



COMPARISON OF STATE LIQUOR LIABILITY LAWS (DRAM SHOP ACTS)

STATE	STATUTE(S)	STANDARD	ADDITIONAL COMMENTS
ALABAMA	ALA. CODE § 6-5-71. Unlawful sale, etc., right of action in injured party.	Selling, giving or disposing of alcoholic beverages to another, contrary to the provisions of law. Plaintiff only need prove the injury was in consequence of intoxication due to the unlawful sale of alcohol. ALA. CODE § 6-5-7(a)	ALA. CODE § 20-X-6-.02. The Alabama Administrative Code contains a provision prohibiting any licensee, employee, or agent from serving alcoholic beverages to any person who appears, considering the totality of the circumstances, to be intoxicated. A person injured by his own intoxication cannot recover. <u>Maples v. Chinese Palace, Inc., 389 So. 2d. 120 (ALA 1980).</u> To allow a plaintiff's contributory negligence or participation by drinking to bar the plaintiff's recovery would be contrary to the purpose of the <u>Mclsaac v. Monte Carlo Club, Inc., 587 So.2d 320 (Ala. 1991).</u>
ALASKA	ALASKA STAT. § 4.21.020. Civil liability of persons providing alcoholic beverages.	A liquor licensee, or agent or employee of that licensee may not provide alcoholic beverages to a person under age 21 or to a drunken person. To do so is criminal negligence [check this].	Contributory negligence is not a defense to negligence per se based upon a violation of § 4-21-020. It is not a defense that the plaintiffs voluntarily consumed alcohol and was voluntarily under the influence of the alcoholic beverage. § 4-21-020(c).

STATE	STATUTE(S)	STANDARD	ADDITIONAL COMMENTS
ARIZONA	<p>ARIZ. REV. STAT. ANN. § 4-311. Liability for serving intoxicated person or minor.</p>	<p>A licensee is liable if he/she sold beverages to an obviously intoxicated person or to a person the licensee knew was under the legal drinking age, without requesting ID.</p>	<p>ARIZ. REV. STAT. ANN. § 4-312. A licensee is not liable to a consumer or purchaser who is over the legal drinking age or to any adult who was present at the time of service who knew of the drinker's impaired condition.</p> <p>ARIZ. REV. STAT. ANN. § 4-244. It is an unlawful act for "a licensee or other person to serve, sell or furnish spirituous liquor to a disorderly or obviously intoxicated person...." "Obviously intoxicated" is defined as "inebriated to the extent that a person's physical faculties are substantially impaired as shown by significantly uncoordinated physical action or significant physical dysfunction that would have been obvious to a reasonable person."</p> <p>Rebuttable presumption that alcohol was drunk by someone under age, if the licensee sold alcohol to some one under age and within a reasonable time after the sale injury, death or property damage occurs. ARIZ. REV. STAT. ANN. §4-311(B).</p>
ARKANSAS	<p>ARK. CODE ANN. § 16-126-104. Civil liability for sale of alcohol to clearly intoxicated person.</p>	<p>Knowingly selling alcoholic beverages to a minor or a person who was clearly intoxicated at the time of sale or selling under circumstances where the retailer reasonably should have known the person was clearly intoxicated at the time of the sale. Clearly intoxicated is when the person is so obviously intoxicated to the extent that, at the time of such sale, he presents a clear danger to others.</p> <p>(See also, Shannon v. Wilson, 947, S.W. 2d 349 (Ark 1997); Jackson v. Cadillac Cowboy, Inc., 986 S.W. 2d 410 (Ark. 1999))</p>	<p>ARK. CODE ANN. § 3-3-209. Person furnishing liquor to habitual drunkard or an intoxicated person is guilty of a misdemeanor and subject to punishment.</p> <p>ARK. CODE ANN. § 3-3-201 & 3-3-202 furnishing or selling alcohol to a minor. ARK. CODE ANN. § 16-126-103 imposes civil liability for the sale of alcohol to a minor.</p> <p>ARK. CODE ANN. § 16-126-106. Social hosts or other persons without a permit cannot be liable for providing alcoholic beverages to a person who can lawfully possess them.</p>

STATE	STATUTE(S)	STANDARD	ADDITIONAL COMMENTS
CALIFORNIA	CAL. BUS. & PROF. CODE § 25602. Sales to drunkard or intoxicated person; offense; civil liability.	(a) Every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any habitual or common drunkard or to any obviously intoxicated person is guilty of a misdemeanor.	<p>No person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage pursuant to subdivision (a) of this section shall be civilly liable to any injured person or the estate of such person for injuries inflicted on that person as a result of intoxication by the consumer of such alcoholic beverage. See also, <u>Leong v. Santranssco Parking, Inc.</u>, 235 Cal. App. 3d 827, 833-34, 1 Cal. Rptr. 2d 41, 45 (1991).</p> <p>But see CAL. BUS. & PROF. CODE § 25602.1. Notwithstanding (b) of § 25602 (above), a cause of action may be brought [against those who] sell alcoholic beverages to any obviously intoxicated minor.</p> <p>No civil liability may be imposed on one who furnishes alcoholic beverages to a minor who is not obviously intoxicated. Burke v. Superior Court, 181 Cal.Rptr. 149; Strang v. Cabrol, 691 P.2d 1013 (Cal. 1984).</p>
COLORADO	COLO. REV. STAT. § 13-21-103. Damages for selling liquor to a drunkard; COLO. REV. STAT. § 12-47-801 Civil liability – legislative declaration.	<p>Selling or giving away intoxicating liquors to a habitual drunkard.</p> <p>Licensee willfully and knowingly sells or serves alcoholic beverages to a person who is under the age of 21 or visibly intoxicated.</p>	COLO. REV. STAT. § 12-47-801 (3)(II)(c) caps liability at \$150,000.
CONNECTICUT	CONN. GEN. STAT. § 30-102. Dram Shop Act;	<p>Sale of alcoholic beverages to an intoxicated person.</p> <p>No cause of action for negligent sale to person over 21 years of age. Liability only for reckless sale of alcohol. See <u>Ely v. Murphy</u>, 207 Conn. 88, 540 A.2d 54 (1988); <u>Kowal v. Hofer</u>, 181 Conn. 355, 436 A.2d 1 (1980).</p>	<p>CONN. GEN. STAT. § 30-102 caps damages at \$250,000.</p> <p>Contributory negligence is not a defense. <u>Balanger v. Village Pub I, Inc.</u>, 26 Conn. App. 504, 603 A.2d 1173 (1992).</p>

