



STATE OF IOWA

KIM REYNOLDS

GOVERNOR

DOUG OMMEN

COMMISSIONER OF INSURANCE

ADAM GREGG

LT. GOVERNOR

May 11, 2023

Mr. W. Charles Smithson
Secretary of the Iowa Senate
State Capitol
Des Moines, Iowa 50319

Ms. Meghan Nelson
Chief Clerk of the Iowa House
State Capitol
Des Moines, Iowa 50319

RE: Third Biennial Dramshop Liability Insurance in Iowa Report

Dear Secretary Smithson and Chief Clerk Nelson:

Enclosed please find the Iowa Insurance Division's third biennial report which evaluates the dramshop liability insurance market in Iowa pursuant to Iowa Code 505.33.¹

If you have questions, please contact Daniel Mathis at (515) 654-6520.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Ommen".

Doug Ommen
Commissioner of Insurance

¹ Iowa Code 505.33 provides that biennially, an evaluation and report concerning minimum coverage requirements of dramshop liability insurance be conducted.

Dram Shop Liability Insurance in Iowa

Third Biennial Report

for the period of January 1, 2017 to December 31, 2021

Executive Summary

Effective July 1, 2018, Iowa Code Section 505.33 directed the Iowa Insurance Division to conduct an evaluation of dramshop liability insurance in Iowa and to report biennially to the Iowa General Assembly. In 2018, the Iowa General Assembly limited the liability of an alcoholic beverage licensee or permittee for certain alcohol-related injuries.

Report Highlights:

- In 2021, 10 companies wrote 83.71% of dramshop coverage in Iowa;
- The number of policies written increased during the period;
- The number of claims paid increased significantly between 2019-2020 and decreased in 2021;
- The average cost and severity of claims decreased slightly;
- Average loss ratio was 26.20% during the period;
- Total premiums collected by insurers increased 32.73% over the period;

The dramshop marketplace has seen increases in participation by both insurers and insureds. Losses continue to remain lower than premiums collected. There have been no changes in dramshop liability statutes in the states bordering Iowa.

Most areas of the economy saw impacts from the pandemic during 2020 and 2021.

No findings or recommendations were identified as a result of this evaluation.

Response Overview

This report has been compiled using the data submitted by companies. As a result, the accuracy of this report is dependent on the accuracy of each company's submission. Future releases of this data may contain revisions.

In 2021, 521 insurers were queried. 114 companies reported dram shop premium. Of those, 21 are domestic ² insurers in Iowa, 81 are admitted companies, and 12 are surplus lines insurers. Since 2017, the number of companies reporting premium has generally increased. The increase is primarily attributed to the increase in the number of admitted carriers reporting dramshop premiums. As shown in the table below.

Carrier Type	2017	2018	2019	2020	2021
Admitted	67	67	72	74	81
Domestic	20	21	22	20	21
Surplus Lines	11	9	9	10	12
Grand Total	98	97	103	104	114

²**Domestic Insurer** - an insurance company that is domiciled and licensed in the state in which it sells insurance.

Admitted Company - an insurance company licensed to do business in a state(s), domiciled in an alternative state or country.

Surplus Lines - specialized property or liability coverage available via non-admitted insurers where coverage is not available through an admitted insurer, licensed to sell that particular coverage in the state.

https://content.naic.org/consumer_glossary.htm

Domestic insurers account for nearly 6.72% of total direct written premium in 2021. This has decreased each year from 9.34% in 2017. Admitted insurers have increased total direct premiums nearly each year from 2017 to 2021, accounting for 87.29% of direct written premium in 2021 – compared to 83.50% in 2017.

Carrier Type	2017		2018		2019	
	% of Total	Direct Premiums Written	% of Total	Direct Premiums Written	% of Total	Direct Premiums Written
Admitted	83.50%	\$6,596,886	84.38%	\$6,867,678	84.02%	\$8,768,798
Domestic	9.34%	\$737,920	9.25%	\$753,214	7.88%	\$822,643
Surplus Lines	7.16%	\$565,285	6.37%	\$518,536	8.10%	\$845,215
Grand Total	100.00%	\$7,900,091	100.00%	\$8,139,428	100.00%	\$10,436,656

Carrier Type	2020		2021	
	% of Total	Direct Premiums Written	% of Total	Direct Premiums Written
Admitted	86.06%	\$7,134,405	87.29%	\$9,153,380
Domestic	7.41%	\$614,355	6.72%	\$704,375
Surplus Lines	6.53%	\$541,751	5.99%	\$628,390
Grand Total	100.00%	\$8,290,511	100.00%	\$10,486,145

Data Reported

Below is the summary of the aggregated data related to the sale of dram shop coverage by reporting companies.

