

RISK IN FOCUS



HOSPITALITY

Liquor Liability

Introduction

Liquor liability insurance, also known as dram shop insurance, helps protect businesses that sell or serve alcohol by covering property damage and bodily injuries caused by intoxicated individuals after being served or sold liquor. This insurance can cover legal costs, medical bills, repair expenses, settlements, and judgments if your business is deemed liable for a liquor-related incident.

The term “dram shop insurance” is rooted in dram shop laws, which hold businesses liable for selling or serving alcohol to intoxicated or underage individuals who then cause injury, death, or property damage.

These laws establish civil liability on a negligence basis, allowing third-party victims to file lawsuits against the establishment or staff responsible for the serving of alcohol. Each state has specific liability provisions and limitations for dram shop laws, making it crucial for business to understand to comply with state regulations.

States like South Carolina have recently enforced a law mandating all alcohol-serving establishments to carry \$1 million in liability coverage if they operate after 5pm. The state’s insurance department has flagged the liquor liability insurance market as “extremely unprofitable,” with significant underwriting losses.¹ The pandemic’s temporary business slowdown and court proceeding halt delayed the market’s challenges. However, with courtrooms back to normal, the frequency and severity of drunk driving lawsuits have spiked, leading to higher insurance costs.

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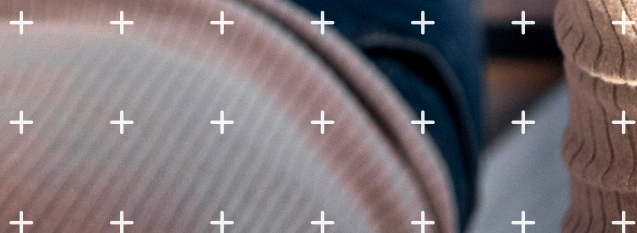
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Introduction (Continued)

Despite rigorous training and warnings, servers may find it tempting to accommodate an intoxicated patron, especially when aiming to build rapport and avoid conflict while building up a substantial bill. Some state regulations mandate that establishments cease alcohol service to visibly intoxicated guests, holding bars and restaurants legally accountable for any subsequent harm caused. Insurance carriers expect insured establishments to enforce server policies that surpass legal requirements, prioritizing risk mitigation. While customer satisfaction remains paramount for restaurant owners, servers often prioritize gratuities in their customer interactions. This financial incentive can sometimes overshadow reminders about overserving, potentially leading to risky situations. Since tips are a primary source of server income, establishments must examine how their compensation structures may contribute to such risks, in addition to providing comprehensive training as a primary preventive measure.² This report delves into the legally required and best practice preventive measures to minimize these risks and mitigate potential fallout from incidents.



Case Study



In December 2019, a Texas jury awarded a historic verdict of over \$301 billion, the largest-ever personal injury claim, to the family of two drunk driving victims. The incident occurred when a drunk driver, who had allegedly been served a “dangerous” amount of alcohol at a bar, ran a red light and killed a 59-year-old woman and her 16-year-old granddaughter. The plaintiffs initially sued the bartenders, the bar, and the bar’s owner. Despite the record-breaking settlement, the award was largely symbolic as the bar had shut down, and the previous owners were unable to pay.³



All employees who serve alcohol, manage employees who serve alcohol, or work as valet parking attendants should be trained in responsible alcohol service and recognizing signs of inebriation. While some states mandate this training and others only recommend or incentivize it, insurers will insist on it.

THESE ALCOHOL SERVER COURSES SHOULD COVER:

- + Alcohol's effects on the body
- + Checking IDs and identifying fraudulent IDs
- + Recognizing "apparently intoxicated persons"
- + Understanding applicable local laws and regulations
- + Server and establishment liability
- + Intervention strategies

The best training sessions utilize videos and interactive quizzes to enhance learning. Regardless of state and local requirements, establishments should mandate that employees pass this training at least annually. Liquor risk management programs like ServSafe and TIPS offer training for bartenders, hosts, and servers on responsible and effective alcohol serving. Depending on the program, they can equip employees to help identify underage drinking and drunk driving, prevent intoxication, and handle difficult situations. Responsible alcohol service can mitigate the potential for fines, loss of liquor license, and overall impacts on the business financially and reputationally.



