
Host Liability
Tenth Edition
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HOST LIABILITY

Liability for Injuries Sustained by Employees, Clients or Others as a Result of Alcohol Intoxication

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This booklet is intended as a basic guide to host liability, which is the potential for personal and corporate liability for injuries sustained by employees, clients and other persons as a result of alcohol intoxication. This guide should not be regarded as a substitute for specific legal advice and persons requiring such advice should consult legal counsel. The lawyers at Bennett Jones LLP would be pleased to provide such advice.

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Introduction

It is commonplace for businesses to provide alcoholic beverages to employees and guests at social gatherings. However, there is a significant potential for liability associated with such activities. Although the provision of alcoholic beverages may appear innocuous, the courts have held that businesses and others acting as hosts may be civilly responsible for injuries sustained by or caused by employees or guests who become impaired. This evolving area of law is "host liability."

Employer, Social and Commercial Hosts

Courts have imposed liability on employers where they provided alcohol to employees; had knowledge that employees were intoxicated; and failed to take sufficient steps to prevent the employees from driving. However, an employer will likely not be liable where the employer did not provide the alcohol, had no knowledge the employee was intoxicated, and the accident occurred after the employee had arrived home safely.

A casual or social host is subject to the least stringent responsibilities. These are situations involving house parties and social gatherings where, generally, the host gratuitously provides the alcohol but exerts no control over the activities of the guests. Historically, the courts have been reluctant to award damages against social hosts where the host has made some attempts to prevent an intoxicated individual from driving. However, many Canadian courts had adopted the American position that social hosts may be held liable for injuries suffered by a third party resulting from the negligent operation of a motor vehicle caused by intoxication when the social host allowed a guest to drive, knowing that the individual was intoxicated. Alberta trial courts have accepted this basis for liability, but have yet to find a social host liable on the facts (*Wince v Ball*, 1996; *Calliou Estate v Calliou Estate*, 2002).

The Supreme Court of Canada narrowed the circumstances in which social host liability may be imposed in its 2006 decision in *Childs v Desormeaux*. The social hosts held a BYOB New Year's Eve party. They neither provided nor served alcohol to their guests. The defendant Desormeaux drank at least 12 beers over 2½ hours; he was known for his heavy drinking and had previous impaired driving convictions. One host walked him to his car. Desormeaux drove away, and caused an accident shortly afterwards. Desormeaux and his passengers were injured. One person in the other car was killed and the others were seriously injured, including Zoe Childs who became paralyzed. Childs sued the social hosts.

The Supreme Court of Canada found it was not reasonably foreseeable that Childs would be injured if the hosts failed to prevent Desormeaux from driving. While the Court found no duty of care on these facts, it left the door open for cases where a social host was aware that an intoxicated guest planned to drive home, but continued to serve the guest alcohol. Even on those facts, the Court indicated

policy implications may still deny liability. The Court emphasized the difference between a social setting and a commercial one, where the host gains financially from serving alcohol.

Childs remains the leading case on the rights and responsibilities of social hosts; however, the possibility of social hosts being liable for third party injuries is still open.

Other noteworthy cases have raised social host liability. In *Hamilton v Kember* (2008) and *Oyagi v Grossman* (2007), Ontario judges dismissed motions brought by the parents of the social hosts to have the claim dismissed against them.

In contrast, the judge in *Ferrier v Hubbert* (2013) did allow the parents of the social hosts to have the claim against them dismissed, finding that they were not social hosts because they had not invited the guests, had neither provided food and drink nor served the guests. In the circumstances, they owed no duty of care to the guests.

In *Kim v Thammavong* (2007, 2008), the Ontario judge agreed that the parents of the social host owed no duty of care to a third party injured by an inebriated guest. However, the claim was not dismissed against the actual host of the party. Although these decisions could have expanded the scope of social host liability set out in *Childs*, none have yet proceeded to trial.

Like *Kim v Thammavong*, the Court of Appeal in the Quebec case of *Paquette c Fédération (La), cie d'assurance du Canada* (2014) ruled that the social hosts were not liable and had not acted imprudently after providing alcohol to friends and family with no supervision. However, this case occurred in a civil law jurisdiction and it remains unclear what effect, if any, this would have in a common law jurisdiction.