STATE	STATUTE(S)	STANDARD	ADDITIONAL COMMENTS
DELAWARE	<p>DE CODE ANN. tit. 4 § 706. Sale or service of alcoholic liquors to intoxicated person</p> <p>DEL. CODE ANN. tit. 4, § 904. Offenses concerning certain persons.</p>	<p>Any licensee, employee of a licensee, or person in charge of a licensed premises shall refuse to sell or serve alcoholic liquors to any individual who is or appears to be intoxicated.</p> <p>Licensee who sells or delivers alcoholic liquor to any person under 21 years of age.</p>	<p>Taylor v. Ruiz, 394 A.2d 765 (De. 1978) (tavern owner liable for injury to plaintiff struck by an automobile driven by a patron who was continually served alcohol despite tavern’s knowledge that patron was intoxicated).</p>
DISTRICT OF COLUMBIA	<p>D.C. CODE ANN. § 25-121(b)</p>	<p>Prohibits permitting consumption of alcohol on a licensed premises by an intoxicated person, person who appears intoxicated, or any person under the age of 21.</p>	<p>Under D.C. Code Ann. § 40-717, a BAC of .05 or more is prima facie evidence of being under the influence of alcohol. Belton v. Wash. Metro. Area Transit Auth., 20 F.3d 1197 (D.C. Cir. 1994).</p> <p>D.C. Code Ann. § 25-121(b) provides the bases for civil liability (via a negligence claim) by a tavern owner to an injured underage intoxicated patron. Jarrett v. Woodward Bros., Inc., 751 A.2d 972 (D.C. App. 2000).</p> <p>Contributory negligence and assumption of the risk are not a defense to negligent service of alcohol in violation of Section 25-121. Jarrett v. Woodward Bros., Inc., 751 A.2d 972 (D.C. App. 2000).</p>
FLORIDA	<p>FLA. STAT. § 768.125. Liability for injury or damage resulting from intoxication.</p> <p>FLA. STAT. § 562.11. Furnishing alcoholic beverages to a person under 21 years of age.</p>	<p>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.</p>	

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GEORGIA	<p>GA. CODE ANN. § 51-1-40. Liability for acts of intoxicated persons.</p> <p>GA. CODE ANN. § 51-1-18. Prohibits giving alcohol to underage children without the permission of that child's parent.</p>	<p>A person who willfully, knowingly, and unlawfully sells, furnishes, or serves alcoholic beverages to a person who is not of lawful drinking age, knowing that such person will soon be driving a motor vehicle, or who knowingly sells, furnishes, or serves alcoholic beverages to a person who is in a state of noticeable intoxication, knowing that such person will soon be driving a motor vehicle, may become liable.</p>	<p>Expert testimony of a driver's blood alcohol content and the type of acts that someone who has such a level would exhibit can overcome eyewitness testimony that the driver was not visibly intoxicated. See Hulsey v. Northside Equities, 249 Ga. App. 474, 548 S.E. 2d 41 (2001).</p>
HAWAII	<p>HAW. REV. STAT. ANN. § 281-78. Prohibitions.</p> <p>HAW. REV. STAT. ANN. § 281-78.5. Practices to promote excessive consumption of liquor; prohibited; HAW. REV. STAT. ANN. § 281-91. Revocation or suspension of license; hearing.</p>	<p>At no time under any circumstances, shall any licensee or its employee</p> <p>(1) Sell or furnish any liquor to:</p> <p>(A) Any minor,</p> <p>(B) Any person at the time under the influence of liquor,</p> <p>(C) Any person known to the licensee to be addicted to the excessive use of intoxicating liquor, or</p> <p>(D) Any person for consumption in any vehicle which is licensed to travel on public highways.</p>	<p>The statute imposes only criminal penalties. Common law dram shop liability, however, has been imposed for violations of Hawaii's Liquor Control Law. Ono v. Appelgate, 62 Haw. 131, 612 P.2d 533 (1980).</p>
IDAHO	<p>IDAHO CODE § 23-808. Legislative Finding and Intent – Cause of Action.</p>	<p>Selling or otherwise furnishing alcoholic beverages to an intoxicated person if: the seller or furnisher knew or reasonably should have known that the person was under the legal drinking age or was obviously intoxicated.</p> <p>The Act requires those bringing suit to put defendant on notice in writing within 180 days after the claim has accrued. IDAHO CODE § 23-808(5).</p>	<p>Generally, the furnishing of alcoholic beverages is <i>not</i> the proximate cause of injuries inflicted by intoxicated persons and it is therefore the intent of the legislature to limit dram shop and social host liability. IDAHO CODE §23-808.</p>

