jury, it’s called a “bench trial.” If the trial does have a jury, both parties are allowed to question potential jury members. And then the trial begins. Here’s what you can expect:

- **Opening statements.** These are the start of the trial. Each party presents the highlights of its case in its opening statement.
- **Evidence.** After both parties introduce their cases, they present evidence. This is the time witnesses are called to testify, witnesses are cross-examined, or documents and exhibits are introduced for the judge or jury’s consideration. The plaintiff goes first, and the defendant follows.
- **Closing arguments.** After all the evidence has been presented, each party delivers its closing arguments.
- **Jury instruction.** After closing arguments, the court instructs the jury on the law to be applied to the evidence. In the case of Rivera v. Club Caravan Inc., the jury considered Massachusetts’s dram shop laws, but it also had to consider the liability of Caravan Realty, which had been sold after the incident.
- **Verdict.** In the Rivera case, the jury awarded the plaintiffs $5 million in damages and found all named defendants liable.
- **Post-verdict.** If the trial court made an error, a party may challenge the jury’s verdict. The defense in the Rivera trial did request a motion for judgment notwithstanding the verdict, which asks the court to disregard the jury’s verdict and enter a different decision.
- **Costs and fees.** Whichever party wins the case will typically file a motion to order the losing party to pay for their court costs to defend or prosecute the case. These costs typically exclude attorneys’ fees.
Step 6: Appeals

If a party is dissatisfied with the result of the case, it may appeal and request a retrial by a higher court. The appellate court will affirm the verdict if it finds that the previous trial court didn’t make an error. If there was an error, the appellate court will either reverse the verdict or order a new trial.

This process can extend the case by years. The Rivera case was appealed and the appellate court found the proceeding trial court did make an error. It found the plaintiff’s liability case against the realty trust failed as a matter of law.

As you can see, litigation is a long, intricate, and costly process — and one that is best avoided. But sometimes, the worst-case scenario comes to fruition. So let’s take a look at how you can respond if you are sued over liquor liability.
Part 2: What to Do if You’re Sued: A Step-by-Step Guide

There are few things more stressful than being slapped with a lawsuit. Sometimes, it can be tempting to ignore the suit altogether. However, if you fail to respond to a plaintiff’s complaint within a certain amount of time, you may set yourself up for bigger woes. For instance, if you ignore the complaint, a judgment may be awarded against you by default.

In turn, your wages can be garnished, your bank accounts attached, and your personal assets collected. And you’ve worked too hard to let that happen.

So before resorting to an “out-of-sight, out-of-mind” defense tactic, let’s review how you should address a lawsuit against you or your business.

If you ignore a complaint, a default judgment can be automatically awarded against you.
Step 1: Know Your Timeframe for Responding to the Lawsuit

Regardless of how you decide to respond to a lawsuit, it’s important to know the clock is ticking. Many lawsuits offer a timeframe of 20 days from the date that you were served with the summons and complaint to file your response with the appropriate court. As a rule of thumb, always read the summons that you were served.

As we mentioned earlier, failure to respond in a timely fashion may result in the plaintiff being awarded a default judgment of what they requested in their complaint. Best to err on the side of caution and respond – people have a tendency to aim high when suing for damages!

Step 2: Evaluate Your Options

Once you have been served with a civil complaint, there are several ways you could respond. Short of settling out of court with the plaintiff, you have four options:

Option 1: File an answer. As we mentioned in the previous section, an answer is how a defendant usually responds to the plaintiff’s complaint. This gives you the chance to address and defend against the complaint’s allegations and legal claims. This will set the wheels of litigation in motion.

Option 2: File a motion to dismiss. To buy yourself more time to file an answer, you can ask the court to dismiss the lawsuit with the appropriate motion. This isn’t an exhaustive list, but to give you an idea, some feasible reasons for dismissal include:

- The court doesn’t have personal jurisdiction over you.
- The plaintiff didn’t properly serve the summons or complaint.
- There is no legal basis for the plaintiff’s claims.

Option 3: Sue the plaintiff. You may decide to pursue your own claims against the plaintiff. These are called “counterclaims.”

Option 4: Do nothing. Let the record show that we don’t endorse this option, but it is an option. If you don’t respond to a complaint, be prepared for the plaintiff to request a default judgment from the court.

