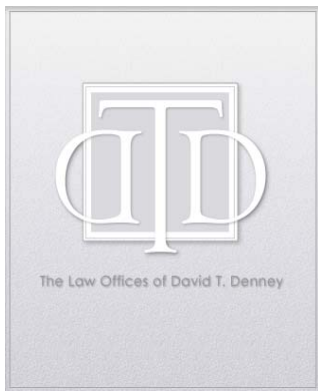


Before the First Round:
Defending the Dram Shop Claim from Incident to Trial

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David's professional commitment to the hospitality community is highlighted by his industry-wide involvement, including:

- Board of Directors, GREATER DALLAS RESTAURANT ASSOCIATION; Member, NATIONAL RESTAURANT ASSOCIATION.
- Speaker: 2009 - 2014 HOSPITALITY LAW Conferences; 2013- 2014 Nightclub and Bar Convention and Trade Show; 2013 NATIONAL RESTAURANT ASSOCIATION Marketing Executives Group Conference; 2013 HOSPITALITY FINANCIAL AND TECHNOLOGY PROFESSIONALS Annual Convention; 2011 CLUB MANAGERS ASSOCIATION OF AMERICA Conference, 2011 RESORT HOTEL ASSOCIATION Conference, 2009 MEXICAN RESTAURANT ASSOCIATION Conference, 2009 FS/TEC Conference and 2008 DINEAMERICA Conference.
- David is a frequent contributor to *Restaurant Startup & Growth Magazine*, and has had articles featured in *Nightclub & Bar Magazine*, *Cheers*, *In the Mix Magazine*, *QSR Magazine*, *Food Safety Solutions*, the *CMAA Newsletter* and various *HospitalityLawyer.com* newsletters.
- David is an adjunct professor and member of the Professional Advisory Committee for the INTERNATIONAL CULINARY SCHOOL AT THE ART INSTITUTE OF DALLAS.

David is also a Member of the COLLEGE OF THE STATE BAR OF TEXAS and the GLOBAL ALLIANCE OF HOSPITALITY ATTORNEYS.

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APPENDIX 1

I. SCOPE OF ARTICLE¹

In jurisdictions with dram shop liability laws, a person injured by an intoxicated person may sue establishments contributing to that person's intoxication. Liability can be imposed through statutes and/or common law, depending on the jurisdiction. This article will provide an overview of dram shop laws in the United States with a detailed evaluation of Texas' dram shop law and its safe harbor provision.²

Although the liability imposed varies among the different jurisdictions, there are common steps an establishment can take in order to defend against a dram shop claim before suit is even filed. This article provides a plan of action on how to reduce risk before, and immediately after, an alcohol-related accident or injury, and a look at what an establishment can expect once litigation commences.

II. INTRODUCTION

A "dram shop" or "dramshop" is the term historically used to describe any establishment where alcoholic beverages are sold to be consumed on the premises. Traditionally, these establishments sold alcoholic drinks by the dram, which is a small unit of liquid, measuring one eighth of a fluid ounce.

Dram shop laws³ are intended to deter establishments from selling alcohol to patrons who are already inebriated, or to minors, by allowing third parties who have been injured or damaged as a result of the establishment's service (or over-service) to said individuals. Courts must decide how to apportion responsibility for the injury between the server and the patron. The common law rule in most states is that the consumption of alcohol, and not the service of it, is the proximate cause of alcohol-related injuries, which is generally still the rule today. However, similar to most other third-party torts, dram shop laws provide innocent third parties an opportunity to seek recovery for their damages from an extremely profitable industry.

III. DRAM SHOP LEGISLATION

A. OVERVIEW OF DRAM SHOP LAWS

Forty-two states in the U.S. have some sort of dram shop liability law, with the exceptions being: Delaware, District of Columbia, Kansas, Louisiana, Maryland, Nevada, Nebraska, South Dakota, and Virginia.⁴ Dram shop liability varies widely among the

¹ This article would not have been possible without the efforts of Ashley Ahn, an associate of the firm, who pulled the laboring oar so mightily on this paper that all the author had to do was sit back in the boat and drink beer.

² The author is in Texas, as is the Hospitality Law Conference.

³ The purpose of this article is to aid commercial entities in defending against dram shop liability, which is distinct from the laws governing "social host" liability applied to non-commercial, private citizens.

