

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 Angle: 99 mm -- Normal range between (52 and 71)
Q angle: 5.9 fL/c -- 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 (5.0 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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"Dram Shop "