



## Liability of Selling Alcoholic Liquor at Municipal Events

### OBJECTIVES

The objectives of this large loss claim review are to:

- Examine a CIRMA Liability-Auto-Property (LAP) loss resulting from the sale of alcoholic liquor at a municipal event
- Discuss recommendations from CIRMA and other resources on ways to help reduce liability associated with selling alcoholic liquor at municipal events,
- Develop specific risk management best practices to either prevent or mitigate future losses for members based on lessons learned.

### INCIDENT BACKGROUND

After attending the town's annual fall fair, the plaintiff entered the passenger side of his girlfriend's older model sedan knowing she was intoxicated. The driver exited the fair grounds and turned onto the main road and was operating the vehicle at a high rate of speed when she lost control attempting to complete a turn into a fast food restaurant parking lot. As a result, the vehicle struck a stationary object on the passenger side. The plaintiff, seated in the passenger seat, experienced the full impact force and suffered several injuries requiring medical intervention. After undergoing extensive medical, surgical and therapeutic treatment over the next 18 months, the plaintiff was released from treatment with an 8% disability to his neck.

### INVESTIGATION

- The incident occurred immediately following night 2 of the Town's annual fall fair.
  - The Town's fall fair included a number of activities, rides, food, and beverages - including the sale of alcoholic liquor—specifically, beer and wine.
- The plaintiff's girlfriend had a blood alcohol level of 1.25% at the time of the accident
- The plaintiff and his girlfriend were at the fair for approximately 4 hours
- Both the plaintiff and his girlfriend each purchased multiple alcoholic beverages from the fair's beer & wine tent
- The beer & wine tent was stocked with alcohol and staff by the municipality using volunteers
- In their depositions, each admits drinking continuously while at the fair
- The town did not utilize a third-party vendor for the sale or service of the alcoholic liquor

- The town relied on volunteers to staff the beer & wine tent. These volunteers ranged in age from 22-35 years old
  - The beer & wine tent was only staffed by 2 volunteers on the night of the incident
- During the deposition the volunteers stated that they "shut off" the plaintiff's girlfriend and stopped selling her alcohol approximately 2 hours prior to them leaving the fair grounds.
- The plaintiff's girlfriend admits that she was "feeling it" after consuming the purchased alcoholic beverages.
- One witness indicates that the plaintiff's girlfriend was slurring her speech and had some difficulty maintaining her balance.
- The plaintiff stated that after his girlfriend bumped into another person they decided to leave the fair.
- During the discovery process, several credit card receipts were found that indicated the town had sold the plaintiff's girlfriend several alcoholic beverages within 30-45 minutes of her and her boyfriend leaving the fair grounds.
- The town had several policies in place regarding the sale of alcoholic liquor at the event, which included a process for refusing continued sale of alcohol to those who seemed intoxicated.
- The town was not able to provide any documentation of the servers/sellers receiving any alcohol safety training; such as TIPS
- It was apparent that the validity of the statements made by the volunteers during their deposition could be called into question.
- Several traffic control volunteers indicated that the plaintiff's girlfriend was driving erratically while trying to exit the parking lot. When asked why they did not report it to law enforcement they stated that she had not hit anything and they were under the impression that she was simply distracted by her cell phone
  - Phone records provided by the plaintiff and his girlfriend indicated that there was no activity on either cell phone 15 minutes prior to them leaving the fair. The only activity on either phone occurred after the accident.
- The plaintiff and his girlfriend turned onto the main road and began driving away from the fair
- The accident occurred only 10 minutes after the plaintiff left the fair grounds with his girlfriend

### INJURY AND DAMAGES

As a result of the accident, the plaintiff suffered the following injuries:

- Multiple facial lacerations requiring sutures to properly close the wounds. These wounds resulted in scarring to the plaintiff's face, and forehead.
- Keloid scarring formed on the plaintiff's forehead
- A moderate concussion as a result of a loss of consciousness
- A fractured cervical vertebra requiring surgical intervention resulting in an 8% permanency rating
- Motor function deficit in his left arm as a result of the fractured vertebrae
- Anxiety
- Difficulty sleeping
- Lost wages in the amount of \$15K

The plaintiff's initial demand was for \$1,000,000. While the current Dram Shop Act limits the amount of recovery to \$250K per incident, there were several factors outlined above that could have created increased exposure to the member in the realm of punitive damages.

As a result, and after several negotiations attempts, the claim was ultimately settled for **\$350K** plus attorney fees.

## CONCLUSION

Anytime alcohol is being served at a municipal-sponsored event there will be an expectation by the court systems that proper protocols, procedures, and policies are in place and enforced to reduce the potential liability associated with overserving a customer to the point of intoxication. If a bar or restaurant (a "dram shop") does "overserve" a customer who then causes an accident, the seller of alcohol can be held responsible for the injuries caused by the drunk driver.

It is well established that drinking and driving is against the law and most of the time results in less desirable outcomes. Because of this, the Connecticut has a Dram Shop Law imposes a responsibility on those serving alcohol to refrain from selling continuing to sell alcohol to people who are intoxicated.

– **Conn. General Statute 30-102:**

*If any person, by such person or such person's agent, sells any alcoholic liquor to an intoxicated person, and such purchaser, in consequence of such intoxication, thereafter injures the person or property of another, such seller shall pay just damages to the person injured, up to the amount of two hundred fifty thousand dollars, or to persons injured in consequence of such intoxication up to an aggregate amount of two hundred fifty thousand dollars, to be recovered in an action under this section, provided the aggrieved person or persons shall give written notice to such seller of such person's or persons' intention to bring an action under this section. Such notice shall be given (1) within one hundred twenty days of the occurrence of such injury to person or property, or (2) in the case of the*

*death or incapacity of any aggrieved person, within one hundred eighty days of the occurrence of such injury to person or property. Such notice shall specify the time, the date and the person to whom such sale was made, the name and address of the person injured or whose property was damaged, and the time, date and place where the injury to person or property occurred. No action under the provisions of this section shall be brought but within one year from the date of the act or omission complained of. Such injured person shall have no cause of action against such seller for negligence in the sale of alcoholic liquor to a person twenty-one years of age or older.*

Prior to Connecticut's Supreme Court Case *Kowal v. Hofner*, Connecticut's Dram Shop Law limited liability for overserving a customer to a financial cap of \$20,000. That all changed in 2010 when the Connecticut legislature amended the Dram Shop Laws. Under those changes, any business that sells alcohol to an intoxicated person who thereafter injures another is now responsible for up to \$250,000 in damages.

Because of the expanded responsibility placed on those who sell alcohol it is important to make sure that best practices are followed when selling, and/or contracting the selling & service of alcohol during municipal events.

## LESSONS LEARNED

CIRMA's Risk Management team is seeking feedback from the Risk Management Advisory Committee on the recommended best practices to prevent these type of incidents from occurring.

- Consider transferring the risk associated with alcohol sales and service to third-party vendors during municipal events
- Consider insuring that all those who will be selling and serving alcohol are properly trained in identifying intoxication
- Consider establishing a process to stop serving those who demonstrate or exhibit signs of intoxication
- Enforcing town policies, procedures and protocols regarding the sale and service of alcohol at municipal events. This includes managing volunteers to insure compliance with such practices.
- Train all volunteers to notify law enforcement immediately when erratic driving is noticed

Following the meeting, please direct any questions, thoughts or comments to Joey Barbera ([jbarbera@ccm-ct.org](mailto:jbarbera@ccm-ct.org)).

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*For more information on this topic, please contact your CIRMA Risk Management Consultant.*