



## 2015 PSR UPDATE: STATUS OF STATE DRAM SHOP LIABILITY

November 30, 2015

### Background

In the summer of 2015, legal research was conducted to update the status of commercial host (dram shop) liability laws in states and the District of Columbia (DC), as reported by the Centers for Disease Control and Prevention (CDC) in the 2013 Prevention Status Reports (PSRs) on Excessive Alcohol Use. This update reviewed dram shop liability in the 50 states and DC, and determined whether there had been any changes to these laws from January 1, 2011 to January 1, 2015.

### Scope of Legal Research

The legal research specifically sought to identify whether the states and/or DC had added or removed to or from state law either (1) dram shop liability or (2) a major limitation to imposing liability. A major limitation was defined as (1) increased evidence required for finding liability, (2) limits on permissible damage awards, or (3) restrictions on who may be sued.

### Legal Research Method

A three-phase methodology was used to conduct this legal research. Phase one involved reviewing the laws and cases cited for PSR coding reflecting the status of dram shop liability as of January 1, 2011. In phase two, relevant sections of Liquor Liability Law,<sup>1</sup> a summary of state alcohol liability provisions, and the Report to Congress on Underage Drinking Prevention and Reduction (STOP Act Report) were reviewed to obtain current information on dram shop laws in states.<sup>2</sup> Finally, in phase three, Westlaw, an online legal research tool, was used to locate previously identified laws and conduct additional searches of relevant constitutional provisions, statutes, regulations, and related case law. Additional details on the legal research methods are described in Mosher JF, Cohen EN, Jernigan DH. Commercial host (dram shop) liability: current status and trends. *American Journal of Preventive Medicine* 2013;45:347–53.

### Changes Identified

As of January 1, 2015, the dram shop laws in 49 out of 50 states had not changed since January 1, 2011. In New Mexico, a court ruling in 2011 (case law) removed certain limitations on when liability may be imposed for the sale or service of alcohol to an intoxicated adult, thus strengthening dram shop liability for illegal sales to adults in the state. There were also no changes in dram shop liability in the District of Columbia from January 1, 2011 to January 1, 2015. However, an error in the original legal research on dram shop liability in the District of Columbia was corrected to show that alcohol retailers in the District cannot be held liable for the illegal sale or service of alcohol to an intoxicated adult.<sup>3</sup>

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<sup>1</sup> Mosher, J., et al. (2014). *Liquor liability law*. Newark, NJ: LexisNexis.

<sup>2</sup> Substance Abuse and Mental Health Services Administration. Report to Congress on the prevention and reduction of underage drinking. Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services; Washington, DC: June, 2015.

<sup>3</sup> This error will be posted as an errata by the CDC at [www.cdc.gov/psr/errata.html](http://www.cdc.gov/psr/errata.html).

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