	2017	2018	2019	2020	2021
Direct Premiums Written	\$7,900,091	\$8,139,428	\$10,436,656	\$8,290,511	\$10,486,145
Direct Premiums Earned	\$7,738,231	\$7,586,598	\$10,200,949	\$8,186,717	\$9,715,206
Dividends To Policyholders On Direct Business	\$0	\$0	\$0	\$0	\$0
Direct Unearned Premium Reserves	\$3,775,963	\$5,638,702	\$5,422,050	\$10,678,286	\$4,664,250
Direct Losses Incurred	\$3,512,362	\$885,520	\$2,734,304	\$4,430,462	\$1,368,392
Direct Defense And Cost Containment Expense Incurred	\$714,729	\$462,112	\$333,730	\$994,246	\$476,672
Commission And Brokerage Expenses	\$1,507,560	\$1,457,328	\$1,593,131	\$3,227,475	\$1,583,812
Taxes, Licenses And Fees	\$84,671	\$88,784	\$83,633	\$330,174	\$88,551
Annual Written Exposure Count	4,902	5,823	5,618	10,084	272,834
Paid Claim Count	48	40	92	115	43
Claims Closed Without Payment	34	47	41	16	52

Annual Written Exposure Count

The annual written exposure is defined as one year of coverage for one establishment. The number of dramshops insured in Iowa have increased each of the last five years, though premium per exposure fluctuated over the same period.

	2017	2018	2019	2020	2021
Direct Premiums Written	\$ 7,900,091	\$ 8,139,428	\$ 10,436,656	\$ 8,290,511	\$ 10,486,145
Annual Written Exposure Count	4,902	5,823	5,618	5,722	6,835
Premium per Exposure	\$ 1,611	\$ 1,398	\$ 1,858	\$ 1,449	\$ 1,534
Difference from Previous Year	\$ 25	\$ (214)	\$ 460	\$ (409)	\$ 85
% Difference from Previous Year	2%	-13%	33%	-22%	6%

Direct Written Premium

In 2017, the top 10 companies accounted for 78.00% of direct written premiums and has trended upwards. 83.71% of premiums are written by the top 10 companies, and one company accounted for 42.10% of all direct written premium in 2021. Of the top 10 companies, one was an Iowa domestic and accounted for 1.86% of direct premiums written in 2021.

Total direct written premium in 2021 was \$10.5 million and \$8.3 million in 2020, representing a 26.48% year over year increase. Excluding 2020, direct written premiums has increased each year since 2017. The following table shows premium trends over the five-year period.

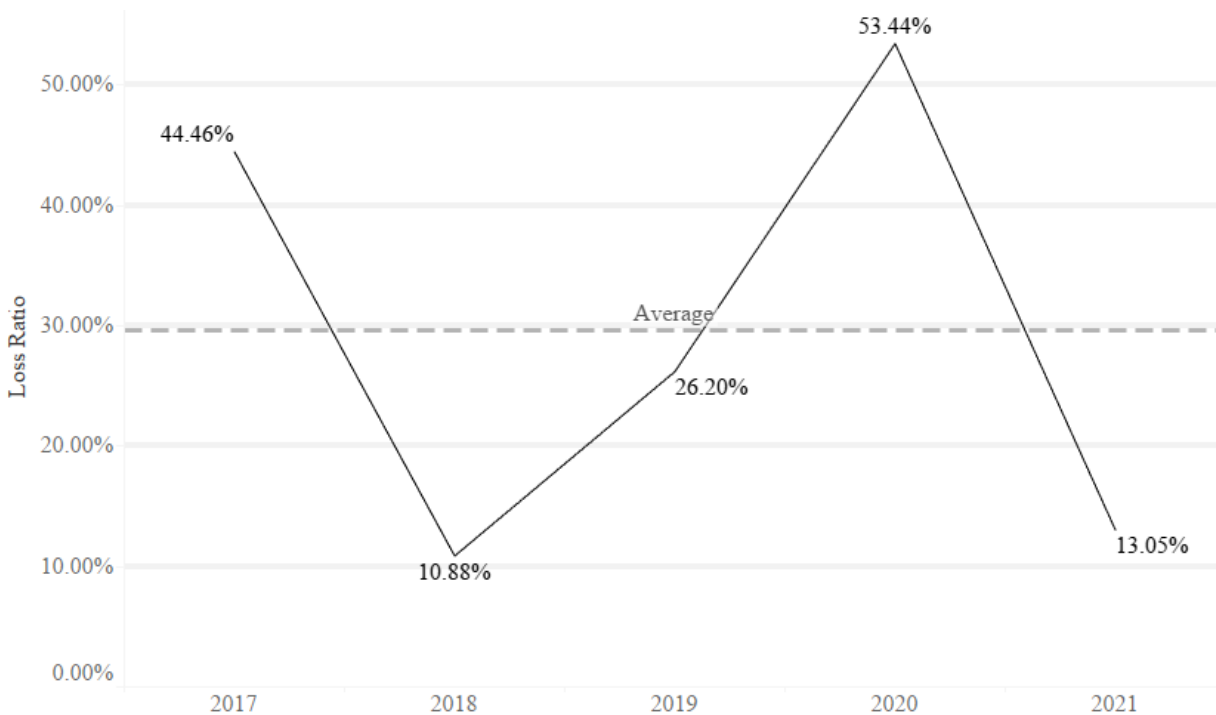
	2017	2018	2019	2020	2021
Direct Premiums Written	\$7,900,091	\$8,139,428	\$10,436,656	\$8,290,511	\$10,486,145
Difference from the Previous Year	(\$668,433)	\$239,337	\$2,297,227	(\$2,146,145)	\$2,195,634
% Difference from the Previous Year	-7.80%	3.03%	28.22%	-20.56%	26.48%

