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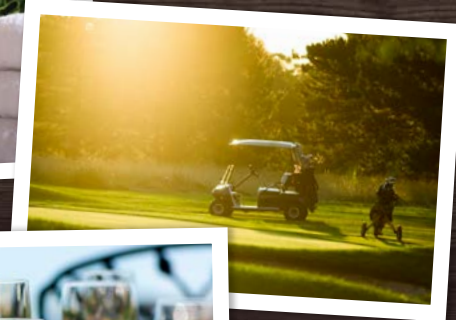
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PROPERLY MANAGING LIQUOR LIABILITY RISK

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Hospitality businesses are exposed to potentially severe liability from the sale of alcoholic beverages. This reality stems from state laws traditionally known as “dram shop” laws, better known today as liquor liability laws. These laws determine who can be held legally liable for incidents, events, or claims that arise from the actions of a guest who has been served alcohol. Their intention is to prevent over-serving alcohol to customers who are already heavily intoxicated, and any subsequent damage they may cause while under the influence. In Washington State, the liquor liability law reads, in part:

Wash. Rev. Code §66.44.200

(1) No person shall sell any liquor to any person apparently under the influence of liquor.

(2)(a) No person who is apparently under the influence of liquor may purchase or consume liquor on any premises licensed by the board.¹

The Washington State Supreme Court has adjudicated cases regarding this law and held businesses legally liable for violating these regulations. The rulings allow for businesses to be held financially responsible for

claims arising out of their service of alcohol. Because these laws vary on a state-by-state basis, insurance policies providing liquor liability coverage offer different forms for each state.

WHY LIQUOR LIABILITY COVERAGE IS NECESSARY

Given the legal landscape of alcohol service, liquor liability is an essential coverage for hospitality businesses to carry as part of their insurance program. Liquor liability policies respond to third party claims relating to bodily injury or property damage arising out of the sale of alcohol. In addition to primary liquor liability coverage, it is highly recommended that businesses purchase umbrella/excess liability coverage, which provides increased primary liability limits, including liquor liability when scheduled. As jury awards have continued to escalate, primary liquor liability limits may no longer be enough to pay a given claim.

One of the most significant cases in Washington State concerned an April 2000 DUI crash. A man who had spent the evening drinking heavily at a local bar collided with a family driving, killing the man and seriously injuring the entire family. One passenger, a 7-year-old boy, was paralyzed indefinitely.

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The family sued the establishment and the bartender working that evening, and after appeals, the case made it up to the state Supreme Court. A forensic expert testified that the driver had consumed the equivalent of 21 12-ounce beers, pushing his blood alcohol content to .32 (four times the legal limit). The court decided that the man's extreme intoxication, combined with the bartender's admission that he was too drunk to drive, meant the bartender should have refused to serve him much earlier in the evening than she did. The family was awarded \$14 million in the settlement.²

IMPLEMENTING PROACTIVE RISK MANAGEMENT

Buying liquor liability insurance is far from the only step businesses should take to manage this exposure. Proactive risk management and proper employee training can often be the best defense against over-serving patrons, and any resulting costs. Some best practices for safe alcohol service are:

- Evaluate serving sizes and alcohol content
 - » Higher alcohol by volume (ABV) beers sold in smaller glasses (e.g., 8-10 ounces instead of a pint)
 - » Offer wine pours in varying quantities
 - » Spirits serving sizes of 1-1.5 ounces
- Apply happy hour discounts to food items rather than alcoholic beverages
- Offer designated driver discounts or incentives
- Conduct regular ongoing training for service staff beyond mandatory Training for Intervention ProcedureS (TIPS) training

Not all liquor liability policies are created or priced equally. There are several operational factors that can affect coverage availability and pricing, including:

- Presence of live entertainment, dance floors, mechanical bulls, or machine-operated entertainment
- Hours of operation
- Food to alcohol sales ratio
- Prior liquor liability claims
- Maximum occupancy and/or size of location

Regardless of whether your company is a full service bar or simply a restaurant serving beer and wine, liquor liability is something you need to address. It is recommended that you talk to your insurance broker about coverage limits and risk management practices for liquor liability.

References and Resources

1. Dram Shop Liability State Statutes, <http://www.ncsl.org/research/financial-services-and-commerce/dram-shop-liability-state-statutes.aspx#WA>
2. Faust v. Albertson, <https://www.courtlistener.com/opinion/2583733/faust-v-albertson/>