

New Hampshire Dram Shop Law



The dram shop law imposes liability for negligently serving alcohol to a minor or intoxicated person, or for recklessly serving alcohol.

Title 507-F in Title LII of the New Hampshire Revised Statutes contains the New Hampshire dram shop law. It applies to any person licensed or required to be licensed under the state liquor law, as well as their employees. The statute includes separate sections for negligent service and reckless service of alcohol. Section 507-F:4 provides that a defendant who negligently serves alcohol to a minor or an intoxicated person is liable for the resulting damages. Negligence means that the defendant knows (or a reasonably prudent person in similar circumstances would know) that the person being served is a minor or is intoxicated. Proof of serving alcohol to a minor without asking for proof of age is evidence of negligence.

Meanwhile, Section 507-F:5 provides that a defendant who recklessly provides alcohol to someone else is liable for resulting damages. Recklessness means that a defendant intentionally served alcohol to someone when the server knew or reasonably should have known that the service created an unreasonable risk of physical harm that is

substantially greater than what is necessary to make their conduct negligent.

Under either section, a defendant has a defense if they were adhering to responsible business practices, which are those that an ordinarily prudent person would follow in similar circumstances.

Although the statute does not directly address social host liability, the New Hampshire Supreme Court has held that a plaintiff who was injured as a result of a social host's service of alcohol could maintain an action against the social host if the plaintiff could allege that the service was reckless. However, the plaintiff in that case was the intoxicated person, and state courts subsequently have found that a negligence standard applies instead of recklessness to claims by third parties against social hosts.

Source: Justia