There are cases from BC, *Sidhu v Hiebert* (2011), *Lutter v Smithson* (2013), and *R v Tremblay* (2013), that held that it is possible that the scope of social liability may be expanded in future cases. Both *Sidhu* and *Lutter* involve dismissals of summary judgment applications and so have not definitively decided the law. In *Sidhu* the defendant Rattan hosted a party where the guest Hiebert became inebriated, left the party, and while driving, caused a motor vehicle accident that left the plaintiff Sidhu seriously injured. The judge found that *Childs* does not prohibit outright the imposition of a duty of care upon a social host. The judge found that while the host in *Childs* did not know that the guest was too drunk to drive, it was uncertain whether Rattan was aware that Hiebert was too drunk to drive. Consequently, while the courts involved in the *Childs* case could ascertain that the injury to the plaintiff Childs was not reasonably foreseeable, the same determination could not be made in *Sidhu*.

In *Lutter*, the defendants Mazu permitted their daughter to host a BYOB party which Smithson attended and who at the time was under the legal drinking age. Smithson became intoxicated, left the party and subsequently collided with

the taxi in which the plaintiff was riding. The plaintiff sued the Mazus for having breached duties owed as social hosts, specifically permitting the minor Smithson to consume alcohol on their property. The Mazus applied for summary judgment but were denied. The judge found that liability from a minor's consumption of alcohol at a party was best addressed after a full trial.

After *Lutter*, the case of *Tremblay* briefly touched on the liability of social hosts when children are involved. The case dealt with a charge of criminal negligence in the deaths of two teenagers by alcohol and drug overdose, but the reasoning could apply to cases of social host liability. The trial judge in *Tremblay* determined that *all* adults, especially but not limited to the adult hosts, owe a duty of care towards children when they intentionally attract and invite them to an inherent and obvious risk that he or she has created or controls; for example, a party with the foreseeable potential for high-risk activities such as the consumption of alcohol.

Another BC case, *Patterson v Bodman* (2014) also suggested the possibility of expanding the scope of social host liability to that of a friend's hosting dinner at a restaurant. Initially the Court granted an order for third party notice against the social host but on review set aside the order because the defendant's counsel had significantly misled the Court on a material fact. The case has yet to proceed to trial.

The Alberta Court of Appeal in *Desanti v Gray* (2011) found no social host liability because there was no reasonable forseeability between the Grays' actions as hosts and the incident that followed. The Grays had allowed their son, a minor, to host a party in their home. Wenzel attended the party, became inebriated, and left the party. Near the Grays' house, Wenzel encountered Desanti and they fought, culminating in Desanti striking Wenzel multiple times with his car.

A commercial host, such as a pub or a restaurant, generally has a greater duty to protect intoxicated individuals and the public, based on a close proximity or relationship between the host and the customer. If a commercial host has over-served a customer, knew or should have known that the customer was impaired, knew that the individual was likely to drive while intoxicated, and if injury or damage to the intoxicated individual or the general public is foreseeable, then liability attaches to the commercial host if an accident occurs due to intoxication. However, this duty is not engaged solely in relation to drinking and driving. Any injury that results from intoxication and was foreseeable may result in liability for the commercial host. Thus, commercial hosts have a positive duty to protect customers and the public by taking reasonable steps to prevent over-consumption of alcoholic beverages and to prevent foreseeable harm.

Developing law suggests that a business host's duty to its employees may be even higher than a commercial host's duty to its customers, due to the special relationship between employer and employee. There is much less certainty where

a business host would owe any duty to the general public. The factors that may influence the extent of the duty owed by a business include whether:

- the business provides the alcohol; and
- the business is aware of the employee's or guest's intoxication.

These factors came up in *Jenkins v Muir* (2012) where the Alberta Court of Queen's Bench found the employer not liable. Here, some employees including a supervisor remained at the office after work to drink alcohol. After the supervisor left, Bakalar and another employee continued to drink. Bakalar left the office at 2:00 a.m. and was killed in a head-on collision. The Court found the employer was not liable: the plaintiff had not proven that the employer had provided the alcohol with the intent that they would drink it, and the supervisor had left long before Bakalar had finished drinking. The employer's position was supported by their policy to reimburse employees for taxis to and from work, which Bakalar had used in the past.

