

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)
Sodium Lvl: 13.6 mEq/L - Normal range between (13.5 and 155)
Chloride Lvl: 104 mEq/L - Normal range between (95 and 108)
CO2: 21 mEq/L - Normal range between (14 and 30)
Creatinine Lvl: 4.4 mg/dL - Normal range between (0.8 and 1.4)
Urea Nitrogen: 27.5 mg/dL
Chloride Lvl: 104 mEq/L
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 (130 and 145)
eGFR: 71 mL/min/1.73m2

HEMATOLOGY
10/12/14 05:25:11
R-Rate: 0.8 minutes - Normal range between (0.4 and 0.7)
R-Rate: 1.4 minutes - Normal range between (0.4 and 2.3)
Ange: 73 degrees - Normal range between (64 and 80)
Max. Ang: 69 deg - Normal range between (52 and 71)
Ht-value: 11.6 dL - Normal range between (11.2 and 11.6)
ACT (CT): 129 seconds - Normal range between (96 and 118)
Estimated % Lysis: 0.1% - Normal range between (0.0 and 0.75)
Split Time: 0.7 minutes
Rapid TEG Sample Type: Citrated Whole Blood
10/12/14 04:48:00
Biosophits: 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 and 54)
Hgb: 14.6 g/dL - Normal range between (14.0 and 18.5)
Lymphocytes: 5.1 % - Normal range between (1.2 and 40.0)
Hct: 33.0 g - Normal range between (27.0 and 51.0)
WBC: 54.4 g/dL - Normal range between (35.0 and 100.0)
BCV: 94.3% - Normal range between (80.0 and 94.0)
Neutrophils: 4.2 % - Normal range between (0.0 and 2.0)
MPV: 8.1 % - Normal range between (7.4 and 10.4)
Platelet: 250 K/CMM - Normal range between (132 and 450)
Segs: 88.5 % - Normal range between (4.0 and 76.0)
RBC: 4.44 M/CMM - Normal range between (4.40 and 1.10)
RBC Morph: Normal
WBC: 12.8 % - Normal range between (11.5 and 14.5)
WBC: 20.1 K/CMM - Normal range between (3.7 and 84.4)
Seg-Bands: 0.19 K/CMM - Normal range between (1.5 and 8.1)
Lymphocytes: 1.2 K/CMM - Normal range between (1.0 and 5.5)
Monocytes: 0.1 K/CMM - Normal range between (0.0 and 2.0)
Eosinophils: 0.0 K/CMM - Normal range between (0.0 and 0.5)
Biosophits: 0.5 K/CMM - Normal range between (0.0 and 2.2)

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"Dram Shop "