

Investigating a Case of Dram Shop Legislation where a Three Drink Maximum is Imposed

Summary

Lion Stadium primarily plays host to NFL games, but is also used for concerts, conferences, and other large-scale events on a regular basis. The football season is the only time in which the alcoholic beverages are sold in the stadium. Stadium officials feel adequate measures are in place to ensure no patron is over-consuming alcohol beyond the three-drink maximum policy and all of the Duties of Care are strictly adhered to.

Stadium patrons were made aware of the alcoholic beverage policy and compliance with the new policy was required by all concession employees. However, certain concessionaires were lenient with the policy at times, which was often overlooked by management. This oversight concerned Lion Stadium administrators as they have had an impeccable record with the TABC in the five years the stadium has been in operation. The TABC recently began monitoring alcoholic beverage service establishments with more scrutiny and administrators fear this could result in penalties or the loss of their alcohol permit.

In an effort to curb leniency with the policy, stadium administrators implemented new technology that worked in conjunction with their existing POS to ensure future adherence to the three-drink policy. The new technology would require the employee to scan the patron's identification and complete the sale before the tap on the keg would unlock to dispense beer. If the patron had met the three-drink limit, the POS would not unlock the tap. Patron identification information was securely stored in on-site electronic servers for the duration of the game or a maximum time period of twelve hours, whichever came first.

After a game that experienced higher than usual attendance, the crowd was dispersing to parking areas in the vicinity. As a group of people was crossing the street, a driver leaving the stadium struck and severely injured a pedestrian. The driver failed field sobriety tests and the Breathalyzer registered .18, which is more than double the legal limit of .08.

The injured party has filed a lawsuit alleging loss of income due to the inability to be gainfully employed in the immediate future and the likely negative impact of long-term employment. The plaintiff filed charges against the driver of the vehicle and Lion Stadium, alleging third party negligence.

Due to the lawsuit, Lion Stadium completed an internal audit of the POS system in order to determine whether protocol was followed. As patrons' driver's license information was only stored for the duration of the game administration chose to review alcohol sales records. By reviewing sales records, administration would be able to determine if there was a concession POS that had malfunctioned in addition to viewing the alcohol consumption rates at each of the operating con-

cessions. During the audit, administrators found one particular stand was using significantly more kegs than the others for the past four months. After inspecting the POS and kegs at the stand, it was discovered the employees had placed diverters on the kegs, which allowed a second tap to be installed. Since the POS did not control the unauthorized tap, employees were able to sell beer and pocket the money.

This case study outlines four specific areas affecting alcoholic beverage operations within the hospitality industry: the ramifications of dram shop legislation on a beverage operation; the failure of Lion Stadium administration to monitor POS equipment operations and sales; the violation of the Duties of Care in which all beverage operations are ethically and legally responsible to adhere to; and the operational and human resource implications employees are subject to resulting from negligent behavior.

Theoretical Framework

In broad terms, the Theory of Planned Behavior (TPB) was developed to offer explanation for intentional behavior. TPB allows researchers to identify specific intentions, which can be anticipated with certainty based upon individual attitudes, subjective norms, and perceived behavioral control (Ajzen, 1991). Attitudes, subjective norms, and perceived behavioral control are interrelated although no statistical analysis has been completed to concretely prove this relationship. Since this case is conceptual in nature, the Theory of Planned Behavior (TPB) (Ajzen, 1991) provided insight as to the actions of the individuals involved within the case. By testing TPB, management would be able to better understand employee perceptions of management strategies. Administering an internal survey, stadium administrators and managers could identify factors to predict the situation described within this case study.

Learning Outcomes

Presented in the case is a fictional scenario based upon real-world examples and outcomes that could impact beverage operations. By the end of this case, the student should be able to:

- Explain how dram shop legislation is applicable to this specific case outlining the reasons the injured party has legal standing.
- Propose suggestions why one concessionaire is reporting higher than average keg consumption.
- Evaluate which specific duties of care were violated by stadium administration, management, and concession staff.
- Ascertain which operational and human resource guidelines need to be established to ensure there are no future incidents of this nature and determine the consequences which those staff members directly involved with this patron should face.