Legal Principles

For employer/business host liability cases, the injured party must prove that:

- *the employer owed him or her a duty of care* – did the employer fail to provide a safe workplace environment as he or she is required to do? However, it is not yet clear in which circumstances an employer owes a duty to those who might be injured by an intoxicated employee;

- *the employer failed in its duty of care* – with regard to its meeting the standard of care, did the employer do everything it should have done to prevent harm? Did the employer monitor consumption and take reasonable steps to prevent harm if it is known, or should be known, that an employee or guest is intoxicated;

- *there is a causal connection between the breach of the duty and the injuries suffered* – did the employer's actions or failure to act cause the injuries, and could the employer have prevented the injury?

- *the plaintiff suffered damages that were reasonably foreseeable* – was the grave personal injury a reasonably foreseeable result of intoxication, particularly if driving was also involved, as are assaults or falling down stairs or reckless behaviour such as diving off a dock into shallow water.

The Ontario Court of Appeal decision in *John v Flynn* (2001) outlines factors that can exonerate employers from liability in the event intoxicated employees injure themselves or a third party. For eight hours prior to his shift, and during his shift, Flynn drank steadily. Despite his prodigious intoxication, Flynn managed to leave work and arrive home safely where he continued to drink. It was only when he was driving to the home of a friend that he was involved in a collision with another

person, John. Knowing Flynn had a drinking problem, the trial jury held that the employer, Eaton Yale, failed to protect a foreseeable third party by preventing Flynn from driving. On appeal, this finding was overturned.

The Court of Appeal held that Eaton Yale was not liable for John's injuries because the employer owed no duty of care to the general public, including John. None of Flynn's superiors knew he had been drinking that night; the employer did not provide the alcohol consumed by Flynn; Flynn exhibited no outward signs of intoxication; and the employer did not condone driving while intoxicated. In fact, the employer had a policy that any employee who appeared intoxicated at work was immediately sent home in a taxi and was potentially subject to disciplinary action. Based on the facts and the Court of Appeal's unwillingness to extend an employer's duty of care to encompass John, Eaton Yale was exonerated of all liability. The Supreme Court of Canada dismissed an application for leave to appeal.

The Supreme Court of Canada's decision in *Childs* suggests that where an employer or business host does provide alcohol to guests, is aware that the particular guest has been drinking, and it is reasonably foreseeable that the intoxicated guest may drive, the duty of care of the employer or business host may be expanded to include the general public, such as users of the road. This is particularly so where there is financial gain for the host, even if it is indirect.

The British Columbia case, *Jacobsen v Nike Canada Ltd* (1996), was the first case in Canada to apply host liability at the workplace. The employer provided alcoholic beverages to its employees, including Jacobsen, at its worksite. Subsequently, Jacobsen went to a local bar and continued to drink. On his way home, he was involved in a serious car accident that left him a quadriplegic. Jacobsen sued his employer. The Court held that, although the employee voluntarily chose to drink to the point of intoxication, the employer failed to provide a safe workplace by introducing alcohol at work. Jacobsen was awarded $2.7 million in compensation, of which amount the employer was responsible for was 75 per cent.

The Ontario case *Hunt* (*Litigation guardian of*) *v Sutton Group Incentive Realty Inc* (2001) is another example of employer host liability. An employee, Hunt, had continued to drink after leaving an office Christmas party and was seriously injured in a motor vehicle accident. The employer had hosted the festivities during office hours, and Hunt continued to perform her usual duties throughout the celebration. At trial the Court found the employer ought to have been aware of the degree of Hunt's intoxication. By not making sufficient attempts to see that Hunt got home safely, the employer was partly liable for her damages, which were assessed at $1 million. The Ontario Court of Appeal ordered a new trial in the case, on grounds relating to the trial judge's discharge of the jury (*Hunt v Sutton*, 2002). However, that decision suggested that employers might be found liable for injuries due to intoxication of employees, in appropriate circumstances.

In *Gartner v 520631 Alberta Ltd* (Alta, 2005), an employer was found not liable for injuries to its employee who, contrary to the *Employment Standards Code*, was

required to work 19 hours. Following work, the employee drank beer while a passenger in another employee's car and then at the other employee's home. He then drove his own vehicle and was injured in an accident caused by his intoxication. The Court found that while the employer had breached the Code, there was no causation between the length of workday and the injuries he sustained. No alcohol was consumed during the workday, and the employee left work sober and alert. A further factor was that the employee refused an opportunity for a ride to his home and chose instead to drive his own vehicle.

