

## UNDERSTANDING LIABILITY

### How Liability Affects You

Whether you serve cocktails in a restaurant or bar, sell beer at a convenience or liquor store, or offer wine and other spirits in your own home, you could be held liable, or responsible, should one of your patrons, customers, guests or friends become intoxicated and cause damage to himself, others or property. Being certified in a quality alcohol service training program can prevent some of the problems that result from the misuse of alcohol. Stockton University offers TIPS Training for that reason.

### Civil Liability

Civil liability allows individuals to bring suit against licensees, social hosts, or companies depending on where the problem occurred. Lawsuits can be filed by innocent victims injured by an intoxicated person or by the intoxicated person himself. Juries typically award monetary damages to compensate victims (compensatory damages) and to punish the offender (punitive damages). Awards can range from a few thousand to millions of dollars. Civil lawsuits are based on three basic forms of law.

1. **DRAM SHOP LAWS** - These are specific statutes that address liability issues only for liquor license holders. These statutes are intended to promote responsible alcohol service and provide a means for third parties to file suit for injuries and for fatalities resulting from a liquor law violation.
2. **COMMON NEGLIGENCE LAWS** - These laws, although not specifically defined, address negligent behavior with negligence being defined as not doing what any reasonable person could be expected to do under a certain set of circumstances. With regard to alcohol, it is assumed that a person (server/seller) can be expected to follow a set of procedures and if he/she fails to do so, the server/seller has acted negligently.
3. **SOCIAL HOST LAWS** - These are specific laws stating that social hosts (hosts of a party, function, etc.) who provide alcohol to their guests can be held responsible for the actions of their guests if alcohol has been served improperly.

### Criminal Liability

Criminal liability allows the state to bring suit against the licensee or owner of a licensed establishment, individuals employed by that establishment, social hosts or employers. These suits, unlike civil suits, address the criminal aspect of serving alcohol irresponsibly. A common form of criminal liability involving alcohol would be a case brought by the state against an intoxicated person who injures or kills an innocent third party. The state would typically also charge the person or persons who served alcohol to the intoxicated person.

**NOTE:** *Many cases involving injury or death result in both civil and criminal charges. The cases would be decided independently, and the penalty in either case is not dependent on the other. Also, while a civil suit typically carries a monetary judgment, the result of a criminal suit can be prison time.*