Remember, these may not be all your options. If you have questions regarding a specific lawsuit, please seek legal counsel.

Step 3: File a Response with the Appropriate Court

Once you’ve decided on your course of action (other than ignoring the complaint), you need to complete the response and file it accordingly. You may be required to pay filing fees or submit a fee waiver application by a certain date. Many courts allow you to file electronically, and some may only accept electronic responses.

Step 4: Send the Plaintiff a Copy of Your Response

Essentially, any document you file with the court must be duplicated and submitted to the plaintiff or their attorney. Giving the documents to the other party is called “service of process.”

Step 5: Prepare for the Next Phase

Your next step will depend on the type of response you filed. If you submitted an answer, the lawsuit moves forward into the discovery phase. For counterclaims, the plaintiff must file an answer to your answer and counterclaim. If you filed a motion, the court makes a decision on that motion, which means you’ll have to wait for a hearing to be scheduled. One thing is certain: this journey is going to get expensive pretty darn fast.
Part 3: Why Are Liquor Liability Lawsuits So Expensive?

As you’ve read, the cost of liquor liability lawsuits can easily creep into the millions of dollars. But why are these lawsuits so expensive? There are a few factors at play here.

First, there is the time-consuming, complicated nature of the beast itself. Second, some states enforce something called “joint and several liability,” which can end up making one defendant pay more than their fair share. Read on to learn more about both of these issues.

Liquor Liability Lawsuits: Complicated and Costly

By nature, liquor liability lawsuits can be complicated to defend. The trickier the lawsuit, the more time it takes your defense attorney to build a case, and the more money it costs.

Let’s say your bar serves a guy one drink at three in the afternoon. He appears completely sober when he enters your establishment and after he leaves – and you have done nothing to break the law. But he spends the rest of the afternoon hopping from bar to bar. By evening, he is drunk, gets behind the wheel of his car, and ends up hitting two pedestrians on his way home. One of them is fatally injured.

The victims’ families decide to sue, but because of how slow the legal process works, the actual lawsuit comes about two years after the incident. Your bar is named as a liable party along with every other bar where the man drank that day.
Once you are charged with liquor liability, you and your lawyers must start gathering evidence to show you have no liability. In other words, they must prove your serving of the allegedly intoxicated person (AIP) was not the primary cause of the injuries.

That’s your defense. But how are you going to prove it?

You’ll essentially need to build a verifiable timeline of the AIP’s movements and his levels of intoxication. Lawyers have to do all that legwork – and they usually get paid by the hour. Let’s take a closer look at some of the issues lawyers must deal with when building a liquor liability defense:

• **Witnesses.** Gathering witnesses for an incident that happened multiple years ago can be difficult. If you’re lucky, one of your regular patrons will remember that night. If you’re really lucky, you’ll be able to find the AIP’s drinking companion, who will attest to the AIP’s sobriety. Obviously, as the bar owner, you will also be interviewed. But juries tend to be skeptical of what business owners have to say.

• **Evidence.** The two best ways to prove your establishment is without liability are video footage and receipt records. Unfortunately, most establishments don’t keep these records very long, and they can be difficult to track down years after an incident.

• **The old BAC argument.** After drunk-driving accidents, drivers are usually tested for their blood alcohol content (BAC). If the test reveals that the AIP’s BAC is over the legal limit of .08, the plaintiff’s lawyers will try to tie that number to your liability. Fortunately, that’s not how it works. In order for someone to prove your liability, they must show that the AIP was visibly intoxicated. Not everyone has the same alcohol tolerance. Which leads us to…

• **Expert testimony.** Because the BAC argument is so common (and so likely to convince jury members), many insurance providers have their own BAC expert that they keep around to testify on behalf of their clients. The expert can explain that while two drinks might make one person visibly intoxicated, it may not affect a seasoned drinker in the same way. They might also explain that BAC blood tests can be faulty. The test might give different results depending on the type of blood used.

If your legal team can’t prove that you have absolutely no liability in the drunk-driving incident, they can at least try to prove that your establishment is liable for only a small percentage of the damages. That way, the defendants who are primarily at fault take on the bulk of the financial burden. You might only be responsible for 5 percent of the damages. The other bars might account for 20 percent of the damages. And the drunk driver might take on the other 75 percent.

