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DAY-DRINKING AND DRAM SHOP LIABILITY

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With the weather finally starting to warm up, and Springtime approaching people will be out and about. There may be more day-drinking and bar hopping going on, lending itself to many drunk accidents and sadly even deaths. What many people do not realize is that restaurants and bar owners may be liable for injuries and death that result from patrons being served at their establishments, even if someone else was involved in the accident.

A typical example would be a patron drinking at a local bar drives home from the bar and strikes and kills another person on the road. While the patron will be liable for the accident and death, the bar owner may also be responsible for over serving that patron if they hold a liquor license and served that patron while they were visibly intoxicated.

Pennsylvania Dram Shop Liability: Legal Overview and Implications

Pennsylvania's **Dram Shop Law** holds bars, restaurants, and other alcohol-serving establishments accountable for over-serving intoxicated individuals who then cause harm to themselves or others. This law is governed by **Pennsylvania's Liquor Code (47 P.S. § 4-493(1))**, which makes it illegal for any licensed establishment to serve alcohol to a visibly intoxicated person. If a business violates this law and the intoxicated individual subsequently causes an accident or injury, the establishment may be held legally responsible.

Elements of Dram Shop Liability

To establish dram shop liability in Pennsylvania, the injured party (plaintiff) must prove the following elements:

1. **The establishment served alcohol to a visibly intoxicated person** – The plaintiff must demonstrate that the business continued to serve alcohol even when signs of intoxication (such as slurred speech, stumbling, or erratic behavior) were apparent.
2. **The intoxicated person's actions caused harm** – It must be shown that the intoxication directly contributed to an incident, such as a car crash, assault, or another injury-causing event.

3. **A causal link exists between the over-service and the injury** – The plaintiff must prove that the establishment’s actions were a significant factor in causing the damages.

Who Can File a Dram Shop Lawsuit?

Several parties can file a dram shop lawsuit, including:

- **Victims of accidents or injuries caused by the intoxicated person**, such as pedestrians, other drivers, or assault victims.
- **The intoxicated individual themselves**, if they suffered injuries due to their over-consumption (although Pennsylvania courts have sometimes limited these claims under the principle of personal responsibility).
- **Family members of deceased victims**, in cases involving wrongful death.

Potential Damages

If found liable, a Pennsylvania establishment may be required to compensate victims for:

- Medical expenses
- Lost wages and loss of earning capacity
- Pain and suffering
- Property damage
- Wrongful death damages in fatal cases

Defenses and Limitations

Defendants in dram shop cases may argue that:

- The individual did not appear visibly intoxicated at the time of service.
- The injury was not directly caused by the intoxication.
- The intoxicated individual’s actions were unforeseeable or independent of alcohol service.

Additionally, Pennsylvania follows a **two-year statute of limitations** for dram shop claims, meaning victims must file lawsuits within two years of the incident.

So, as the weather gets warmer and the days get longer, remember to enjoy the time responsibly. If an accident or injury does occur as a result of over intoxication, give us a call to see if there is a case against the licensed establishment serving the drinks!



About the Author:

Alaina A. Gregorio concentrates her law practice on complex personal injury and medical malpractice litigation in addition to labor and employment disputes. She has extensive experience litigating personal injury cases in Pennsylvania, New Jersey, and New York, including medical malpractice, motor vehicle accidents, and slip and falls. Additionally, she is experienced in representing claimants in labor and employment matters including sexual harassment, discrimination, and wrongful termination.

FAMILY OF D.C. PLANE CRASH VICTIM FILES CLAIM AGAINST U.S. GOVERNMENT

The family of one of the victims in the D.C. plane crash filed a \$250 million claim against the Federal Aviation Administration and the U.S. Army on February 19. On January 29 a U.S. Army Blackhawk helicopter collided with an American Airlines passenger jet moments before it was supposed to land at Reagan National Airport, the crash in the Potomac River left 67 people dead. The claims were filed by the family of Casey Crafton, who left behind a wife and three young children.

This was the first fatal crash of a commercial plane in the U.S. since 2009. The National Transportation Safety Board Chairman Jennifer Homendy pointed to potential missed radio communication to the helicopter and its possible flight above maximum altitude as contributing factors.

NTSB is still investigating the cause of the Jan. 29 plane crash, the first in a series of major aviation disasters in the U.S. this year. Days after the D.C. collision, a crash in Philadelphia of a Medevac jet killed seven people and injured over 20 others. In early February, a small commuter plane was found crashed amid sea ice with all 10 on board killed in Alaska. Later that month, a Delta regional jet that originated in Minneapolis crashed and overturned upon arrival at Toronto Pearson International Airport, injuring 18 of the 80 people on board.

The claims filed Tuesday are the first step in a process outlined by the Federal Tort Claims Act, which allows people to sue the federal government for injury, death, or property loss. They listed \$50 million for personal injury and \$200 million for wrongful death. The government now has six months to respond to the claims. If they either deny the claims or do not respond, the family can file lawsuits in federal court.

Messa & Associates has handled a number of aviation disaster cases for over 20 years including cases against American, United, and Southwest Airlines, even cases involving small planes and helicopters. The experienced Philadelphia aviation accident attorneys at Messa & Associates have handled many cases involving serious injuries and death arising out of airplane crashes, transportation, and motor vehicle accidents. Our attorneys work with highly regarded experts to ensure we review all the details of your case. If you or a loved one has been involved in an airplane accident, please contact us at 1-877-MessaLaw for an evaluation of your case.

Settlements and Verdicts

\$1.25 Million Recovery for a man who was hit and killed by a car

\$1.8 Million Recovery for a man who had a health complications due to a defective product

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