

# Dram Shop 101



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## Dram Shop: What Can Happen



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## The Law: *20801, Inc. v. Parker*



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## Plaintiff's Initial Burden

**“Negligence” as to the Dram Shop Defendant means providing, under authority of a license, an alcoholic beverage to a recipient when it is apparent to the Dram Shop Defendant that the recipient is obviously intoxicated to the extent that he presents a clear danger to himself and others.**

Source: Texas PJC 5.5 Definition of Negligence Under the Dram Shop Act

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## The Intoxication Must Be:

1. Obvious to the server;
2. When the recipient was served; and
3. To the extent that the recipient presented a clear danger to himself and others.

Source: Texas Alcoholic Beverage Code § 2.02 (b) (1)

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## The Blood Alcohol Level

Memorial Hermann Emergency Department Report

EMERGENCY DEPARTMENT CLINICAL SUMMARY

BUN: 7 mg/dL -- Normal range between (7 and 20)  
Calcium Lvl: 8.0 mg/dL -- Normal range between (8.5 and 10.5)  
Chloride Lvl: 104 mEq/L -- Normal range between (95 and 108)  
CO2: 21 mEq/L -- Normal range between (24 and 32)  
Creatinine Lvl: 0.7 mg/dL -- Normal range between (0.5 and 1.4)  
**Ethanol Lvl: 0.272 %**  
Glucose Lvl: 147 mg/dL -- Normal range between (70 and 99)  
Potassium Lvl: 4.2 mEq/L -- Normal range between (3.5 and 5.1)  
Lactic Acid Lvl: 4.0 mEq/L -- Normal range between (0.5 and 2.2)  
Sodium Lvl: 139 mEq/L -- Normal range between (138 and 145)  
eGFR: 71 mL/min/1.73m2

HEMATOLOGY

10/2/14 09:23:11  
R time: 0.8 minutes -- Normal range between (0.4 and 0.7)  
K time: 1.8 minutes -- Normal range between (0.8 and 2.3)  
Angle: 73 degrees -- Normal range between (64 and 80)  
Max Amp: 99 mm -- Normal range between (52 and 71)  
Q angle: 5.9 f/sec -- Normal range between (5.0 and 11.6)  
ACT (TEG): 128 seconds -- Normal range between (88 and 118)  
Estimated % Lysis: 0.0 % -- Normal range between (0.0 and 7.8)  
Spill Point: 0.7 minutes  
Rapid TEG Sample Type: Citrated Whole Blood

10/2/14 04:48:00  
Basophils: 0.5 % -- Normal range between (0.0 and 1.0)  
Eosinophils: 0.2 % -- Normal range between (0.0 and 4.0)  
Hct: 42.1 % -- Normal range between (42.0 and 54.0)  
Hgb: 14.6 g/dL -- Normal range between (14.0 and 18.0)  
Lymphocytes: 8.1 % -- Normal range between (20.0 and 40.0)  
MCH: 33.0 pg -- Normal range between (27.0 and 31.0)  
MCHC: 34.9 g/dL -- Normal range between (32.0 and 36.0)  
MCV: 94.9 fL -- Normal range between (80.0 and 94.0)  
Monocytes: 4.3 % -- Normal range between (2.0 and 12.0)  
MPV: 8.1 fL -- Normal range between (7.4 and 10.4)  
Platelets: 292 K/CMM -- Normal range between (132 and 450)  
Segs: 88.9 % -- Normal range between (45.0 and 75.0)  
RBC: 4.44 M/CMM -- Normal range between (4.70 and 6.10)  
RBC Morph: Normal  
RDW: 12.8 % -- Normal range between (11.5 and 14.5)  
WBC: 20.1 K/CMM -- Normal range between (5.7 and 10.4)  
Segs-Bands #: 17.9 K/CMM -- Normal range between (1.0 and 8.1)  
Lymphocytes #: 1.9 K/CMM -- Normal range between (1.0 and 5.5)  
Monocytes #: 0.9 K/CMM -- Normal range between (0.0 and 0.8)  
Eosinophils #: 0.0 K/CMM -- Normal range between (0.0 and 0.5)  
Basophils #: 0.1 K/CMM -- Normal range between (0.0 and 0.2)

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Etoh (%): .272 %

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