Liquor Liability for Elks



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Keep the Lawyer Out!



Liquor Liability

What is Liquor Liability?

What can we do to prevent liability?

How can we defend these claims?

Dram Shop Statute

Florida Statute 768.125

"A person who sells or furnishes alcoholic beverages to a person of lawful drinking age shall not thereby become liable for injury or damage caused by or resulting from the intoxication of such person, except that a person who willfully and unlawfully sells or furnishes alcoholic beverages to a person who is not of lawful drinking age or who knowingly serves a person habitually addicted to the use of any or all alcoholic beverages may become liable for injury or damage caused by or resulting from the intoxication of such minor or person.

And now in English...

- If a lodge **knows** someone is a habitual drunkard or an alcoholic...and serves that person alcohol; AND
- That person becomes intoxicated; and
- That person's actions then cause **injury or damage**...

THE LODGE CAN BE HELD RESPONSIBLE!

What is a "Habitual" Drunk?

"Serving an individual multiple drinks on <u>one occasion</u> would not be sufficient to prove the lodge knew someone was a habitual drunk."

"Habitual but moderate use of liquor does NOT meet the test."

-Sabo v. Shamrock Communications, Inc., 556 So. 2d 267 (Fla. 5th DCA 1990)

So...

Member has a bender one night? Regular has one beer every night? NOT Habitual DrunkNOT Habitual Drunk

What is a "habitual" drunk??

BUT...

Serving an individual a <u>substantial number of drinks</u> on <u>multiple occasions</u> would be circumstantial evidence to be considered by the jury in determining whether the lodge knew that the person was a habitual drunkard.

-Ellis v. N.G.N. of Tampa, Inc., 586 So. 2d 1042 (Fla. 1992).

Intoxication

In order to establish liability under 768.125, the habitually addicted person served at the lodge must be "intoxicated."

"Intoxication" = "any degree of impairment of normal faculties"

If any of the following are impaired, you can qualify as "intoxicated" under the statute:

- 1. Ability to see
- 2. Ability to hear
- 3. Ability to walk
- 4. Ability to judge distance
- 5. Ability to drive automobile
- 6. Ability to make judgments
- 7. Ability to normally perform the mental and physical acts of daily life.

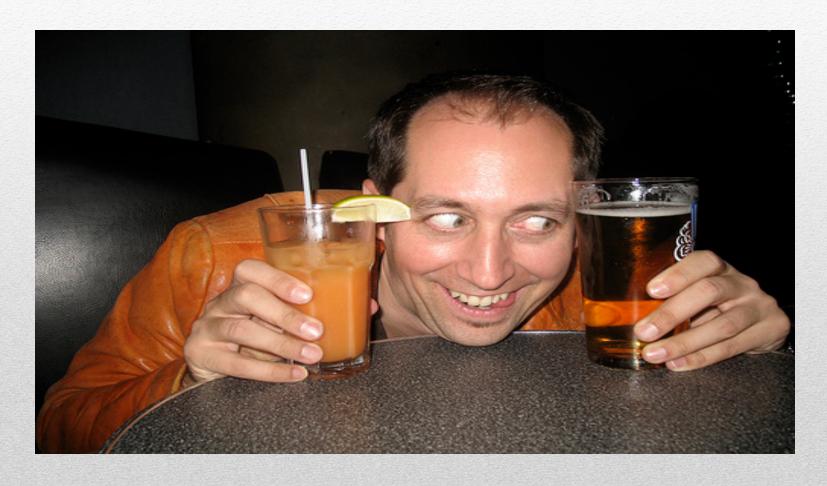
Side Note- Criminal Liability

If you receive written notice from a wife, husband, father, mother, sister, brother, child, or nearest relative of someone habitually addicted to alcohol, and they warn you/lodge of that person's problem and how serving alcohol causes that person an injury...

<u>It is a criminal offense</u> (2nd degree misdemeanor) to serve that person alcohol.

-Florida Statute 562.50

The "Joe" Scenario



The "Joe" Scenario



Could Lodge be Liable?

ABSOLUTELY

Why is Lodge on hook?

- Was Joe a habitual drunk?
- Did the Lodge know?
- Was he served alcohol by the Lodge?
- Was he "intoxicated"??
- Did he suffer injuries and/or damages?

Some Potential Damages

- Property Damage
- Medical Bills (Past and Future)
- Wages (Past and Future)
- Pain and Suffering
- Loss of Consortium

MILLIONS



The "Joe" Scenario-Part 2



The "Joe" Scenario-Part 2



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Some Potential Damages

- All of Joe's Damages
- Mother's funeral expenses
- Father/Daughter's **past and future** medical bills
- Pain and Suffering for Father and Daughter
- Loss of Companionship for Father and Daughter
- Loss of Guidance for Daughter
- Father's Lost Wages while in hospital
- Loss of Net Accumulations (what mother would have earned)
- Loss of Support and Services that Mother provided

Millions and Millions



\$11 Million Verdict



How can we prevent claims?

Lets Analyze:

If Lodge knows someone is <u>habitual drunk/alcoholic</u> and serves them alcohol anyway...the Lodge can be held liable for accident.

Solution:

If Lodge doesn't allow people to get drunk in the first place...you <u>CAN'T</u> have habitual drunks at the lodge!

Prevention of Claims

- Make sure bartenders are properly trained in service of alcohol.
- Make sure bartenders are properly trained on identifying intoxicated patrons (volume, slurring, glassy/red eyes, unsteadiness, exaggerated motions).
- Measure drinks; all drinks will be uniform/ no free pouring.
- More training the better (TIPS, continual training).
- Have bartenders sign acknowledgment of policies.

Prevention of Claims

- Offer ice water or non-alcoholic beverage.
- Offer a menu or some food.
- Slow down service.
- Refuse service.
- Establish a specific person to train/monitor bartenders.
- Document and track incidents.

Avoiding an Accident

- Post signs at bar for cab; offer to call cab
- Offer/Arrange a ride home
- Take keys
- Uber!



First Defense

- Contact leadership
- Create incident report
- Take and Secure photos/videos
- Have bartenders write statement of recollection
- Determine all witnesses, and have them provide statement
- If receipts are available, save the receipts from that night

Take care of our family



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Contact Me

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