⁴ See Appendix I; *Dram Shop and Social Host Liability*, (June 2012), available at http://www.madd.org/laws/law-overview/Dram_Shop_Overview.pdf.

forty-two states but, generally, an establishment may be held liable if a plaintiff proves that 1) the establishment sold alcohol to the patron, 2) proximate cause between the alcohol sale and intoxication, 3) patron was visibly intoxicated at the time of the sale, and 4) that intoxication of the patron caused injury to a third party. Both common law and state statutes may apply depending on the specific circumstances of each case.

Many jurisdictions bar “first-party actions,” or recovery sought by the intoxicated person, to reinforce the notion that the *consumption* of alcohol is the proximate cause of the injury, not the service of alcohol. California’s dram shop law further limits liability to minors, and thus does not apply to over-serving alcohol to adults.⁵

1. *Visibly Intoxicated*

The majority of states require a “visibly” or “obviously” intoxicated standard, allowing recovery when the defendant knew, or should have known, that the patron was intoxicated. Implementing an objective standard makes sense in order to deter servers from claiming ignorance of the intoxication as a defense. Exactly what sort of conduct “visibly” or “obviously” intoxicated entails differs among jurisdictions. Some states have attempted to address this problem by defining specific physical tests such as “significantly uncoordinated physical action or significant physical dysfunction.”⁶ Massachusetts broadly views visibly intoxicated as “drunk, loud and vulgar” behavior.⁷ In Texas, a patron must be so obviously intoxicated that he presents a clear danger to himself and others.⁸

In contrast, Illinois’s dram shop law does not require any knowledge that the patron was intoxicated.⁹ Thus, every establishment who sold the patron alcohol, whether or not he was intoxicated at the time, is subject to some degree of liability. Further, one Illinois court allowed a lawsuit against a company that dropped off self-serve barrels of beer at a union picnic.¹⁰

B. TEXAS DRAM SHOP ACT

Texas’ DRAM SHOP ACT allows a plaintiff to recover from an establishment upon proof that:

(1) at the time the provision occurred it was apparent to the provider that the individual being sold, served, or provided with an alcoholic beverage was obviously intoxicated to the extent that he presented a clear danger to himself and others; and

⁵ CAL. BPC. CODE §25602-25602.1

⁶ § 537.53, RSMo 1985

⁷ *Cimino v. The Milford Keg, Inc.*, 385 Mass. 323 (1981).

⁸ TEX. ALCO. BEV. CODE § 2.02

⁹ 235 Ill. Comp. Stat. § 5/6-21

¹⁰ *Peterson v. Jack Donelson Sales Co.*, 4 Ill.App.3d 792 (2nd Dist. 1972).

(2) the intoxication of the recipient of the alcoholic beverage was a proximate cause of the damages suffered.¹¹

In order for a plaintiff to succeed on his cause of action under the Texas Dram Shop Act, he must prove that, at the time the alcohol was provided, the patron who later caused damage was obviously intoxicated to the point that he presented a *clear* danger. Additionally, plaintiff must show that intoxication was a "proximate cause" of the damage caused by the over-served patron, meaning that the intoxication must have been sufficiently related to the injury suffered. Proximate cause includes the requirement that the dram shop must have been able to foresee that its actions could cause injuries to third parties.

When the patron is a minor, an adult (21 years of age or older) is liable for damages proximately caused by the intoxication of a minor under the age of 18 if:

(1) the adult is not: (A) the minor's parent, guardian, or spouse; or (B) an adult in whose custody the minor has been committed by a court; and

(2) the adult knowingly: (A) served or provided to the minor any of the alcoholic beverages that contributed to the minor's intoxication; or (B) allowed the minor to be served or provided any of the alcoholic beverages that contributed to the minor's intoxication on the premises owned or leased by the adult.¹²

The standards governing suits against an adult who knowingly serves alcohol to a minor under the age of 18 are less lenient. Anyone over 21 — other than the minor's parent or legal guardian — who provides alcohol to a minor or allows a minor to be served alcohol on his or her premises may be held responsible for damages arising out of the minor's intoxication. Note that the statute does not require obvious intoxication to be present at the time of serving alcohol to the minor.