Unfortunately, that’s not how it works in all states. If your state enforces “joint and several liability,” your establishment could be responsible for paying a whole lot more.

**What Is Joint and Several Liability?**

Some states have dram shop statutes that allow for something called “joint and several liability.” This, dear readers, is the stuff of nightmares. It means that all defendants named in a case (for example, your establishment and the drunk driver) are responsible for paying all the damages (the “verdict”) to the plaintiff – no matter if the court decided one defendant had more liability than the other. If one defendant can’t afford to pay, the other defendants must make up the difference.
Let’s take a look at an example: an AIP left your establishment, ran a red light, and hit a car that was lawfully passing through the intersection. The driver was killed and the driver’s spouse filed a $2 million wrongful death suit against your business and the drunk driver.

In a standard case with no aggravating circumstances (i.e., something that drastically increases one party’s liability), a jury might determine that the drunk driver has 75 percent (or $1,500,000) of the liability and your bar has 25 percent (or $500,000) of the liability.

But the drunk driver only carries the minimum amount of insurance, which is a paltry $25,000. In a state that doesn’t enforce joint and several liability, you would only be legally responsible for paying $500,000 to the plaintiff. But in a state that does enforce joint and several liability, you would be responsible for making up the difference. If that’s the case, you would pay $1,975,000 in damages alone.

As we said, this is scary stuff. But here are a few things to keep in mind:

- **Not every state has laws that enforce joint and several liability.** Most states (46 of 50) have some kind of joint and several liability rule for tort cases, but in recent years, many states have limited the scope of the rule. In some cases, the rule has been abolished altogether.

- **Different states have different triggers.** For example, one state’s law might say that joint and several liability kicks in when a defendant is more than 50 percent liable. Another state might say it kicks in as soon as a defendant is one percent liable.

What to Remember about Liquor Liability Risk

When considering your risk of facing a lawsuit, it’s important to remember that a restaurateur or caterer has the same potential for liquor liability as a bar owner. The only difference is how much exposure you have.

For example, a restaurant that serves alcohol every night has more risk exposures than a caterer who only occasionally serves alcohol. Similarly, a bar that employs a staff trained in serving procedure may have fewer risks than a bar with an untrained staff.

And if you run a BYOB establishment? The bad news is that most state laws don’t distinguish between establishments that actually sell alcohol and those that allow patrons to bring their own.

Here’s the takeaway: you need to manage and reduce your liquor liability risk. Obviously, no one wants to end up on the wrong side of a lawsuit. In the next chapter, we’ll explore some ways you can offset the chance of facing such a tort.
Chapter 4:

How to Mitigate Your Liquor Liability Risks & Avoid Lawsuits
How to Mitigate Your Liquor Liability Risks & Avoid Lawsuits

In the last chapter, you read about how expensive and time consuming a liquor liability lawsuit can be. It doesn’t help that the laws can often seem stacked against you. After all, it’s not hard to imagine a composed guest leaving your premises after two drinks and getting into a car accident on the way home.

So are liquor liability lawsuits inevitable? We wouldn’t say that – you can always seek to control your liability through risk management.

Here, we’ll discuss the ways both businesses and social hosts can mitigate their risks and reduce the chance of being sued for liquor liability. We’ll also discuss Liquor Liability Insurance and how it protects you from the high cost of an unavoidable lawsuit.
Part 1: Protecting Your Business from Dram Shop Liability Lawsuits

Here are some tips that can reduce your risk and support responsible service:

Train Your Employees in Safe Alcohol Service

Responsible drinking begins with responsible service. To enroll your bartenders, servers, and staff in an alcohol-service certification program, check out Training for Intervention Procedures (TIPS). TIPS offers training that instructs servers on…

- Their legal responsibilities when serving alcohol.
- How to recognize and prevent intoxication.
- The appropriate precautions to take with guests who’ve had too much to drink.

In Texas, your establishment can be immune to liquor liability suits if you can prove the employee who served the intoxicated guest is certified in alcohol service. Plus, 11 states have laws requiring server training for alcohol. Take a look:

Alcohol Server Training Requirements by State

- States that require server training for alcohol service
- States that have no alcohol service training requirements

Manage Your Risks

In addition to properly training your staff, you’ll want to mitigate the risks that are within your control. Here are a few ideas to get the ball rolling:

- **Don’t give away free drinks.** This encourages overdrinking. Instead, try giving away free appetizers that will help slow the rate of alcohol absorption.

