

To The Point Liquor Liability

CHUBB®



Serving Alcohol Responsibly

Alcoholic beverages are widely available at eating establishments, sporting events, and various public and private functions. However, tragedy can quickly occur when those consuming these beverages overindulge, resulting in drunk driving, assault or personal injury. Beyond the pain and suffering experienced by those directly involved, the entity that served, or over-served, the intoxicated individuals may be held at least partially responsible for the damage and suffering those individuals have caused.

Consider these examples:

- A New York state couple who had recently married was celebrating with another couple at a local restaurant. All of the individuals got into the same car and left the establishment. The driver later lost control of the vehicle and struck a telephone pole. The two women in the car were killed instantly, and one of the male passengers has since undergone multiple surgeries, in part to relieve pressure on his brain.

The company that owned the restaurant was required to pay \$900,000 to the survivors and the decedent's estate for over serving alcoholic beverages to the driver.

- In a pretrial settlement, a California restaurant paid \$1.5 million to a family of a teenager who died in a drunken driving accident after the driver of the car he was in crashed into a utility pole. The restaurant also agreed to contribute \$50,000 towards alcohol awareness training at the victim's school.
- A company hosted a Halloween party where alcohol was served. An intoxicated underage attendee assaulted another partygoer, resulting in a permanent injury to that individual. Both the company and the caterer were required to pay \$450,000 in compensation, in part for serving alcohol to a minor.

Beyond the tragedy of these incidents, the common thread is the liability of the restaurants and others for the improper serving of alcohol by employees. Over time, the potential liability for damages due to consumption of alcohol has

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expanded to include the entity serving the alcohol. Often, these entities have greater assets than the intoxicated individual, which allows for much larger awards to be paid to victims of alcohol-related incidents.

Under certain circumstances, the law will hold the serving entity at least partially responsible, even when the entity can point to a specific individual, server, or bartender that improperly served or over-served alcohol to a person who ultimately was involved in an alcohol-related incident. While there are specific dram shop laws in each state that govern entities that are licensed to serve alcohol, victims may also seek restitution under civil negligence legal theories, or even criminal liability laws.

Short of not serving alcohol at all, there are number of steps an entity can take to reduce the possibility that they will become embroiled in an alcohol-related incident due to their serving practices. Below are some steps to help develop a responsible alcohol serving program. Even if your organization hires an outside caterer for events involving the serving of alcoholic beverages, these tips can help guide you in selecting a responsible service provider.

Developing a Responsible Alcohol-Serving Policy

- Review the local laws in your state, county, and municipality. Engage local law enforcement, industry groups and associations, and your own legal counsel.
- Review any past records of alcohol incidents. This helps pinpoint problem areas to focus attention and policies.
- Implement a policy encouraging the appointing of a designated-driver (free non-alcoholic beverages, free appetizers) for groups.
- Once your written policy is complete, review with all current employees and staff, and review with new employees upon hire. Provide clear disciplinary actions, up to and including termination, for employees who violate the policy.

When hiring an outside entity to provide catering that will include alcohol service, ask to see their written policy and training records concerning alcohol serving. As with any contractor or service provider, ask for their liability certificate of insurance (COI), which should specify that they have liquor liability coverage. Your contract with the vendor should include provisions requiring that you are added to the vendor's policy as an additional insured for the duration of the event as well as "held harmless" for any of their activities related to the event.

Training Employees to Serve Alcohol Responsibly

Within your alcohol-serving policy, guidelines should be in place for how employees are trained to serve alcohol. In the United States, 28 states have specific requirements for alcohol-server training. Regardless of what state you operate in, having server training in place, along with a formal policy, shows an affirmative attempt on your part to prevent improper or over serving of alcohol.

When hiring an outside entity to serve alcoholic beverages, ask about training policies and verify that all individuals working at your event have been trained.

These tips, from the National Restaurant Association, can help guide your training process:

- Ensure the checking of identification. In general, the only valid IDs are a current non-expired state-issued driver's license, a state-issued ID, military ID ,or passport. Having an ID Checking Guide in your operation can eliminate speculation and give your servers a tool to compare the validity of a presented ID.
- Have a system to train servers on how to identify signs of intoxication, such as relaxed inhibitions, impaired judgment, slowed reaction time and impaired motor coordination. By understanding these four signs of intoxication you can prepare your servers to handle difficult situations.

- Train servers to track how much alcohol guests have consumed. Make sure they're aware of the alcohol content of different drinks. A best practice is to have a drink recipe card that identifies how many standard equivalent drinks are in each recipe. To keep an accurate count, operators should advise servers on the volume equivalent for each operation's specific-size glasses, measuring jiggers or automatic pouring devices that dispense an exact amount of alcohol.
- It is important to recognize that the standard drink equivalents are: 5 ounces of wine (domestic wine 12% alcohol) 12 ounces of beer (American Lager 4-5% alcohol), 1.5 ounces of 80-proof liquor, 1 ounce of 100-proof liquor.
- Serving food items can help slow the consumption/absorption of alcohol. Food, especially fatty and high-protein items, decreases the rate at which alcohol is absorbed into the bloodstream.
- Before an event, encourage communication among all employees and guests. Discussions should take place with the event planners and event servers, informing them of the steps they should take if an individual has had too much to drink, or if an individual is protesting because they are being refused service. Servers need to let managers know when and why a patron has been refused liquor. Guests should know about the beverage-alcohol service policy and designated-driver program.

In the Event of an Incident

Incidents happen, even with good policies and training. If this should happen, your policy should address the steps to take and provide the proper forms for documentation. Below are some steps to take:

- Document the details of incidents such as refusing alcohol service, arranging transportation for a guest,

refusing the false ID of a minor and calling police to your establishment. An incident report can be used internally to assess your alcohol service and can be helpful in the event of a lawsuit.

- Write a report on all incidents involving alcohol. This step should be taken immediately after an event occurs while the facts are still fresh. Include in the report the date, time, and server and manager involved. List the names of the guests and employees who witnessed the incident and physical descriptions of all intoxicated guests.

Taking these steps can help prevent your organization from becoming involved in an alcohol-related incident with the associated costs and damage to your reputation. As always, consult your legal counsel concerning the establishment of all alcohol serving policies as well as with any alcohol-related incidents.

Resources

There are a number of courses offered by commercial entities that can help you train your employees in responsible alcohol serving practices. Check with your state and local authorities for the training requirements in your area.

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