C. TEXAS' SAFE HARBOR PROVISION

Texas allows establishments an opportunity to nullify civil and administrative liability due to the acts of negligent employees by showing that:

(1) the employer requires its employees to attend a commission approved seller training program;

(2) the employee has actually attended such a training program; and

(3) the employer has not directly or indirectly encouraged the employee to violate such a law.¹³

¹¹ TEX. ALCO. BEV. CODE § 2.02

¹² *Id.*

¹³ TEX. ALCO. BEV. CODE § 106.14

If all three of these criteria are met, then a plaintiff seeking to sue the establishment must prove that the employer-establishment either directly or indirectly encouraged the server-employee to violate the Texas DRAM SHOP ACT in order for there to be liability. The burden is on the employer to affirmatively plead and prove the *Safe Harbor* or *Trained Server* defense, which appears to be straightforward on the surface. However, caution and diligence must be used in order to strictly comply with the safe harbor provision in order to benefit from its protection.

IV. REDUCING RISK BEFORE A CLAIM

Obviously, companies must become intimately familiar with the laws, regulations, and standards of care for their respective states in order to minimize risk. Just as important, however, is for the establishment to 1) strictly adhere to any safe harbor requirements in order to utilize that protection in the event of an accident or injury, and 2) develop policies and procedures for the responsible service of alcohol, comply with those policies, and strictly enforce them. Obtaining proper liability insurance, where available, will help offset the expense of defending against a dram shop claim, which can quickly add up with (among other costs) legal fees, extensive written and oral discovery, and fees for expert witnesses (such as toxicologists).

A. COMPLIANCE WITH TEXAS' SAFE HARBOR PROVISION

In Texas, all phases of the alcoholic beverage industry are regulated by the state through the Texas Alcoholic Beverage Commission (TABC), including the sale and service of alcohol. As with other jurisdictions, any establishment serving alcohol must obtain a permit from the state licensing authority, and must serve alcohol responsibly according to that agency's rules. Employers who strictly comply with the safe harbor requirements can avoid civil and administrative liability.

TABC will not take administrative action against a license/permit holder when its employee sells or serves an alcoholic beverage to a minor or intoxicated customer, as long as:

- The person selling is not the owner or an officer of the company;
- The person selling holds a current seller-server training certificate from a TABC-approved school;
- All employees engaged in the sale, service, or delivery of alcoholic beverages, as well as their immediate managers, are certified within 30 days of their hire date;
- The employer has written policies for responsible alcohol service and ensures that each employee has read and understands these policies;
- The employer does not directly or indirectly encourage the employee to violate the law; and
- There are not more than three of these types of violations within a twelve month period.¹⁴

¹⁴ TEX. ALCO. BEV. CODE § 106.14; *See also* http://www.tabc.state.tx.us/faq/seller_server_training.asp

Note that the Safe Harbor defense is for the employer/permit holder to utilize. If an illegal sale is made, the seller/server may still be liable criminally and/or civilly for the sale, but the employer's permit will have protection from administrative action by the TABC. Employers must be diligent in making sure seller-server certifications are updated continuously every two years (create a tickler or reminder system to ensure no lapses).

1. *Require all employees engaged in the sale, service, or delivery of alcoholic beverages to attend a TABC-certified course*

This requirement includes all employees of a dram shop – regardless of whether or not the employee actually *serves* alcohol. The definition of an employee is "one who sells, serves, dispenses, or delivers alcoholic beverages under the authority of a license or permit, including persons who immediately manage, direct, supervise, or control the sale or service of alcoholic beverages."¹⁵ The obvious employees such as bartenders and waiters undoubtedly should attend a TABC certified course. What about hostesses, busboys, cooks, and other “back-of-house” employees? Although these employees typically do not sell or serve alcoholic beverages, they may occasionally bring a drink over to a patron on behalf of a waiter who is “in the weeds.” Unless an employer can guarantee this type of situation will never happen, the prudent employer will require ALL employees to attend a TABC-certified course.

TABC allows a 30-day grace period for new employees to become certified. However, the safe harbor will not apply for a new employee who serves an intoxicated person during his first 30 days of hire without completing the course. Thus, the course must be taken *prior to* serving, dispensing, or delivering alcohol to patrons. Consequently, the employer must not only require employees to attend a TABC-approved training course, but it must also *make sure* that all employees have actually done so. Best practices, however, dictate that all employees be certified prior to beginning work.

2. *Must not directly or indirectly encouraged employees to serve intoxicated persons or any minor*

Most establishments do not blatantly encourage their employees to serve intoxicated persons, or to minors, so proving an establishment did not directly encourage its employee to break the law is usually simple. More problematic is showing that the establishment has not *indirectly* encouraged its employees.

