

Are you liable for serving alcohol at holiday parties in Pennsylvania? Does your insurance policy cover you?

December 16, 2011 by [Adam Santucci](#)

This article was contributed by [Michael R. Kelley, Esq.](#), Chairperson of McNees Wallace & Nurick LLC's Insurance Recovery & Counseling Group.

Let's say that you are having a Holiday party (with alcohol served) at your home, or you are a business owner and you are having a voluntary "company" party for your employees. If someone becomes "visibly intoxicated" at your party, are you as the host of the party liable if the visibly intoxicated guest leaves your party and injures himself or someone else? Does your homeowners or commercial liability policy cover you for defense costs and for a settlement or judgment if you get sued? What about workers' compensation coverage for your employees?

The answers are complicated, I'm afraid.

In Pennsylvania, the courts have ruled that the Dram Shop Act (which covers alcohol-related liabilities) limits liability for serving intoxicated persons to only those who serve for money, unless the servee is under 21. So, social and business hosts that are not in the business of providing alcohol for money can definitely be civilly liable for serving persons under 21 years of age.

However, social and business hosts are generally not liable under the Dram Shop Act for serving alcohol to those 21 and older. But, courts leave open the possibility of a common law action for negligence if a social or business host serves a visibly intoxicated person and knows or should know that the person will be driving, or engaging in some other dangerous activity.

The answer to the insurance coverage question is a little clearer. In many cases, unless you specifically purchased liquor liability coverage, your homeowners and commercial liability policies will not cover you if you are sued under either the Dram Shop Act or the common law. Check your insurance policy. We recommend having insurance for liquor liability claims if you plan to spike the egg-nog this holiday season.

If an employee becomes intoxicated and is subsequently injured after attending a "voluntary" company party, there is a question as to whether your workers' comp. policy will cover it. If the party is truly voluntary, the claim may not be covered. If, despite being "voluntary," employees are expected to attend the party and it is seen by employees as having an impact on their employment status, workers' comp. coverage likely will

cover the injuries. Based on experience, courts look to find workers' comp. coverage in these scenarios and only deny coverage if employees clearly were not required to attend and attendance had no bearing on employment status.

So, what is a good social or business host to do? Make sure that your guests don't have too much to drink this Holiday season, and, if they do, make sure that they have a safe ride home. It's not only good sense, it's good insurance sense too. Also, make sure you have liquor liability coverage on your homeowners or commercial liability policy – just in case.

The [McNees Insurance Recovery and Counseling Group](#) helps clients understand their insurance coverage, submit claims and, where appropriate, helps ensure insurance companies honor legitimate claims.

© 2011 McNees Wallace & Nurick LLC

This document is presented with the understanding that the publisher does not render specific legal, accounting or other professional service to the reader. Due to the rapidly changing nature of the law, information contained in this publication may become outdated. Anyone using this material must always research original sources of authority and update this information to ensure accuracy and applicability to specific legal matters. In no event will the authors, the reviewers or the publisher be liable for any damage, whether direct, indirect or consequential, claimed to result from the use of this material.