

Simple Steps To Protect the Association from Liquor Liability This Holiday Season

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The holidays are here and with them come numerous parties and meetings with lots of food and drink. Many communities gather together during this season to celebrate. Most of the time the association serves alcohol. When someone has too much to drink at an association sanctioned event, the potential for liability if someone is injured or killed increases. Although there is no way to ensure that the association will not be sued in a situation like this, the association can take steps to help minimize the exposure to such liability.

With respect to tort liability for alcohol-related injuries, the general rule in Georgia is that the provider of alcohol is not liable for injuries suffered by the consumer, or third parties who are injured by the consumer, unless the alcohol provider was negligent. Courts have held the host of a party to be negligent and, therefore, liable for the acts of an intoxicated adult when the host knowingly continued to serve alcohol to the intoxicated person and injury resulted. Hosts who knowingly allowed intoxicated guests to drive and cause injury also have been held liable. There is still some question under Georgia law as to whether a social host can be held liable for injuries caused by an intoxicated guest when the host had no reason to believe that the guest would be driving a vehicle.

Courts apply a standard of simple negligence (not gross negligence or willful negligence) to determine if a social host can be held liable for damages. To limit the association's exposure to a negligence claim, the association must plan these events carefully and follow sensible procedures.

First, the association should designate who is permitted to serve liquor at the event and the servers should be aware of their obligation to stop serving liquor to any person who becomes visibly intoxicated.

Second, the association should take appropriate steps to ensure that no person drives while intoxicated. For example, the association could encourage members to walk together to and from the party (if it is held in the community), the association could provide access to a taxi service, and the association could encourage and provide designated drivers for parties held outside the neighborhood.

Third, the association should identify certain non-drinking party-goers to assist with visibly intoxicated guests and calling taxis, if necessary.

Fourth, the association could sponsor the event but not provide the alcohol. When members bring their own alcohol to the party or when the association hires a caterer to serve the alcohol, the association significantly reduces its exposure to liability. Note that if the association hires a caterer to provide a "cash bar" (from which the association should receive no compensation) it is very important to execute a contract with the appropriate indemnification terms and confirm that the caterer is properly insured and licensed and in compliance with State law and local liquor licensing requirements.

As stated above, the general rule in Georgia is that a social host is liable for injuries only if the host is negligent. However, if alcohol is served to a minor the association can be held liable for injuries to the minor and for injuries to others due to the minor's intoxication, even if the association was not otherwise negligent. Criminal penalties may be imposed against the individuals who serve alcohol to minors and against the association if the board made any decision or created any policy allowing alcohol to be served to minors at the event. Therefore, the association must take steps to ensure that minors are *never* served alcohol at association-sponsored parties.

Additionally, the association should *never* charge for alcohol. According to the Georgia Department of Revenue, Alcohol and Tobacco Division, unless the association obtains a proper liquor license, the association cannot legally charge guests (directly or indirectly) for alcohol served at its private events. Exchanging purchased tickets for drinks is considered charging for alcohol, as is charging a higher entrance fee to the drinkers than the non-drinkers. By contrast, if an association pays for alcohol from the general assessments collected from the owners it is not "charging for alcohol" within the meaning of Georgia law.

As most readers know, the financial implications of a judgment against the association could be devastating; even a successful defense to a suit can be very expensive. To mitigate possible financial repercussions, the association should review its liability insurance coverage before sponsoring a party at which alcohol will be served. Specifically, the association should consider purchasing a policy or rider for host liquor liability coverage if it does not already have such coverage in its general policy. Host liquor insurance covers the association's legal defense and any judgments (up to the policy limits) for claims resulting from injuries caused by a person who was served alcohol by the association.

The holiday season is a festive and happy time. With careful planning, association sponsored parties can be safe as well as enjoyable.