STATE	STATUTE(S)	STANDARD	ADDITIONAL COMMENTS
ILLINOIS	<p>§ 235 ILL. COMP. STAT. 5/6-21. Cause of action against seller for injury by intoxicated person.</p>	<p>Sale of alcohol to any person who, while intoxicated, causes injury.</p> <p>Any person owning, renting, leasing, or permitting the occupation of any building or premises with knowledge that alcoholic liquors are to be sold therein... shall be liable, severally or jointly, with the person selling or giving liquor.</p>	<p>The Dram Shop Statute provides the exclusive remedy for alcohol related injuries. See, Charles v. Seigfreid, 165 111 2d 482, 65, NE. 2d 154 (1995). The Statute provides stringent limitations on recovery of damages which are tied to the yearly percentage change in the consumer price index.</p>
INDIANA	<p>IND. CODE ANN. § 7.1-5-10-15.5. Liability of person furnishing alcoholic beverage to intoxicated person.</p>	<p>Service of alcohol with actual knowledge that the person served is visibly intoxicated at the time of service.</p>	<p>An intoxicated person is not banned from seeking recovery for his own injuries from defendant's negligent service of alcohol. See, Booker, Inc. v. Morrill, 639 N.E. 2d 358, (Ind. App. 1996).</p>
IOWA	<p>IOWA CODE § 123.92. Civil liability for dispensing, selling or serving beer, wine, or intoxicating liquor; liability insurance; service to underage persons.</p> <p>IOWA CODE § 123.47. Persons under the age of eighteen – penalty.</p> <p>IOWA CODE § 123.49. Miscellaneous prohibitions.</p>	<p>Any licensee or permittee who sold and served any beer, wine, or intoxicating liquor to the intoxicated person when the licensee or permittee knew or should have known the person was intoxicated, or who sold to and served the person to a point where the licensee knew or should have known the person would become intoxicated.</p> <p>One who is not a licensee or permittee who serves or sells alcohol to one known to be underage may be jointly or severally liable.</p>	<p>Comparative negligence is not a defense. Lack of causation and assumption of the risk may be raised by defendants. See, Gremmel v. Junnie's Lounge, 397 N.W. 2d 717 (Iowa 1986).</p>

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KANSAS	<p>KAN. STAT. ANN. § 41-715. Sale of liquor to incapacitated or intoxicated person; penalties.</p> <p>See also, KAN. STAT. ANN. § 21-3610. Furnishing alcoholic liquor or malt beverage to a minor.</p>	<p>No person shall knowingly sell, give away, dispose of, exchange, deliver, permit the sale, gift or procuring of any alcoholic liquor to or for any person who is incapacitated, or is physically or mentally incapacitated by the consumption of such liquor. Violation of this section is a misdemeanor.</p>	<p>The statute imposes only criminal penalties.</p>
KENTUCKY	<p>KY. REV. STAT. ANN. § 413.241. Limitation on liability of licensed sellers or servers of intoxicating beverages – liability of intoxicated person</p>	<p>Consumption, not the serving/furnishing of alcoholic beverages is the proximate cause of any injury. No person holding a permit who sells or serves intoxicating beverages to a person (of age) shall be liable unless a reasonable person under the same or similar circumstances should know that the person served is already intoxicated at the time of service.</p> <p>This limitation of liability does not apply to any person who causes or contributes to the consumption of alcoholic beverages by force or by falsely representing that a beverage contains no alcohol.</p>	<p>See also, KY. REV. STAT. ANN. § 244.080(2). A retail licensee shall not sell, give away, or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away, or delivered to: (1) A minor... (2) a person actually or apparently under the influence of alcoholic beverages (3) Anyone known to the seller or server to be an habitual drunkard or any person known to the seller to have been convicted of drunkenness as many as three times within the most recent twelve months (4) anyone known to the seller to have been convicted of any misdemeanor attributable directly or indirectly to the use of alcoholic beverages or anyone known to the seller to have been convicted of a felony.</p>
LOUISIANA	<p>LA. REV. STAT. ANN. § 9:2800.1. Limitation of liability for loss connected with sale, serving, or furnishing of alcoholic beverages.</p>	<p>Consumption of intoxicating beverages, not sale or service, is the proximate cause of injury inflicted by an intoxicated person. Therefore, a person who sells or serves intoxicating beverages shall not be liable.</p> <p>This limitation of liability does not apply to any person who causes or contributes to the consumption of alcoholic beverages by force or by falsely representing that a beverage contains no alcohol.</p>	<p>The full responsibility for damages occasioned by consumption of alcoholic beverages is placed directly and solely on the person consuming the beverages; therefore, a provider of alcohol is not liable for injury inflicted by an intoxicated person. Black v. Stolt-Nielsen, Inc., 844 So.2d 192 (La.App. 5th Cir 2003).</p>