An establishment that has a track record of consistently, strictly, and diligently complying with its policies and procedures for the service of alcohol is likely to show a lack of indirect encouragement. A good practice to establish is to have each employee sign and acknowledge the establishment's policies and procedures and place a copy in each employee's personnel file. Institute a procedure for the eviction of intoxicated persons including a chain of command. Require management to regularly hold meetings to reinforce the policies and procedures. Display the establishment's policies and

¹⁵ *Id.*

procedures openly. Avoid encouragement of employees to sell the most alcohol, or a specific type of alcohol, through contests or awarding prizes. Further, there is a *prima facie* showing of “indirect encouragement” if an employer violates the law more than three times in a consecutive 12 month period.

The case of Parker v. Slick Willie’s¹⁶ illustrates the current state of the law in Texas with regard to the safe harbor. Parker contends that in 1999 he consumed between 10-15 free drinks at the Slick Willie’s grand opening, two of which were allegedly served by the bar’s manager. Outside the bar Parker was injured in a fight with another patron, allegedly hitting his head on the parking lot.

Parker sued, and Slick Willie’s invoked the safe harbor defense. The Court of Appeals held the safe harbor was unavailable because Slick Willie’s could not prove that it did not directly or indirectly encourage employees to serve an intoxicated person. (Ever prove a negative before? Not easy.)

The Texas Supreme Court held that the licensee has the burden to prove the first two elements of the safe harbor defense, but that the plaintiff has the burden of proving the third element.¹⁷

In another portion of the opinion, the Supreme Court held that the manager of a licensed premises is, for purposes of the safe harbor, the same as “employer” (calling the manager a “vice-principal” of the business). Thus, if a manager serves an intoxicated patron, the company **will not** be able to assert the safe harbor.¹⁸

B. DEVELOPING POLICIES AND PROCEDURES

Every licensed premises should have written policies and procedures that are clearly drafted, accessible, and routinely implemented. A well-written policy should highlight the company’s commitment to the safety and wellbeing of its patrons and employees via the responsible service of alcohol, provide instructions in the event of a violation, identify the people responsible for implementing them, and detail penalties for violations.

In states that do not require certification of seller-servers, establishments should make sure employees attend training regularly to ensure they know how to identify intoxicated or under-aged customers by learning how to detect false or altered identification, along with learning how to avoid over-service. These topics are generally covered by state-sponsored courses in states that regulate the alcoholic beverage industry (often membership in state and/or local restaurant associations will provide discounted training to employees). Other helpful practices to implement include:

¹⁶ 20801, Inc. v. Parker, 249 S.W.3d 392 (Tex. 2008).

¹⁷ *Id.* at 399.

¹⁸ *Id.* at 400.

- Require every patron who looks under the age of 40 to produce proper proof of age;
- Audit employee compliance with policies and procedures by hiring mystery diners (secret shoppers);
- Never allow employees to drink alcoholic beverages while working or from arriving to work after consuming alcohol;
- Prohibit contests that award prizes to staff who serve the most alcohol;
- Evict customers who become belligerent or drunk (but do not facilitate or encourage them to drive away!);
- Document and track all incidents to help prevent improper service and reduce the likelihood of repeating mistakes;¹⁹ and
- Treat a regular customer the same as an unknown customer.

C. INSURANCE

Every establishment that serves alcohol should obtain appropriate insurance. General liability policies typically exclude coverage for negligent service, and usually only apply to damages occurring on the premises. Where available, an establishment should obtain liquor liability policies that cover the establishment and its employees for a variety of potential claims including:

- Assaults and batteries occurring on the premises;
- Third-party claims where the injury occurred away from the establishment's premises by a patron served at the establishment;
- Coverage for all types of damages from bodily injury to mental anguish;
- Employee intoxication (even though best practice is to prohibit employees from ever drinking on-premises, even when off the clock); and
- Defense costs.²⁰

V. DEFENDING A CLAIM

A. PRE-LITIGATION PLAN OF ACTION

Dram shop claims are extremely fact-intensive, so having a pre-made plan of action is vital in defending a dram shop claim. The establishment must act **quickly** to collect and preserve facts to eliminate the risk of unclear memory or adverse testimony from a former employee (i.e., a current employee who becomes a former employee in the future). These facts should be formally documented in sworn statements in order to preserve testimony from a commonly transient workforce. In addition, focus on obtaining facts or evidence helpful to establish a safe harbor defense, if applicable.

