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RESOURCES & INFORMATION

LIQUOR LIABILITY INSURANCE & THE ILLINOIS DRAM SHOP ACT

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INTRODUCTION

The Illinois Dram Shop Act is a jerry-built contraption, which has been constructed in fits and starts of legislative zeal for over a century. This article is intended to provide an overview of its development and applications in the modern world as insurance protection needed to meet the obvious exposures to loss for the commercial seller of alcoholic beverages in Illinois.

LIQUOR CONTROL ACT – HISTORY AND AMENDMENTS

At common law, the purveyor of alcoholic liquor had no liability for harm done to drinkers and their families as a result of intoxication. Nor could the purveyor be held accountable for harm done by intoxicated persons to third parties. As the temperance movement developed national momentum in the years following the Civil War, legislative sentiment in Springfield grew to provide a remedy for damages resulting from the sale and consumption of liquor.

In 1874, the first civil damage act was passed into law. This act created a cause of action for “all damages sustained and for exemplary damages” to “every husband, wife, child, parent, guardian or other person, who shall be injured, in person, property or means of support, by any intoxicated person,” or in consequence of the intoxication, habitual or otherwise, of any person. Liability for damages was imposed on sellers or givers of alcoholic liquor who caused the intoxication “in whole or in part” of the person causing the injury.

Since the statute was in derogation of the common law and since liability was imposed without fault, the courts early held that its provisions were penal in character. A rule of strict construction was imposed; and unless a plaintiff brought himself clearly within the literal terms of the statute, she/he could not recover.