- **Make last call before your bar closes.** Or before the party is over. That way, folks have a chance to sober up before heading home.

- **Always card everyone.** No matter how old your patrons appear to be, everyone should always present their IDs before a drop is served. You never want to risk inadvertently serving a minor.

- **Create official protocol for handling inebriated guests.** That way, your employees won’t have to do any guesswork. This should include action steps, such as denying service, asking for a designated driver, or offering to call a cab.

- **Keep your patrons aware with signage.** All places that serve or sell alcohol should have a sign that explains your establishment cards and only sells booze to those who are 21 and older. You might also want to put up signs in a well-trafficked area (such as the bathroom) that explain how to drink and stay under the legal driving limit. These signs usually explain what constitutes “one drink” and how a person’s height, weight, and sex can affect the way alcohol is metabolized.

- **Pull receipts.** As soon as you catch wind that there’s been an accident, physical altercation, or other alcohol-related incident, you should pull receipts. Credit card transactions are easy to pull – the receipts are often even itemized. Depending on your setup, cash payments may be more difficult to track. Immediately find the person who served the person involved, and ask what was served, how many drinks were served, and whether or not the server engaged the person in conversation. Document all of this. The point here is to gather evidence while all the information is still fresh in case you do wind up in court.

- **Pull surveillance footage.** Again, as soon as you hear about an incident involving someone who drank on your premises, try to secure the video footage from that night. Video surveillance can be valuable – if can show when the person was at your establishment, how many beverages he drank, and how he was behaving – all from an objective perspective. But it’s important to secure the footage as soon as possible. After all, most business owners overwrite their footage after a certain number of days.

Your business should take steps to gather evidence as soon as you hear about a liquor-related accident – before you even know if you’ll be sued for liability!
Outsource the Risk with Indemnification Clauses

Often times, a hit event takes a number of key players to pull it together. For example, let’s say your business is hosting a holiday party. You hire a caterer and book a banquet hall for the occasion. Because there are a lot of different entities involved in the function, liability shouldn’t be such an issue, right?

Not so fast. More entities just means more ways to pass the buck. And under liquor liability laws, you can be held liable if one of your guests overindulges and hurts someone at the party or once they leave – even if you weren’t the one pouring the drinks.

One way to parse out liability is to draw up a contract with your vendors and / or caterers that includes an “indemnification clause.” This clause clearly states…

• That the vendor will indemnify, defend, and hold harmless your company from all liability arising from alcohol-related incidents.

• Which specific signifiers should stop bartenders and servers from serving individuals who appear intoxicated.

An “indemnification clause” helps protect you, the client, from legal issues related to the vendor performing the contract on your behalf. Whether or not the contract holds up in court depends on the legal strength of the document. Even if the contract does have staying power, it’s ultimately the court’s decision to recognize the terms of the agreement. Be sure to work with an attorney to ensure yours has a better chance of protecting your business in court.

Quick Guide to Indemnification Clauses

1. Have a lawyer draft your indemnification clauses.

2. Indemnification clauses only work if all parties have the proper insurance.

3. For even stronger protection, ask for “additional insured” status from your business partners.
Purchase a Liquor Liability Insurance Policy

Think of a Liquor Liability Insurance policy as your last line of defense when you’re slapped with a lawsuit despite your best-laid risk management plans. If your business is sued for serving the intoxicated person that harmed a third party, you can rely on your policy to cover your…

• Lawyers’ fees.
• Damages arising from the liquor-related accident.
• Judgments or settlements.
• Other court expenses.

Be sure to look for a plan that covers typical liquor liability claims, such as injuries arising from drunk driving and assault and battery. And keep in mind that no matter how inclusive your policy may be, your coverage will not protect your business if you serve alcohol to minors.

(For more information on Liquor Liability Insurance, jump to the section Protecting Your Business with Liquor Liability Insurance.)

