

# NEW MEXICO INJURY ATTORNEY BLOG

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## **Drunk Driving Auto Accidents: Scope of Passenger Liability in New Mexico**

In drunken driving auto accidents, liability for the injuries and damages to innocent drivers and/or pedestrians may be spread across several different parties. Some liability is pretty clear under the dram shop liability laws and standard theories of negligence. Other possible avenues for compensation have been made more evident in recent criminal case developments.

Under common law negligence, the drunken driver is obviously liable for injuries and damages caused in a DWI car accident. In fact, the drunken driver may be held liable for punitive damages above and beyond compensatory damages.

Under dram shop laws in New Mexico, it is also clear that the bar or other provider of alcohol may be held liable for injuries and damages suffered as a result of an auto accident involving a drunken patron or guest. Dram shop liability may be imposed on a variety of providers of alcohol including bars, restaurants, retail liquor establishments, social hosts, and even airlines.

These bases for liability have been long and well established in New Mexico. One less common and less clear basis of liability that has arisen recently in criminal DWI vehicular homicide cases is passenger liability. In the case of *State v. Marquez*, a passenger was convicted of vehicular homicide along with the driver of the vehicle. The facts of the case were rather extraordinary with clearly reckless and dangerous behavior on the part of both the driver and the passenger.

Not every case will involve the level of recklessness and comparative negligence on the part of the passenger as involved in *State v. Marquez*. However, the question of possible passenger liability under comparative and contributory negligence theories should be addressed in every DWI auto accident. Not all passengers will be held responsible for the acts of a drunken driver.

There are those cases where the passenger may be held partially or even equally liable. After all, it may very well be the passenger that put the driver behind the wheel knowing full well of the dangers to innocent drivers and pedestrians. Liability of passengers for DWI car accidents will be determined on a case by case basis so injured parties should be aware of and explore these possible claims.

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