

Legal Liability

Organizations may be responsible for patrons when alcohol is served.

Forms of liquor liability include:

- Liability as a server - Serving people past the point of intoxication.
- Liability as an occupier - People, companies or any other organization that owns, has possession of or responsibility for premises are responsible for protecting persons on their premises from harm.
- Liability as an employer regarding employees consuming alcohol such as at staff parties.
- Liability as a sponsor of potentially dangerous activities.
- Use of excessive force - Security personnel cannot use unnecessary or excessive force to manage intoxicated patrons.

Key Point

Anyone involved in the service of alcohol could be held liable for damages or injuries where alcohol is deemed to have been a contributing factor.

Risk Management

1. Create policies and procedures with meaningful consequences and strictly enforce them. Some useful elements of a policy include:

- Limiting alcohol consumption.
- Ensuring that bartenders are experienced and do not serve obviously intoxicated persons.
- Offering food service.
- Encouraging taxi use.
- Providing reduced/subsidized taxi and hotel rates.
- Encouraging car pools and designated-driver programs.
- Reminding guests before and during the event not to drink and drive and of the other options available.
- Having several trained doormen/bouncers/spotters who remain sober and watch people leaving and encourage/insist on taxi use.
- Informing guests that intoxicated persons will be put into taxis.
- Displaying posters from Mothers Against Drinking and Driving (MADD), Students Against Drinking and Driving (SADD) or similar organizations, outside and around alcohol consumption areas.

Key Point

Do not implement a written policy unless it will be strictly followed and enforced.

Some of these elements may be required by law.

2. Comply with all legislation regarding alcohol. (See Additional Resources.)
3. Ensure proper permits (to sell or serve alcohol) are obtained.

4. Train servers.
 - Do not serve or sell alcohol to those under legal drinking age. The age will vary depending on the province or territory.
 - Do not serve patrons past the point of intoxication.
 - Ensure that servers understand government legislation pertaining to alcohol. Ensure that servers follow the organization's policies and procedures. Make sure training is documented.
5. Implement a mandatory identification policy.
 - Establish the forms of identification that will be accepted.
 - Establish when identification needs to be shown. For example, require identification from anyone who is not obviously over the age of 30.
6. Display informational material on government alcohol-related policies and legislation.
 - Inform customers that the business will abide by the rules set out by the government.
7. Implement inventory controls over alcohol.
 - Implement measures to prevent theft (e.g., install security cameras, hire additional personnel, etc.).
8. Regulate hours to sell or serve alcohol. Check with your local authority to determine minimum standards.
9. Use a facility-use agreement if you have rented out a location that you own and where renters may consume alcohol.
 - Include a hold-harmless and indemnifying agreement that holds the owner of the premises harmless and indemnifies the owner for losses or damages resulting from the negligent use of the facilities or the serving of alcohol. These clauses may help limit your liabilities. Consult a lawyer for advice on contracts and agreements.
10. Obtain insurance coverage, possibly with higher limits (i.e., higher limits than organizations that do not serve/sell alcohol). Consult your insurance representative.
11. Consider implementing a Zero Tolerance Alcohol and Drug Policy (sample below).
 - Do not allow employees/volunteers to consume alcohol or drugs while working.

- Do not allow employees/volunteers to drink and drive.
- Do not allow employees/volunteers to work if they appear intoxicated.

Claims Handling

1. Once a claim or potential claim is identified, immediately contact your insurance representative.
2. Record all relevant information surrounding the potential claim like the names and contact information of any witnesses, staff or volunteers that were present or have information relevant to the incident. Have staff/volunteers complete an incident report with all relevant details.
3. Refer any discussions with the claimant to your insurer. It is wise to tell employees and/or volunteers that they should not discuss liability with potential claimants and that they should NEVER ADMIT LIABILITY!!!
4. Investigate potential causes and implement preventative measures.

Additional Resources

For more information on liquor liability for Special Events. Please note that the following list of resources is not comprehensive. There are other municipal, provincial and federal liquor regulations that need to be followed.

Criminal Code: <http://laws.justice.gc.ca/en/C-46/41584.html>

Approved Breath Analysis Instruments Order:
<http://laws.justice.gc.ca/en/C-46/SI-85-201/78858.html#rid-78864>

Alberta

Gaming and Liquor Act:
<http://www.canlii.org/ab/laws/sta/g-1/20080818/whole.html>

British Columbia (note that the website that these were retrieved from states that the statutes and regulations are not up-to-date):

Liquor Distribution Act:
<http://www.qp.gov.bc.ca/statreg/stat/I/96268%5F01.htm>

Liquor Control and Licensing Act:
<http://www.qp.gov.bc.ca/statreg/stat/I/96267%5F01.htm#section67>

Manitoba

The Liquor Control Amendment Act:
<http://web2.gov.mb.ca/laws/statutes/2005/c00905e.php>

The Liquor Control Act:
<http://web2.gov.mb.ca/laws/statutes/ccsm/l160e.php>

Newfoundland

Liquor Control Act:

<http://canlii.org/nl/laws/sta/l-18/20080818/whole.html>

New Brunswick

Liquor Control Act:

<http://canlii.org/nb/laws/sta/l-10/20080818/whole.html>

Northwest Territories

Liquor Act:

<http://canlii.org/nt/laws/sta/l-9/20080818/whole.html>

Nova Scotia

Liquor Control Act:

<http://canlii.org/ns/laws/sta/r1989c.260/20080818/whole.html>

Ontario

Liquor Licence Act:

<http://www.canlii.org/on/laws/sta/l-19/20080821/whole.html>

Prince Edward Island

Liquor Control Act:

<http://canlii.org/pe/laws/sta/l-14/20080818/whole.html>

Quebec

An Act Respecting Liquor Permits:

<http://canlii.org/qc/laws/sta/p-9.1/20080818/whole.html>

Saskatchewan

Alcohol Control Regulations:

<http://canlii.org/sk/laws/regu/a-18.011r.1/20080818/whole.html>

Alcohol and Gaming Regulation:

<http://canlii.org/sk/laws/sta/a-18.011/20080818/whole.html>

Yukon

Liquor Act:

<http://canlii.org/yk/laws/sta/140/20060728/whole.html>

Sample Zero Tolerance Drug and Alcohol Policy

Inception Date: _____

Revision Dates: _____

Approved By: _____

Purpose

To ensure that employees/volunteers are not performing duties while under the influence of drugs or alcohol. This policy addresses the use of drugs and alcohol at work, working while under the influence of drugs or alcohol, and abuse of drugs or alcohol outside of work.

Policy Details

- Employees/volunteers must obey all applicable laws.
- Employees/volunteers must not under any circumstances consume drugs or alcohol while on the job, whether operating vehicles or performing other tasks.
- Employees/volunteers that need to operate vehicles and/or heavy machinery must not consume drugs or alcohol less than eight hours before their next scheduled shift and must not attend work under the influence of drugs or alcohol.
- Abuse of drugs or alcohol that affects an employee's performance at work or their safety or the safety of others will not be tolerated.

Responsibilities

All employees/volunteers are responsible for abiding by this policy. If a supervisor or colleague notices behavior that indicates an employee/volunteer may be affected by the use of alcohol or drugs while on the job as listed above or in a different manner, he/she must report it to the department head immediately.