

INFORMATION FOR VICTIMS OF DRUNK DRIVING

Understanding your rights:

1. You have a right to collect from the driver's insurance.
2. You have a right to collect from the driver.
3. If the driver was at a bar, you have a right to collect from the bar in a Dram Shop suit.
4. You may have a right to collect from your own insurance for underinsured or uninsured benefits
5. You have the right to collect No-Fault benefits for up to \$20,000 in lost wages, and \$20,000 in medical expenses.
6. You have the right to have your automobile/truck repaired or replaced.

In addition to the car accident rights, when a drunk driver injures you, you may also have the following rights:

Dram Shop Claim:

Under Minn. Stat. § 304A.801, a liquor establishment (usually a bar, restaurant, or liquor store) can be held liable for injuries stemming from the intoxication of the drunk driver, if the sale was illegal.

Generally, illegal sales include:

1. Sales to a minor.
2. Sales to an obviously intoxicated person
3. Sales made during a prohibited time of day/day of the week.

The Dram Shop statute requires:

1. The sale "contributed" to the driver's intoxication and the intoxication is a direct cause of the victim's injuries or damages. These can include medical bills, lost wages, property damage, and pain and suffering. Additionally, the surviving family of a victim who passes away as a result of the accident can also sue for loss of support.
2. Under the Social Host Liability Act, you have a right to sue someone over the age of 21 who illegally serves alcohol to a minor, the minor's intoxication results in the injury or death.
3. A Wrongful Death claim may be made by the victim's survivors directly against the drunk driver. If the survivors make a Dram Shop claim, the survivors must each bring it individually.
4. A claim for punitive damages may be pursued against the drunk driver. If the drunk driver's blood alcohol level tests above .08, you have a right to make a motion before a judge to add a claim for punitive damages pursuant to Minn. Stat 169A.76.

What are punitive damages?

Punitive damages are designed to punish or deter a person who has acted in a willful or indifferent manner towards the rights and safety of another. Juries decide how much to award for punitive damages, after they have found a defendant liable. This type of award is not limited, it can be as big or as small as a jury thinks it should be, and it comes directly out of the drunk driver's pocket which may act as a deterrent to future drunk driving.

What if my auto insurance no-fault coverage pays for all or part of my expenses? Does that money get subtracted from an award?

No. If you sue a liquor establishment under the MN Dram Shop Act, the coverage you have received from your no-fault insurance benefits cannot be deducted from the amount of the award. In negligence cases, this amount can be deducted from the award, but Dram Shop claims are based on strict liability.

How long do I have to bring a lawsuit against an establishment that contributed to the intoxication of the driver that injured me?

There are specific time limitations within which you may bring a dram shop claim.

1. A Dram Shop lawsuit against the establishment **MUST** be filed within **TWO** years of the injury or death.
2. In addition, Minn. Stat. 340A.802 subd. 2 requires the defendant establishment must have been given notice of the injured person's intent to make a Dram Shop claim within 240 days of the date following when the claimant entered into an attorney-client relationship.

Who has the right to file a Dram Shop lawsuit against the at fault establishment?

Any dependents can recover for loss of means of support, property loss and pecuniary loss. Any dependents include the following: a spouse, child, parent, guardian, employer, or other person, injured in property or means of support.

Will the dependents be punished by the fact that the intoxicated person was partly at fault for their own injury?

No. Comparative fault will not be imputed to the family of the allegedly intoxicated person.

Does the person who is injured by their own intoxication have a right to sue the establishment?

The law does not allow the intoxicated person to sue the bar for causing their injury, no matter what. If he/she dies as a result of the intoxication, their estate cannot sue, but the family members as dependents can sue. Minn. Stat. 340A.801. subd. 1.

Is Drunk Driving still a problem in Minnesota?

In 2015 there were 95 fatalities in Minnesota from alcohol-related crashes, accounting for approximately 30% of all automobile fatalities that year. Historically, accidents involving alcohol cause more serious injuries. Recent figures show that 12 percent of moderate injuries and almost 36 percent of severe injuries from automobile accidents in Minnesota were the result of an alcohol-related crash. There were more than 25,000 impaired driving incidents in Minnesota in 2015. Although drunk driving rates are on the slow decline since they began to track them in 1982, drunk driving is still a problem in Minnesota.