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MAINE	<p>ME. REV. STAT. ANN. tit. 28-A, § 2503 et seq.</p> <p>ME. REV. STAT. ANN. tit. 28-A §2506-negligent service</p> <p>ME. REV. STAT. ANN. tit. 28-A §2507-reckless service</p>	<p>Negligent Conduct. Service of liquor is negligent if the server knows or a reasonable and prudent person in similar circumstances would know that the individual being served is a minor or is visibly intoxicated. § 2506(3).</p> <p>Reckless Conduct. Service of liquor is reckless if a server intentionally serves liquor to an individual when the server knows that the individual being served is a minor or is visibly intoxicated and the server consciously disregards an obvious and substantial risk that serving liquor to that individual will cause physical harm to the individual or to others. § 2507(3).</p> <p>Visibly intoxicated means a state of intoxication accompanied by a perceptible act, series of acts, or the appearance of an individual which clearly demonstrates intoxication. §2503(7)</p>	<p>Liability for damages other than medical treatment, is limited to \$250,000. ME. REV. STAT. ANN. tit. 28-A § 2509.</p>
MARYLAND	<p>Maryland has no statutory provisions.</p>		<p>Felder v. Butler, 292 Md. 174 (1981) – The court refused to extend civil liability to dram shops based on theories of negligence or negligence <i>per se</i>.</p> <p>Wright v. Sue & Charies, Inc., 131 Md. App. 466 (2000) – Responsibility rests with the person who chooses to drink, and not with the liquor store.</p> <p>Fisher v. O’Connor’s, Inc., 53 Md. App. 338 (1982) – A plaintiff has no cause of action for injuries suffered after being served by a tavern while in an obviously intoxicated condition.</p>

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MASSACHUSETTS	<p>MASS. GEN. LAWS CH. 138, § 69. Sale or delivery to intoxicated persons.</p>	<p>A licensee shall not sell an alcoholic beverage to an intoxicated person.</p> <p>MASS. GEN. LAWS CH. 231, § 85T. In a suit brought by the intoxicated person, a server will only be held liable for damages arising from the server's willful, wanton, or reckless conduct.</p>	<p>Common law negligence claims can be brought. <u>Bennett v. Eagle Brook Country Store, Inc.</u>, 408 Mass. 355, 358 (1990). To sustain a claim of negligence against a restaurant or tavern, it must be more likely than not that the tavern keeper served alcohol to a patron, whom he knew or should have known, was intoxicated. <u>Cimino v. The Milford Keg, Inc.</u>, 385 Mass. 323, 327 (1982) (patron exhibiting "drunk, loud and vulgar" behavior was determined to be "visibly intoxicated.")</p> <p>The plaintiff must establish that the patron "appeared intoxicated" at the time he was served by the tavern keeper. <u>Douillard v. LMR, Inc.</u>, 433 Mass. 162, 164 (2001); <u>Vickowski v. Polish American Citizens Club</u>, 422 Mass. 606, 610 (1996).</p> <p>"The negligence lies in serving alcohol to a person who already is showing discernable signs of intoxication."</p>
MICHIGAN	<p>MICH. COMP. LAWS § 436.1801.</p>	<p>Retail licensee shall not directly [or through his agent] furnish, or give alcoholic liquor to a minor or visibly intoxicated person.</p> <p>Provides for a cause of action for service to a minor or visibly intoxicated patron when such sale is a proximate cause of injury or death.</p> <p><u>See also, MICH. COMP. LAWS § 436.1701.</u> A person who knowingly sells or furnishes alcoholic liquor to a minor, or who fails to make diligent inquiry as to whether the person is a minor, is guilty of a misdemeanor.</p>	<p>The Michigan Dram Shop Act is the only remedy for damages for those injured as a result of the service of alcohol.</p>

STATE	STATUTE(S)	STANDARD	ADDITIONAL COMMENTS
MINNESOTA	<p>MINN. STAT. § 340A.801. Liquor Act –Civil Actions; MINN. STAT. § 340A.802. Notice of Injury; discovery before actions.</p>	<p>Service to persons who are obviously intoxicated and/or under 21. It is not necessary for a defendant to have a liquor license in order for dram shop liability to apply.</p> <p>MINN. STAT. § 340.801, subd. 3 – Comparative fault applies: A person may recover so long as his/her fault is not greater than that of the defendant.</p>	<p>Sather v. Woodland Liquors, Inc., 597 N.W.2d 295 (1999) “A voluntarily intoxicated person is barred from recovery under [the act].”</p> <p>Negligence of the person who consumed the alcohol is not imputed to an innocent plaintiffs contribution actions are allowed. See, K.R. v. Sanford, 588 N.W. 2d 545, (Minn. App. 1996).</p>
MISSISSIPPI	<p>MISS. CODE ANN. § 67-3-73. Immunity from liability of persons who lawfully furnished or sold intoxicating beverages to one causing damage.</p>	<p>Consumption, rather than sale or service, of intoxicating beverages is the proximate cause of injury. No person who lawfully sells or serves intoxicating beverages shall be liable.</p> <p>This limitation of liability shall not apply to a person who causes or contributes to the consumption of alcoholic beverages by force or by falsely representing that a beverage contains no alcohol; or when it is shown that the person making a purchase of an alcoholic beverage was visibly intoxicated at the time of purchase.</p>	<p>MISS. CODE ANN. § 67-1-83. It is a punishable misdemeanor to provide alcohol to any person known to be insane, mentally defective, visibly intoxicated, habitually drunk, or a habitual user of narcotics or other habit-forming drugs.</p>
MISSOURI	<p>Mo. REV. STAT. § 537.053.</p>	<p>Furnishing alcoholic beverages is not the proximate cause of injuries inflicted by intoxicated persons.</p> <p>However, a cause of action may be brought when it is proven by clear and convincing evidence that the seller knew or should have known that intoxicating liquor was served to a person under the age of 21 or knowingly served to a visibly intoxicated person.</p>	<p>“Visibly intoxicated” is inebriated to such an extent that impairment is shown by significantly uncoordinated physical action or significant physical dysfunction.</p> <p>No person over the age of 21 years may assert a claim arising out of that person’s voluntary intoxication.</p>

