

Employer Liability for Alcohol at Functions

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It's a wonderful time of year – loads of delicious food, Christmas carols, holiday cheer and lots of parties. In addition to the tasty meals and Christmas cookies, holiday parties also typically have loads of entertainment, especially when alcohol is served.

Nothing is more fun than driving by your neighbor while he's shoveling his driveway and beeping your horn and waving, knowing you're causing him excruciating pain due to a hangover from getting blitzed and dancing the Macarena while wearing a lampshade the night before at the neighborhood Christmas party.

The tension is almost unbearable when the employee who had a few too many cocktails at the office party Friday night and finally told everyone exactly what she thought of them eventually arrives at work on Monday morning. While alcohol-induced rages, dance-a-thons, and romantic trysts in the copy room are the stuff of office legend for years to come, drunk driving should get you a lifetime sentence on Santa's naughty list.

Employers have quite a conundrum at Christmas parties: to serve holiday spirits and risk a horrific accident or have alcohol-free parties and risk being called a scrooge. If employers fear employees crying bah-humbug, they need not fear being held liable for their employees' drinking.

The Wisconsin statutes provide that a person is immune from civil liability arising out of the act of procuring alcoholic beverages for or selling, dispensing or giving away alcohol beverages to another person. Persons include all partnerships, associations, and bodies politic or corporate.

No immunity is provided, however, if the person providing the booze causes their consumption by force, by representing that the beverages are non-alcoholic or when alcohol is procured for underage persons. In fact, providing alcohol to minors has both civil and criminal penalties unless the underage person falsely represents that he or she has attained the legal drinking age, presents a fake ID, the alcohol was provided in good faith reliance on the drinker being of age and the underage person would appear to have attained the legal drinking age to an ordinary and prudent person.

In other words, if employers recklessly serve alcohol to underage employees, they may be held both civilly and criminally liable for injuries to third parties that might result from the employee's conduct.

The Wisconsin courts have held that the statute establishes a "general rule of immunity, which effectively focuses responsibility . . . on the drinker of the alcohol, and not on the one who provides it."

That being said, employers can still be held liable for their employees' conduct at the site of the party, such as fighting, property damage or sexual harassment or other harassment. Therefore, here are some tips for employer-sponsored holiday parties:

- Print your company's harassment policies on the dinner placemats
- Limit alcohol consumption by using a voucher or drink ticket system and make sure non-alcoholic drinks are available
- Hire a professional bartender to serve drinks and cut off employees who are lit up brighter than Christmas trees
- Card employees to prevent serving alcohol to minors
- Limit the time of the party – from 6:00 to 10:00 p.m., for example
- Have transportation options available for employees who have had too much to drink, such as paying for taxis

So have fun at your office Christmas party, but just keep your eye on the alcohol and mistletoe.

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