Part 2: Protecting Yourself from Social Host Liability Lawsuits

Remember, as a social host, you can be held liable for the actions of your intoxicated guests. Consider these tips to help keep them from overindulging and hurting others:

• Consider outsourcing. If you are throwing a holiday party for your organization, you may be best off leaving it to the professionals. That way, you can request an indemnification clause in your contract with vendors to reduce your own liability exposure. The same goes for private parties. If you’re hosting a considerable hurrah, it may be worth the investment to have someone else furnish the drinks at a place other than your home. This doesn’t always work, as sometimes venues will want you to carry your own insurance coverage.

• Don’t allow minors to drink on your premises. It’s illegal and not worth the repercussions. Some states (including Georgia) allow parents to supervise their children’s underage drinking, so long as they don’t leave the premises. You can look up your state’s laws on the Alcohol Policy Information System’s page, “State Profiles of Underage Drinking Laws.” While this exception may apply to your teenagers in some places, it doesn’t extend to others’ kids. Furnishing (i.e., simply having alcohol available at your home) can land you in a world of trouble if underage guests consume alcohol on your property.

• Ration drinks. For age-appropriate drinkers, you may consider rationing drinks by way of drink tickets. Not only can this cut costs for your party (open bars are expensive!), but a set number of tickets per person can curb overindulging.

• Set the tone for drinking expectations. Pop a note on your invitations that says something to the effect of, “Alcohol will be available, but we request that guests please drink responsibly!” Or if you are hosting a work party, send an email to remind employees to practice good judgment.

• Serve food and other (nonalcoholic) drinks. Food can help slow down the rate of alcohol absorption. Plus, if guests have something to nibble on between sips, it cuts down their consumption. Snacks with protein and complex carbohydrates are best because they are filling. And if you offer guests other drink options, such as water, soda, and “virgin” beverages, they can better pace themselves.

• Designate drivers. If you notice a guest has had a bit too much, arrange a designated driver. One of your guests would probably be happy to volunteer, or you could call a cab.

Liquor Liability Insurance can never shield you from liability related to serving alcohol to a minor.
- **Last call.** It’s always a good idea to have your “last call” well before the party wraps up. Everyone metabolizes alcohol differently, but typically, the body can metabolize about 0.25 ounces of alcohol per hour. So if you stop serving alcohol a couple hours before the party ends, your guests will have a chance to process the drinks they’ve had before they head out.

- **Carry coverage.** Liquor Liability Insurance coverage acts as a safety net when attempts to manage your liabilities aren’t enough. If you have a Homeowner’s Insurance policy that includes host liquor liability coverage, check the terms to ensure it covers events you host away from your home. Even with this protection, it can be difficult to prove your coverage to inquiring venue owners. That’s why for one-time events, you may want to purchase Special Event Insurance. Read more about this coverage in our article, “How (and When) to Purchase Special Event Insurance,” on the insureon blog.

If you have questions about Liquor Liability Insurance or Special Event Insurance, feel free to consult one of our licensed insurance agents. We can help make sure your event is covered so you can focus on enjoying the party.

In the meantime, let’s take a more detailed look at Liquor Liability Insurance in the next section.
Part 3: Protecting Your Business with Liquor Liability Insurance

Unfortunately, risk management can never completely eliminate your chances of a liquor liability lawsuit. In fact, people can file lawsuits against a business even when it follows the law to the letter.

These claims might eventually be dismissed on legal grounds, but that doesn’t mean your pocketbook won’t take a hit. As soon as someone threatens you with legal action, you need to hire legal counsel – a service that’s not free. In fact, legal counsel for dismissed claims can still cost you between $2,000 and $5,000.

Luckily, you can purchase Liquor Liability Insurance to protect you from these costs and more.

What Is Liquor Liability Insurance?

Liquor Liability Insurance helps business owners afford the high cost of a liquor liability lawsuit. It can help you pay for expenses such as…

• Attorneys’ fees.
• Settlements.
• Judgments.
• Damages and other court fees.

In other words, when your business violates your state’s dram shop laws and that violation causes someone a loss, your insurance policy can cover the cost to make amends. It’s usually sold as a standalone policy or bundled with a General Liability Insurance policy.

Liquor Liability Insurance can only protect you from costs arising out of the covered alcohol-related events listed in your policy. Commonly covered incidents include…

• Drunk-driving accidents.
• Employee incidents (i.e., accidents that arise when employees imbibe on the job).
• Mental damages.
• Property damages.