STATE	STATUTE(S)	STANDARD	ADDITIONAL COMMENTS
MONTANA	MONT. CODE ANN. § 27-1-710. Civil liability for injuries involving alcohol consumption.	<p>Person or entity can be liable for injury or damage arising from an event when: the consumer was under the legal drinking age and the furnishing person knew that the consumer was underage or did not make a reasonable attempt to determine the consumer's age; the consumer was visibly intoxicated; or the furnishing person forced or coerced the consumption or told the consumer that the beverage contained no alcohol.</p> <p>See also, MONT. CODE ANN. § 16-6-304. No licensee or person shall sell/give an alcoholic beverage to a person apparently under the influence of alcohol.</p> <p>MONT. CODE ANN. § 16-6-305. Providing age limit for sale of alcohol and liability of the provider under those circumstances.</p>	Montana caps damages at \$250,000 for all claims and caps punitive damages at \$250,000.
NEBRASKA	<p>Nebraska has no statutory provisions providing for civil liability.</p> <p>Neb. Rev. Stat. §53-180 prohibits furnishing of alcoholic beverages to minors.</p>		<p><u>Pelzek v. American Legion, 236 Neb. 608 (1990) – NEB. REV. STAT. § 53-180</u>, which prohibits the furnishing of alcoholic beverages to minors, did not provide a basis for imposing civil liability on the provider of alcohol. The court also declined to find negligence, holding that dram shop liability is a question of public policy better left to the legislature.</p> <p><u>Arant v. G.H., Inc., 229 Neb. 729 (1988)</u> –The court declined to impose dram shop liability absent legislation, even where the defendant served alcohol to a customer he knew or should have known was visibly intoxicated.</p>

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NEVADA	<p>NEV. REV. STAT. § 202.055. Sale or furnishing of alcoholic beverage to minor; aiding minor to purchase or procure alcoholic beverage.</p> <p>NEV. REV. STAT. § 202.055 Limitation on liability of person who serves or sells alcoholic beverages for injury inflicted by intoxicated person</p>	<p>Any person who knowingly sells, gives or otherwise furnishes an alcoholic beverage to any person under 21 years of age... is guilty of a misdemeanor.</p> <p>No person who serves or sells alcoholic beverages is liable in a civil action based on the grounds that the service or sale was the proximate cause of injuries inflicted by an intoxicated person upon himself or another person.</p> <p>There is no civil liability, but only criminal penalties. NEV. REV. STAT. § 202.055</p>	<p>Snyder v. Viani, 885 P.2d 610 (Nev. 1994) –Consumption is the proximate cause of alcohol-related injuries; negligence claim against a tavern owner for alcohol service dismissed.</p> <p>Hinegardner v. Marcor Resorts, 108 Nev. 1091 (1992) – Court refuses to impose responsibility on vendors serving alcohol absent legislative provision.</p>
NEW HAMPSHIRE	<p>N.H. REV. STAT. 507-F:1, et. seq.</p> <p>Negligent or reckless service of alcohol to a minor or intoxicated patron.</p>	<p>Service is negligent if the defendant knows or a reasonably prudent person in like circumstances would know that the individual served is a minor or is intoxicated. N.H. REV. STAT. 507-F:4(II).</p> <p>Service is reckless when a defendant intentionally serves alcoholic beverages to a person when the server knows, or a reasonable person in his position should have known, that such service creates an unreasonable risk of physical harm to the patron or others that is substantially greater than that which is necessary to make his conduct negligent. N.H. REV. STAT. 507-F:5(I).</p>	<p>N.H. REV. STAT. 507-F:1. Intoxication means an impairment of a person’s mental or physical faculties as a result of drug or alcoholic beverage use so as to diminish that person’s ability to think and act in a manner in which an ordinary prudent and cautious person, in full possession of his faculties and using reasonable care, would act under like circumstances.</p>

STATE	STATUTE(S)	STANDARD	ADDITIONAL COMMENTS
NEW JERSEY	N.J. REV. STAT. § 2A:22A- Negligent service to a visibly intoxicated person or a minor under circumstances where the server knows, or reasonably should know, that the person served was a minor.	To recover under the Statute, a plaintiff must prove all of the following: 1) negligent service; 2) a connection between the alcohol service and injury; 3) the injury was a forcible consequence of the negligent service. See, Showalter v. Bari Lari, Inc., 312 NJ Super. 494, 712 A.2d 244 (App. Div. 1998).	N.J. REV. STAT. § 2A:15-5.5. “Visibly intoxicated” means a state of intoxication accompanied by a perceptible act or series of actions which present clear signs of intoxication.
NEW MEXICO	N.M. STAT. ANN. § 41-11-1.	Sale or service of alcohol to a person who was intoxicated when that person’s intoxication was reasonably apparent to the licensee and the licensee knew from the circumstances that the person buying or receiving the alcoholic beverage was intoxicated. See also, N.M. STAT. ANN. § 60-7B-1. Prohibits selling or giving alcoholic beverages to minors.	N.M. STAT. ANN. § 41-11-1(D)(2) “Intoxicated” means the impairment of a person’s mental and physical faculties as a result of alcoholic beverage use so as to substantially diminish that person’s ability to think and act in a manner in which an ordinary prudent person, in full possession of his faculties, would think and act under like circumstances.
NEW YORK	N.Y. GEN. OBLIG. LAW § 11-101..	Sale of or assistance with procuring liquor for an intoxicated person. See also, N.Y. GEN. OBLIG. LAW § 11-100. Knowingly furnishing to or unlawfully assisting in procuring alcoholic beverages for a person under 21 with knowledge or reasonable cause to believe that such person was under 21.	NY. Gen. Oblig. Law § 11-101. An injured party can recover actual and exemplary damages. Plaintiff must only show some reasonable connection between the illegal sale and injury. Proximate cause need not be established. Adamy v. Zirkakass, 231 A.D., 659 NYS 2d 623 (4th Dept. 1997).