Compensation Structures

Compensation structures are reported to have a positive impact on compliance behavior. Implementing performance-based bonuses, profit sharing, or recognition and awards could provide valuable benefits to servers, encourage adherence to policies, and enhance overall service quality. By aligning financial incentives with compliance, restaurants and bars can foster a culture where servers are motivated to follow regulations and best practices with diligence.

- + **Performance-based** bonuses can reward servers who meet or exceed business standards
- + **Profit sharing ensures** that servers have a personal stake in the establishment's success and can contribute to the environment
- + **Recognition and awards**, such as employee of the month or other methods, can motivate servers to uphold standards

These strategies can mitigate risk associated with overserving, other compliance issues, and overall morale and job satisfaction, resulting in a more resilient business.

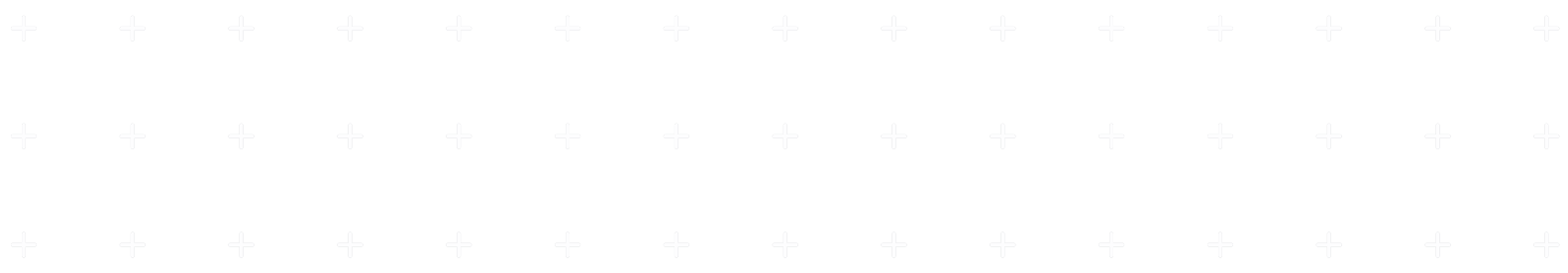


Insurance-based risk transfer strategies are crucial tools for mitigating risks and their consequences in establishments that serve alcohol. However, they are just one part of an effective risk management strategy.

Training in responsible alcohol service and recognizing signs of inebriation is essential for all employees involved in serving alcohol, managing those who do, or working as valet parking attendants. Insurers require this training, and establishments should mandate annual completion for all relevant employees.

Compensation structures can positively influence compliance behavior. Implementing performance-based bonuses, profit sharing, or recognition and awards can motivate employees to adhere to policies, enhance service quality, and reduce risks associated with overserving.

Discuss these risk prevention strategies with your insurance broker to prevent incidents, reduce costs, and minimize punitive and compensatory damages in legal settings. Legal verdicts may consider the proactive steps a policyholder took to manage risks, even if they exceed common best practices. Therefore, implementing comprehensive risk management measures is a valuable investment of time and resources.





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SOURCES

¹ Insurance Journal. (2024, June 3). Popular South Carolina Country Music Venue Shuts Down After 29 Years Due to Liquor Liability Insurance Costs. Insurance Journal. <https://www.insurancejournal.com/magazines/mag-features/2024/06/03/777384.htm>

² Metz, J. (2024, January 25). How to Get Liquor Liability Insurance. Forbes. <https://www.forbes.com/advisor/business-insurance/liquor-liability-insurance/>

³ Burns & Wilcox. (2023, March 14). North Texas DWI Lawsuit Highlights Need for Server Training, Liquor Liability Coverage. Burns & Wilcox. <https://www.burnsandwilcox.com/insights/north-texas-dwi-lawsuit-highlights-need-for-server-training-liquor-liability-coverage/>

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