

Michael Phelp's Recent DUI Arrest Leads to Dram Shop Rule Considerations in Maryland

Portner & Shure, P.A. DUI attorney, Jonathan Portner, comments on dram shop rule considerations in Maryland in light of Michael Phelp's recent DUI arrest.

Baltimore, Maryland ([PRWEB](#)) October 15, 2014 -- The Baltimore Sun recently reported that "Michael Phelp's DUI arrest following an eight hour period of drinking and gambling at Baltimore's Horseshoe Casino raised concerns at the city's liquor board." The casino is the only establishment in the city with a 24-hour a day liquor license. The liquor board is investigating whether servers should have continued serving alcohol to Phelps. There is a rule in place by the liquor board to prevent over-service. This rule prohibits all bars in the city from selling alcohol to someone who is "under the influence," "disorderly" or "known to be a habitual drunkard." Maryland state law also prohibits vendors with a liquor license from selling or providing alcohol to anyone under 21 or someone "visibly under the influence of any alcoholic beverage."

Interestingly, Maryland is one of eight states in which bars cannot be held liable for serving intoxicated patrons. This is otherwise known as the dram shop law. The law varies in the states that have it, but generally, a bar or similar establishment can be held liable for death or injury to third parties caused by selling alcohol to visibly intoxicated persons or minors.

The Court of Appeals of Maryland, in *Warr v. JMGM Group, LLC*, 433 Md. 170 (2013), recently declined to change the common law to impose civil liability on an establishment that serves a visibly intoxicated patron, who then drives drunk, and causes an injury or death. The Court believes that this is a matter of public policy that is best left to Maryland's General Assembly. Three bills (Senate Bill 739, House Bill 1120, and House Bill 1000) proposing dram shop liability have been introduced in the General Assembly since 2002, but none have even come close to passing.

Maryland has remained steadfast in the notion that there should be no third party liability for the actions of drunk drivers and the harm they cause. Maryland's Court of Appeals recently refused to make changes to Maryland's common law in a case where a bar patron was served seventeen beers and four shots and drove his car into another car killing a 10-year old girl. The results of this case prove the unlikelihood of things changing any time soon. If there was a case to hold a bar liable for a third party injury, this would have been it.

Maryland already has laws in place to prohibit over serving by restaurants and bars. According to Mr. Portner, "While it does seem appropriate and fair to implement a dram shop rule to also hold an establishment liable for third party injuries caused by over serving a patron, it does not seem fair to hold a liquor store liable for the same injuries." He continues, "A liquor store, unlike a bar or restaurant, has no control over how much alcohol is consumed, what alcohol is consumed, or where it is consumed." However, it does seem fair to implement a dram shop rule for injuries caused by serving or over serving a minor. Mr. Portner believes that it is the restaurant's, bar's, or liquor store's fault for serving a minor alcohol and they should be held responsible for any injuries the minor causes to a third party.

http://articles.baltimoresun.com/2014-10-01/news/bs-md-phelps-arrest-document-20141001_1_liquor-board-michael-phelps-day-liquor-license

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