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NORTH CAROLINA	N.C. GEN. STAT. § 18B-121.	<p>N.C. GEN. STAT. § 18B-302. It is unlawful for any person to sell or give [alcoholic beverages] to persons less than 21 years old.</p> <p>Creates liability for negligent sale or furnishing of alcohol to an underage patron who is later injured as a result of his/her negligent operation of a motor vehicle while impaired.</p>	Plaintiff must prove that the sale was “negligent” under the circumstances. N.C. GEN. STAT. § 18B-122.
NORTH DAKOTA	N.D. CENT. CODE § 5-01-06.1.	<p>Liability for knowingly disposing, selling, bartering, or giving away alcoholic beverages to a person under 21, an incompetent, or an obviously intoxicated person.</p> <p>Comparative fault is a defense to a Dram Shop case. N.D. Cent. Code § 32-03.2-02.</p>	No claim may be brought by or on behalf of an intoxicated person or on behalf of an adult traveling in the vehicle of an intoxicated person.

STATE	STATUTE(S)	STANDARD	ADDITIONAL COMMENTS
OHIO	OHIO REV. CODE ANN. § 4399.18.	<p>A permit holder or employee of a liquor permit holder who sells beer or intoxicating liquor to the intoxicated person can be liable if the injury occurred on the permit holder's premises or in a parking lot under his control & the injury was proximately caused by the permit holder's negligence.</p> <p>If the injury occurred off the premises, the permit holder or his employee is only liable when both the following can be shown by preponderance of the evidence:</p> <p>(A) The permit holder or his employee knowingly sold an intoxicating beverage to one of the following:</p> <p>(1) a noticeably intoxicated person in violation of § 4301.22, or</p> <p>(2) A person in violation of § 4301.69 [which prohibits the sale of beer or intoxicating liquor to an underage person] and</p> <p>(B) The person's intoxication proximately caused the personal injury, death or property damage.</p>	<p>[Check this.]</p> <p>There is no cause of action by a voluntarily intoxicated patron who is 18 years old, but under 21 for self-inflicted injury or death due to his/her intoxication. <u>Klever v. Canton Sachsenheim, Inc.</u>, 715 N.E. 2d 536 (Ohio 1999).</p> <p>There is o cause of action where injury, death or property damage was sustained by an intoxicated person off the licensed premises and proximately caused by the patron's own intoxication. This bar also extends to derivative claims filed by the administrator of the decedent's estate. <u>Hosom v. Eastland Lanes, Inc.</u>, 595 N.E. 2d 534 (Ohio App. 1991).</p>
OKLAHOMA	OKLA. STAT. tit. 37 § 537. Enumerated prohibited acts.	No person shall knowingly sell, deliver, or furnish alcohol to any person under 21, to an intoxicated person or to any person who has been adjudged insane or mentally deficient.	<u>Ohio Cas. Ins. Co. v. Todd</u> , 813 P.2d 508 (Okla. 1991) – Innocent third parties (but not the intoxicated person) have a common law cause of action against those who serve alcohol to a noticeably intoxicated person.

STATE	STATUTE(S)	STANDARD	ADDITIONAL COMMENTS
OREGON	<p>OR. REV. STAT. § 471.565. Liability for providing or serving alcoholic beverage to intoxicated person; notice of claim;</p> <p>OR. REV. STAT. § 471.410. Liability for sale of liquor to person under 21 or to intoxicated person; mandatory minimum penalties</p>	<p>A licensee, permittee, or social host is not liable unless the plaintiff proves by clear and convincing evidence that: (a) they provided alcoholic beverages to the patron or guest while they were visibly intoxicated; AND (b) the plaintiff did not substantially contribute to the intoxication by:</p> <p>(A) providing or furnishing alcoholic beverages to the patron or guest;</p> <p>(B) encouraging the patron or guest to consume or purchase alcoholic beverages in any other manner; or</p> <p>(C) facilitating the consumption of alcoholic beverages by the patron or guest in any manner.</p> <p>“Visibly intoxicated” is “that which can be perceived by the eye or observed by the mind; that which is evident or manifest.”</p> <p>OR. REV. STAT. § 471.567. Liability for providing alcoholic beverages to minor -- A licensee, permittee, or social host may be liable for selling to a person under 21 years if it is demonstrated that a reasonable person would have determined that identification should have been requested or that the identification exhibited was altered or did not accurately describe the person to whom the alcoholic liquor was sold or served.</p>	<p>See also, OR. REV. STAT. § 471.565(1) – A patron or guest who voluntarily consumes alcoholic beverages does not have a cause of action even if served while visibly intoxicated.</p> <p>Punitive damages are allowed in these actions. An intoxicated driver however, may not pass along independent liability for punitive damages to the tavern owner that served him.</p>