Target Audience

This case study is applicable to the undergraduate student in the hospitality or business disciplines. This case would be most appropriate for use in a Beverage Operations course, and it is recommended it be presented mid-semester in an effort to reinforce management and operations concepts previously addressed in lecture. Themes and concepts learned in previous lessons which would be applicable to this case include:

1. Legal aspects of the alcoholic beverage industry
2. The professional service of alcoholic beverages
3. Beverage operation Duties of Care
4. Service industry management
5. Hospitality cost control
6. A general understanding of business ethics
7. Human resources in the hospitality industry

UNDERGRADUATE LESSON PLAN

Prior to the lesson, students will be asked to read this case along with information about Texas dram shop legislation, alcoholic beverage operation duties of care, and a review of human resource practices within the hospitality industry. Depending on the type of course, this case study may be resolved during one or two class periods. Students should have a general understanding of the following topics prior to this case study analysis:

- Responsible alcohol service to consumers
- General understanding of the duties of care
- Point-of-sale technologies and adaptive hospitality components
- Business operations, and policies and procedures.
- Beverage operation Duties of Care

If two class periods are apportioned for the case study, it may be appropriate to ask students to collect information not presented in this case (e.g. review dram shop laws from other states and compare to Texas). Instructors may also consider reviewing the Dram Show Laws associated with the state where their institution is located, and use those laws in place of the Texas Alcoholic Beverage Codes utilized here.

DISCUSSION TOPICS AND QUESTIONS

Internal Ethical Issues

Students can discuss ethical issues that arise from policies that are developed based solely upon employee implementation and the ethics of employee theft within an operation. First, students should examine the original policy enforced by posted signage and employee implementation.

- How effective was the original policy in enforcing the three-drink maximum policy?
- Were any disciplinary actions taken with employees that inten-

tionally disregarded the policy?

- What actions should stadium administrators have taken when they found concession managers were not always enforcing the three-drink maximum policy?

Legal

The main legal component within this case is dram shop legislation in the state of Texas. According to Texas law, if the last establishment where the defendant consumed alcohol does not arrange for adequate transportation home, they are then legally liable for any negligent actions of the intoxicated individual.

- How should employees of the stadium determine if someone is too inebriated to operate a vehicle?
- If a patron is discovered to be intoxicated what should the employee do to ensure they arrive home safely?
- Should there be specific employees assigned to monitor patrons leaving the stadium that are trained in identifying intoxicated individuals?
- In this case, the intoxicated individual parked his vehicle in an area not owned by the stadium and then injured a pedestrian crossing a public street. Does the injured party have a legitimate dram shop case? Why or why not?

Beverage operations

Prior to opening an operation that includes a beverage component it is customary to pre-plan a secured storage location of all alcoholic beverages. Additionally, management should determine which individuals will be assigned to monitor inventory levels and issue alcohol to bartenders.

- What could stadium administrators do to ensure accountability of the alcoholic products available at each concession stand?
- When the new technology was adopted, audits of the system took place after each game during the first six months of operation. Should this audit schedule continue or are annual audits reasonable?
- If it is discovered that employees at the concession stand with higher than normal consumption rates had tampered with the control system how should managers and stadium administration rectify the problem? Would this instance be considered employee theft?

Teaching Approach

In the discussion of this case study, it is recommended each of the three topics listed above be addressed in order to maximize the level of student engagement. This case study is based on actual POS technology currently in use at a stadium in New Jersey but describes a fictitious albeit realistic industry scenario (Palmer, Warren, & Miller, 2011; 2012). The level of discussion will be influenced by the type of audience that it is presented to. A sample of proposed activities to

solicit discussion and understanding are presented below:

Instruction

Small Group Discussion and Presentation

The instructor should divide students into groups of four or five. Each of the groups could be assigned a different state and review the dram shop laws of the assigned state to determine how they differ from Texas. Groups could then make an informal presentation outlining the main differences and the likely outcome of this case had it happened in the state they were assigned. This activity would be best if the case study is apportioned to two class periods.

Class Debate

The instructor should have students separate into two equal groups and assign the appropriate supplemental reading assignment (see additional readings below). One group will be assigned to represent the viewpoints of the 'Lion Stadium Concession Employees' and the other, 'Lion Stadium Administrators'. The instructor could then initiate a debate by presenting the previously outlined questions. For example, the instructor would address the group assigned 'Employees' and ask how they believe 'Stadium Administrators' should react to employee leniency in the three-drink maximum policy. Then, the instructor could ask the 'Stadium Administrator' group for a rebuttal.

Assessment/Writing Assignment

The instructor should select one question from each of the topics above, assign students to read the case study and develop a one to two page response ensuring each of the questions is answered in accordance with the additional readings assigned.

Additional Readings

- Draft Beer Dispensing Systems & Equipment - Berg Company. (2013/03/25/18:12:35). from <http://www.bergliquorcontrols.com/tap2-liquor-contol-systems.html>, from <http://files/35/tap2-liquor-contol-systems.html>
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