¹⁹ Documentation that an establishment has few, if any, problems due to inappropriately serving alcohol may be invaluable to a successful defense during trial.

²⁰ Larger companies should ask for a choice of counsel endorsement to their policies, so they are not beholden to an insurance company's choice of defense attorney.

Once an incident or injury has occurred, immediately interview all managers and employees on duty at the relevant time to determine the circumstances leading to the incident such as:

- The Identity and physical characteristics of the patron, if known;
- Whether the patron was a regular or unknown to the establishment (if known, whether the patron had previously been intoxicated on the premises, and with what result);
- When the patron arrived/left;
- If the patron was alone or with a group (and the identity and conduct of the group members);
- If the patron visited other establishments before coming to, or after leaving the subject establishment;
- Whether the patron consumed any food or non-alcoholic beverages on the premises, and if so, what was ordered and when (POS reports will have food and beverage information);
- Whether the patron was monitored by any employee (if so, ask questions regarding the behavior and conduct of the patron during the entire time monitored);
- Who served the patron;
- How the server(s) prepared the alcoholic beverage(s) (whether freely poured, measured, or from an automatic machine).

In addition to gathering detailed facts about the patron, events leading up to the incident and the incident itself, POS reports should be generated, and security videos preserved to prevent them being erased or overwritten (as can happen with a DVR system). Employees need to be interviewed to determine whether employees had been trained or knew how to:

- Identify an intoxicated person or minor;
- Evict a patron for intoxication (and whether the employee had experience doing so); and
- Serve alcohol responsibly (if so, how, when, and from whom).

Conduct a thorough review of the establishment's policies, procedures, and business practices. Collect training manuals and videos, and a list of employees on duty at the relevant time. Employees' personnel files should be gathered and reviewed to establish compliance with server laws, if applicable, or prior alcohol related disciplinary action. Further, obtain all documentation concerning the incident such as receipts and police reports.

B. WHAT TO EXPECT DURING LITIGATION

Once a lawsuit is filed, defense counsel can expect to conduct extensive written and oral discovery given the fact-intensive nature of dram shop claims. The specific type of information to be obtained will depend on the facts of each case and the type of action

brought (such as whether the suit is for a survival action or a wrongful death action). Generally, defense counsel should obtain information concerning the date of the incident (when/where the allegedly intoxicated person was), credit card receipts, cell phone records, information on a decedent's children and spouse, funeral expenses and tax returns, past medical history and medical records, autopsy photos or photos that prove injury, witness statements, reports from expert witnesses, and any police reports, photos or video of the accident.

Defense counsel should prepare the client for a myriad of requests for information from the plaintiff, such as training manuals or videos supplied to employees, personnel files of all employees working at the relevant time, dates of training, demonstrative aids such as mugs or glasses from the establishment to be used as trial exhibits, reports from defendant's expert witnesses, and defendant's witness list and statements. Information on previous lawsuits or administrative actions against the establishment and reports of prior incidents or violations will undoubtedly be sought.

The parties can expect to engage in multiple depositions (more than in most other civil cases), since testimony under oath is the best way to find out what the employees "knew" or "should have known" at the time alcohol was served to the patron. Further, witness testimony will be obtained to determine whether the patron was "visibly intoxicated." In addition, witnesses to the accident or injury will need to be deposed along with all expert witnesses, plaintiffs, and defendants. Importantly, witnesses will need to be extensively prepared for questions from plaintiff's counsel. For example, one of the trickier lines of questioning will begin, "So... on a scale of 1 to 10, how intoxicated was Mr. Doe?". This, of course, presupposes that Mr. Doe was intoxicated, and while the question itself is objectionable, laypeople (especially restaurant and bar employees) think that if they answer with a low number it is the same as stating that Mr. Doe was not intoxicated. The plaintiff's attorney will argue, however, that answering "1" means Mr. Doe was still legally intoxicated.

VI. CONCLUSION

Considering the vast majority of states have legislation granting statutory recovery in addition to common law causes of action for the negligent service, dram shop liability should be a priority for any establishment involved in the sale of alcoholic beverages for consumption on its premises. By developing and consistently implementing solid policies and procedures for the responsible service of alcohol, establishments will be able to mitigate their exposure. In jurisdictions that have enacted safe harbor provisions, an establishment must strictly comply with all requirements in order to be absolved of civil and administrative liability. Taking these precautionary steps may not prevent a dram shop claim from being lodged, but will undoubtedly aid in the defense of such claims if litigation commences.