STATE	STATUTE(S)	STANDARD	ADDITIONAL COMMENTS
PENNSYLVANIA	<p>PA. CONS. STAT. ANN. tit. 47, § 4-493. Unlawful acts relative to liquor, malt and brewed beverages and licensees</p> <p>PA. CONS. STAT. ANN. tit. 47, § 4-497. Liability of licensees.</p>	<p>It is unlawful to sell, furnish, or give liquor to any person visibly intoxicated, to any insane person, to any minor, to habitual drunkards, or persons of known intemperate habits. [Note – this act has been amended by 2006 Pa. Legis. Serv. Act 2006-1 (H.B. 111)(Purdon’s), however, the amendments do not affect the portion cited above].</p> <p>No licensee shall be liable to third persons on account of damages inflicted upon them off the licensed premises by customers of the licensee unless the customer who inflicts the damages was sold, furnished or given liquor or malt or brewed beverages by the licensee or his agent, servant or employee when the customer was visibly intoxicated.</p>	<p>“In Pennsylvania a violation of the Liquor Code can give rise to civil as well as criminal liability. The courts have determined that a violation of the Liquor Code is negligence per se. Injured plaintiffs need only prove that the licensee violated the act and that as a result of this violation, they were injured.” See, Leonard H. MacPhee, <i>The Comparative Negligence Defense in Pennsylvania Dram Shop Suits: Personal Responsibility for All Patrons</i>, 98 DICK. L. REV. 307, 308 (1994). See also, <i>Fandozzi v. Kelly Hotel, Inc.</i>, 711 A.2d 524 (PA. Super. 1998).</p>

STATE	STATUTE(S)	STANDARD	ADDITIONAL COMMENTS
RHODE ISLAND	<p>R.I. GEN. LAWS § 3-14-6/7. Liability for negligent/reckless service of liquor.</p>	<p>Service is negligent if the defendant knows or a reasonable and prudent person in similar circumstances would know that the individual being served is a minor or is visibly intoxicated. (R.I. GEN. LAWS § 3-14-6(c)).</p> <p>Service is reckless if a defendant intentionally serves liquor to an individual when the server knows that the individual is a minor or is visibly intoxicated, and the server consciously disregards an obvious and substantial risk that serving liquor to that individual will cause physical harm to the patron or others. The disregard of the risk must involve a gross deviation from the standard of conduct that a reasonable and prudent person would observe in the same situation. (R.I. GEN. LAWS § 3-14-7(c)(1)-(2)).</p> <p>R.I. GEN. LAWS § 3-14-3. "Visibly intoxicated" means a state of intoxication accompanied by a perceptible act or a series of acts presenting an apparent sign or signs of intoxication.</p>	<p>A rebuttable resumption of negligence arises when there is proof of service to a minor without requesting identification. R.I. GEN. LAWS § 3-14-6(e).</p> <p>Common Law causes of action and defenses thereto are not limited by the statutory claims. R.I. GEN. LAWS § 3-14-9. See also, <u>Smith v. Tully</u>, 665 A.2d 1333 (R.I. 1995).</p>
SOUTH CAROLINA	<p>S.C. CODE ANN. § 61-4-580.</p>	<p>No permittee or his agent or employee shall sell beer or wine to a person under 21 or to an intoxicated person . . . A violation of any provision of this section is grounds for the revocation or suspension of the holder's permit.</p>	<p>There is no civil liability, only criminal penalties.</p>

STATE	STATUTE(S)	STANDARD	ADDITIONAL COMMENTS
SOUTH DAKOTA	S.D. CODIFIED LAWS § 35-4-78.	<p>No licensee may sell any alcoholic beverage to any person under the age of twenty-one years; or to any person who is obviously intoxicated at the time. A violation of this section is a Class 1 misdemeanor.</p> <p>No licensee is civilly liable to any injured person or his estate for any injury suffered, including any action for wrongful death, or property damage suffered because of the intoxication of any person due to the sale of any alcoholic beverage in violation of the provisions of this section.</p>	<p><u>Wildeboer v. South Dakota Junior Chamber of Commerce, Inc., 561 N.W.2d 666 (1997)</u> – Recovery in action against bar for injuries caused by patron who is furnished alcoholic beverages by bar despite being underage or visibly intoxicated is precluded by statute.</p> <p>S.D. CODIFIED LAWS § 35-11-1. The legislature found that consumption rather than service of alcoholic beverages is the proximate cause of any injury inflicted by an intoxicated person.</p>
TENNESSEE	TENN. CODE ANN. § 57-10-102.	Liability of any person who sells any alcoholic beverage to a person known to be under 21 or to an obviously intoxicated person who causes personal injury or death as the direct result of that consumption.	It must be proven the alcohol was sold rather than simply furnished for liability to attach. <u>See, LaRue v. 1817 Lalce, Inc., 966 S.W. 2d 423 (Tenn. Ct. App. 1998).</u>
TEXAS	TEX. ALCO. BEV. CODE ANN. § 2.01-2.02.	Providing, selling, or serving alcoholic beverages when it is apparent to the provider that the individual is obviously intoxicated to the extent that he presents a clear danger to himself and others; an adult over 21 years can be liable for causing the intoxication of a minor under the age of 18 if the adult is not his parent, guardian, or spouse & the adult knowingly served or provided alcohol which contributed to the minor's intoxication.	<p>TEX. ALCO. BEV. CODE ANN. § 2.02(a) - This chapter does not affect the right of any person to bring a common law cause of action against any individual whose consumption of an alcoholic beverage allegedly resulted in personal injury or property damage to the person bringing a suit.</p> <p>Comparative fault can be raised as a defense. <u>See, Sewell v. Smith, 819 S.W. 2d 565 (Tex. App. 1991) aff'd, 858 S.W. 2d 300 (Tex. 1993).</u></p> <p>Although servers of alcohol might be liable for refusal damages under the Dram Shop Act, an award of exemplary damages is barred. Tex. Civ. Prac. & Rem. Code Ann. § 41-005.</p>