Your Liquor Liability Insurance might also have “exclusions” (i.e., events not covered by your policy). For example, assault and battery incidents are often excluded (although, given how common bar fights are, we encourage you to find a policy that does include this protection).

Do note that all Liquor Liability Insurance policies exclude coverage for claims alleging you furnished alcohol to a minor.
Does Your State Require Liquor Liability Insurance?

Some states require liquor-selling establishments to carry a certain amount of Liquor Liability Insurance before they can obtain a liquor license. Unfortunately, comprehensive and updated data on this subject is difficult to come by – even for insurance agents – because the laws vary so wildly from state to state. Additionally, a court ruling or new legislation can change dram shop laws that govern these stipulations.

Check out the map below to see if you live in a state that requires your business to carry Liquor Liability Insurance. Do note: we’ve done our best to summarize the information available, but we could not verify the data for some states. It’s always a good idea to check with your local ABC board about the rules and regulations for your area for the latest data.

Additionally, most states require liquor-selling establishments to carry Liquor Bonds as a requirement for licensure. You can read more about these bonds below.
What You Need to Know about Liquor Bonds

Liquor Bonds (aka Alcohol Bonds, Liquor License Bonds, and Liquor Tax Bonds) are a type of surety bond that guarantee your compliance with federal or state laws governing the sale, manufacture, or warehousing of alcoholic beverages. They are NOT a kind of insurance.

Most states require you to carry a Liquor Bond as a prerequisite for your liquor license, but the laws vary depending on where you live. Usually, this bond guarantees that you will pay alcohol-related taxes or fees imposed by state or local government. Unlike insurance policies, the bond doesn’t offer any financial protection.

Rather, it protects the “obligee” (in this case, the government entity that requires the bond) from falsified records of sale or your inability to pay requisite taxes on previous sales. Should you fail to pay the state or local government the fees you owe, the bond will reimburse it for its losses. However, because a bond is a form of credit, you are required to pay your surety provider back for the full amount of a claim.

Because a Liquor Bond primarily protects the government from losses, it doesn’t offer you any liability protection from liquor-related lawsuits. You need Liquor Liability Insurance for that.

Conclusion

When it comes to liquor liability, both small businesses and individual hosts must be aware of their state’s dram shop and social host liability laws. These laws vary drastically and make those who serve, sell, or furnish alcohol legally responsible for the liquor-fueled accidents that may result.

That’s why liquor liability lawsuits are a real and present danger. However, with a solid risk management plan, businesses and hosts can reduce their exposures. And in case those measures fail, you can always rely on Liquor Liability Insurance, which helps you pay for the costs that accompany expensive and time-consuming court battles.
Quick Resource Guide

Alcohol Policy Information System
- State Profiles of Underage Drinking Laws
- Underage Drinking: Prohibitions Against Hosting Underage Drinking Parties [map]

Centers for Disease Control (CDC)
- Fact Sheets: Alcohol Use and Health
- Fact Sheets: Binge Drinking
- Impaired Driving: Get the Facts

Gallup.com, 2012 Consumption Habits Poll


Madison-St. Clair Record, “Joe Man’s Bar and Grill Sued by Woman Claiming Sexual Assault”


Masscases.com, Rivera v. Club Caravan Inc.

The National Conference of State Legislatures, “Dram Shop Civil Liability and Criminal Penalty State Statutes”

The National Highway Traffic Safety Administration (NHTSA)

- National Survey of Drinking and Driving Attitudes and Behaviors: 2008
- The Economic Burden of Traffic Crashes on Employers

The National Safety Council (NSC), Falls

Ober Kaler, Clarifying the Confusing World of Indemnification, Hold Harmless, and Defense Clauses

OregonLive.com, “Men Injured in Bar Brawl Seek $3.5 Million for Milwaukie’s Wichita Pub”

TABC Seller / Server Training Program

Training for Intervention Procedures (TIPS)

Towers Watson, “2011 Update on U.S. Tort Cost Trends”

txtrial.com, Poole v. El Chico

U.S. Chamber Institute for Legal Reform, “Tort Liability Cost from Small Business” [PDF]

World Health Organization, “Global Status Report on Alcohol and Health”