Paid Claims

There were 43 paid claims in 2021 and 115 in 2020 totaling direct incurred losses of \$1,368,304 and \$4,430,462, respectively. 2021 incurred losses were paid by 20 companies, and claim payments and total claims count were substantially higher in 2019 and 2020, though in 2021 76.45% of the total was paid by 2 companies. Claim payments and total claims count were substantially higher in 2019 and 2020, though in 2021 this number is consistent with prior years' claim payments and count. The average cost per claim paid increased significantly between 2019-2020 and decreased in 2021.

	2017	2018	2019	2020	2021
Direct Losses Incurred	\$3,512,362	\$885,520	\$2,734,304	\$4,430,462	\$1,368,392
Direct Premiums Written	\$7,900,091	\$8,139,428	\$10,436,656	\$8,290,511	\$10,486,145
Total Claims	82	87	133	131	95
Paid Claim Count	48	40	92	115	43
Average cost per claim	\$73,174	\$22,138	\$29,721	\$38,526	\$31,823
Loss Ratio	44.46%	10.88%	26.20%	53.44%	13.05%

The aggregate loss ratio – or claims incurred as a percentage of earned premium – was 13.05% in 2021 and 53.44% in 2020. The 53.44% loss ratio in 2020 is attributed to one company which accounted for 76.33% of incurred losses in 2020. For the five-year period from 2017 to 2021, the average loss ratio was 26.20% as shown in the graph below.



Closed Claims without Payment

The number of claims closed without payment decreased in 2021 to 43 claims, from 115 claims in 2020. The percentage of closed claims without payment to total claims reported was 54.74% in 2021 and 12.21% in 2020, as shown in the following table. Claims closed without payment generally trended upwards, with the exception of 2020.

	2017	2018	2019	2020	2021
Paid Claim Count	48	40	92	115	43
Claims Closed Without Payment	34	47	41	16	52
Total Claims	82	87	133	131	95
Claims Closed Without Payment to Total Claims	41.46%	54.02%	30.83%	12.21%	54.74%

Defense Costs

Defense and cost containment (DCC) expense includes defense, litigation, and medical cost containment expenses, whether as an internal or external expense. DCC expenses are tied to the number and/or the severity of claims.

In aggregate, the companies reported \$476,672 in defense and cost containment expenses incurred for 2021, which is lower than the reported \$994,246 for 2020. This large difference is largely attributed to one Company with \$754,976 in defense and cost containment in 2020. Claims reported (paid and closed without payment) increased in 2019 and 2020 with 92 and 115 paid claims. Excluding these outliers, paid claim count remained flat.

Comparison of Surrounding States Liability Statutes

Iowa Code section 123.92 states that any person who is injured in person or property or means of support by an intoxicated person or resulting from the intoxication of a person, has a right of action for all damages actually sustained, severally or jointly, against any licensee or permittee, whether or not the license or permit was issued by the division or by the licensing authority of any other state, who sold and served any beer, wine, or intoxicating liquor to the intoxicated person when the licensee or permittee knew or should have known the person was intoxicated, or who sold to and served the person to a point where the licensee or permittee knew or should have known the person would become intoxicated but does not set liability caps.

Kansas, Nebraska, and South Dakota do not currently have dram shop statutes.

Illinois Statute Chapter 235, §5/5-21(a) limits damages that are recoverable in dram shop actions. For all causes of action involving persons injured, killed, or incurring property damage on or after July 1, 1998, damages for personal injury and property damage were capped at \$45,000, while damages for loss of means of support or loss of society resulting from death or injury were capped at \$55,000. These liability limits are adjusted annually based on the consumer price index published by the Bureau of Labor Statistics.

Minnesota Statutes §340A provides a person who is injured by an intoxicated person has a right of action against a person who caused the intoxication by “illegally selling” alcoholic beverages, but does not set liability caps

In Missouri, dram shop liability can be established by selling intoxicating liquor on the premises to a person under the age of 21 or by serving intoxicating liquor to a “visibly intoxicated” person per Missouri Code §537.053, but no caps on liability exists.

Wisconsin Code §125.035 assigns dram shop liability only under very specific conditions. If civil liability can be established, there is no cap on the liability.