STATE	STATUTE(S)	STANDARD	ADDITIONAL COMMENTS
UTAH	UTAH CODE ANN. § 32A-14a-102.	A person is liable if the person directly gives, sells, or otherwise provides an alcoholic beverage as part of the commercial sale, storage, service, manufacture, distribution or consumption of alcoholic beverages to: any individual under 21; any individual who is apparently under the influence of intoxicating alcoholic products or drugs; any individual whom the person furnishing knew or should have known from the circumstances was under the influence of intoxicating alcoholic beverages or products or drugs; or any individual who is a known interdicted person.	Damages are capped at \$500,000 per person or \$1,000,000 per occurrence. UTAH CODE ANN. § 32A-14a-102(6).
VERMONT	Vt. STAT. ANN. tit. 7, § 501.	There is a cause of action against any person who sells or furnishes intoxicating liquors to: minors; persons apparently under the influence; persons after legal serving hours; or persons whom it would be reasonable to expect would be under the influence as a result of the amount of liquor served by the defendant to that person.	If liquor was furnished in a rented building, the owner can be joined if he or his agent knew or had reason to know that intoxicating liquor was sold or furnished by the tenant to any prohibited person. Vt. STAT. ANN. tit. 7, § 501(c). An intoxicated person who causes injury to himself is barred from recovery under the Act. See, <u>Lake v. Kurkul</u>, 146 Vt. 513, 510 A.2d 1301 (1986).
VIRGINIA	Virginia does not have any statutory provisions.		<u>Wise v. United States</u>, 8 F.Supp.2d 535, 541 (E.D. Va. 1998) – Virginia does not recognize “dram shop” liability. <u>Williamson v. Old Brogue, Inc.</u>, 232 Va. 350 (1986) – Court refused to allow a common law negligence action absent a legislative provision.

STATE	STATUTE(S)	STANDARD	ADDITIONAL COMMENTS
WASHINGTON	<p>Washington has no statutory provisions for civil liability. In 1995, the legislature repealed the "Dram shop Act" and adopted the common law rule.</p> <p>WASH. REV. CODE § 66.44.270 prohibits the sale or supply of liquor to any person under 21.</p>	<p>Commercial vendors will not be held liable for over serving patrons, except in two instances: (1) Commercial establishments have a duty to avoid providing minors with alcohol, and (2) have a duty to avoid serving alcohol to obviously intoxicated persons. Estate of Kelly v. Falin, 127 Wn.2d 31 (1995); Dickenson v. Edwards, 105 Wn.2d 479 (1989).</p>	<p>Obvious intoxication should be judged by the person's appearance to others around him or her at the time the intoxicating liquor is furnished. Christen v. Lee, 113 Wn.2d 479, 488 (1989).</p>
WEST VIRGINIA	W. VA. CODE § 60-3A-24.	<p>Any person who knowingly buys for, gives to, or furnishes alcohol to anyone under the age of 21 (who is not a relative by blood or marriage) is guilty of a misdemeanor.</p>	<p>There is no civil liability, only criminal penalties.</p> <p>Farmers & Mechanics Mut. Fire Ins. Co. v. Hutzler, 191 W. Va. 559 (1994) – There are no dram shop, social host, or statutory enactments imposing liability on owners of property where alcohol is served.</p>
WISCONSIN	Wis. STAT. § 125.035.	<p>General immunity to those who sell alcoholic beverages.</p> <p>The following persons are not immune:</p> <ul style="list-style-type: none"> -Those who cause consumption by force or who represent that the beverage contains no alcohol; -Those who supply alcohol to one known or should be known to be a minor where such supply of alcohol was a substantial factor in causing injury to a third party. 	

STATE	STATUTE(S)	STANDARD	ADDITIONAL COMMENTS
WYOMING	<p data-bbox="321 173 604 199">WYO. STAT. § 21-5-502.</p> <p data-bbox="321 435 604 461">WYO. STAT. § 12-6-101.</p> <p data-bbox="321 631 604 657">WYO. STAT. § 12-8-301.</p>	<p data-bbox="657 173 1161 391">Licensee or permittee who sells or gives any alcoholic liquor or malt beverage to a child, ward, or habitual drunkard after being given written notice that a person is either under 21 years or an habitual drunkard who is neglecting to provide support for his spouse and/or dependents.</p> <p data-bbox="657 430 1161 583">Any person who sells, furnishes, gives or causes to be sold to any person under 21 (who is not his legal ward, medical patient or member of his own immediate family), is guilty of a misdemeanor.</p> <p data-bbox="657 621 1161 711">No person who has legally provided alcohol to any other person is liable for damages caused by the intoxication of the other person.</p>	<p data-bbox="1203 173 1944 297"><u>Daniels v. Carpenter</u>, 62 P.3d 555 (Wyo. 2003) (WYO. STAT. ANN. § 12-8-301(a)) "No person who has legally provided alcoholic liquor or malt beverage to any other person is liable for damages caused by the intoxication of the other person."</p>