APPENDIX 1

Dram Shop and Social Host Liability Laws

State	Vendor Liability for Intoxicated Adults?	Vendor Liability for Intoxicated Minors?	Social Host Liability for Intoxicated Adults?	Social Host Liability for Intoxicated Minors?	Relevant Statutes/Case Law
Alabama	Yes	Yes	No	Limited	§ 6-5-71, §6-5-72
Alaska	Limited	Yes	No	No	§04.16.030;§04.21.020(a); §04.21.080(a)(l).
Arizona	Yes	Yes	No	Yes	§§ 4-311; 4-301; 4-312(B)
Arkansas	Yes	Yes	No	No	§16-126-103; §16-126-104;
California	No	Limited	No	No	BUS §25602; BUS §25602.1
Colorado	Yes	Yes	No	Yes	§§ 12-46-112.5; 12-47-128.5
Connecticut	Yes	Yes	No	Yes	§ 30-102
DC	Yes	Yes	No	No	Case Law
Delaware	No	No	No	No	
Florida	Limited	Yes	No	No	§ 768.125
Georgia	Limited	Yes	Limited	Yes	§ 51-1-40(b)
Hawaii	No	Yes	No	Yes	Case Law
Idaho	Limited	Yes	Limited	Yes	§ 23-808
Illinois	Yes	Yes	No	Limited	§ 235 IILCS 5/6-21
Indiana	Yes	Yes	Yes	Yes	§ IC7.1-5-10-15.5
Iowa	Yes	Yes	No	Limited	§§ 123.92; 123.49(1)
Kansas	No	No	No	No	
Kentucky	Yes	Yes	No	No	§ 413.241
Louisiana	No	Yes	No	No	§ 9:2008
Maine	Yes	Yes	Limited	Yes	28-A MRSA § 2501 et seq.
Maryland	No	No	No	No	
Massachusetts	Yes	Yes	No	Limited	Case Law
Michigan	Limited	Yes	No	Yes	§ 436.1801(3) & (10)
Minnesota	Yes	Yes	No	Limited	§340A.801
Mississippi	Limited	Yes	No	Yes	§ 67-3-73 (2) & (4)
Missouri	Limited	Yes	No	No	§ 537.053
Montana	Limited	Yes	No	Yes	§ 27-1-710
Nebraska	No	No	No	No	

Dram Shop and Social Host Liability Laws

State	Vendor Liability for Intoxicated Adults?	Vendor Liability for Intoxicated Minors?	Social Host Liability for Intoxicated Adults?	Social Host Liability for Intoxicated Minors?	Relevant Statutes/Case Law
Nevada	No	No	No	No	§ 41.1305
New Hampshire	Yes	Yes	Yes	Yes	§ 507-F:1 et seq.
New Jersey	Limited	Yes	Limited	Yes	§2A:22A-1 et seq.
New Mexico	Yes	Yes	Yes	Yes	§ 41-11-1
New York	Yes	Yes	No	Yes	§§ 11-100 & 11-101
North Carolina	Limited	Yes	Limited	Limited	§§ 18B-120 et seq.
North Dakota	Yes	Yes	Yes	Yes	§ 5-01-06.1
Ohio	Yes	Yes	No	Yes	§§ 4399.01, 4399.02, & 4388.18
Oklahoma	No	Yes	No	No	Case Law
Oregon	Yes	Yes	Limited	Yes	471.565(2); §471.567
Pennsylvania	Limited	Limited	No	Yes	47 § 4-497
Rhode Island	Yes	Yes	No	No	§3-14-6; §3-14-7.
South Carolina	No	Yes	No	Limited	Case Law
South Dakota	No	No	No	No	§§ 35-4-78, 35-11-1, & 35-11-2
Tennessee	Limited	Yes	No	No	§57 10 101; §57 10 102; Case Law
Texas	Limited	Limited	No	Limited	§2.01 et seq
Utah	Limited	Limited	No	Yes	§ 32A-14-101
Vermont	Yes	Yes	No	Yes	7 § 501
Virginia	No	No	No	No	
Washington	No	Yes	No	Yes	§66.44.200; Case Law
West Virginia	Yes	Yes	No	No	§ 55-7-9
Wisconsin	No	Yes	No	Yes	§ 125.035, Case Law
Wyoming	Limited	Yes	No	Yes	§ 12-8-301

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