The legal principles applied to private employers can also apply to the federal government as employer. In *Faulkner v McPhee* (2014) a member of the Armed Forces consumed alcohol at an Officer's Mess Hall, proceeding afterwards to drive and cause a serious motor vehicle accident. The Ontario judge granted the plaintiff's motion to include the Attorney General of Canada as a co-defendant. While the case has not yet proceeded to trial, the judge in this case indicated the court's willingness to consider the federal government's liability with an Officer's Mess.

Responsibility of the Corporation

A business has a high duty to provide a safe workplace. The legal expression of this duty is that a corporation, through its management, must conduct itself in a manner that conforms with what is reasonably expected of a corporation in like circumstances so as not to cause injury to employees, guests or others. As such, when a business serves alcoholic beverages, the host has an obligation to ensure that employees or guests are not served so much alcohol that they become a danger to themselves or to others.

An attentive business host understands that a reasonably foreseeable risk entails more than the concern that an intoxicated employee will drive. Foreseeable risk encompasses any activity where alcohol impairment could potentially result in harm to an employee, a guest or a third party. Such dangers could include: injuries suffered by intoxicated employees or clients at home or at the social gathering; vandalism or mischievous behaviour; or assault, as in the Alberta case of *Clarke v Connell* (1997) and the Ontario case of *Lorion v 1163957799 Quebec Inc* (2015). In *Lorion* an employee was sexually assaulted at an employer-hosted party. The company did not provide alcohol, but allowed guests to bring their own alcohol with minimal supervision. The judge noted that the lack of supervision and control over alcohol can materially increase the risk and foreseeability of injuries, creating liability for the employer. Here the Court refused the defendant's application to strike out the plaintiff's pleadings. While the most significant risk of harm may be driving while impaired, the host needs to be alert to other dangers presented by an intoxicated person.

Corporate responsibility towards employees, guests and others arises as soon as a business provides alcoholic beverages or encourages the consumption

of alcohol while the employee or client is under company control. There are, of course, situations where a corporation will have greater responsibility because of the amount of control it assumes over an employee or a client. By removing workplace gatherings from the workplace and employing a commercial host to take responsibility for the provision of alcohol, the employer largely removes itself from the position of host (although not from all responsibility). An employer must still be prudent. For example, in selecting a commercial host and location where driving becomes a necessity, another foreseeable risk factor is introduced.

If a business facilitates any of the following, the business may be held responsible for injuries to employees, guests or members of the general public, depending on all the facts of the case:

- the employer provided the alcohol or is aware of an employee's level of intoxication;
- the employer condoned drinking and driving by failing to take reasonable steps to prevent an intoxicated employee from getting behind the wheel (this is especially true in cases where it is likely that employees, guests or others will be leaving by motor vehicle);
- the directors and officers of the corporation drank alcoholic beverages with employees or guests and thus know, or ought to know, if someone is intoxicated and poses a danger to himself or herself or others;
- the business has not initiated a policy addressing its position on drinking in relation to the workplace and to workplace activities;
- the business creates an environment that encourages drinking games;
- the business knowingly permits or condones consumption of alcoholic beverages at work even though it does not provide the beverages.

Corporate Standard of Care

Businesses must legally adhere to a standard of conduct measured by what a reasonable person would do in like circumstances to ensure the safety of employees, guests or others. This is, of course, a legal fiction. The courts do not take a random survey of common corporate or social practices—they impose their own perception based on the evidence presented of what is reasonable in like circumstances. In situations where alcoholic beverages are served, a business or other host is required to implement policies and procedures that enable it to monitor properly the alcohol consumption of employees and guests, to make reasonable assumptions from the amount of alcohol that is consumed and to take positive steps to prevent intoxicated people from harming themselves or others.

Although it is difficult to monitor the consumption of every employee and guest at a function, it is a legal duty to do so. Further, a business is expected to take reasonable, affirmative steps to prevent an intoxicated employee or guest from, for example, driving a motor vehicle where it knows, or should know, that the employee or client is likely to do so. As host, the employer is subject to a heavy burden to keep an eye on obviously impaired employees and to take all reasonable steps to protect the individuals from harming themselves or others by driving in an inebriated state or other conduct. Such reasonable steps include:

- refusing to continue serving intoxicated employees or guests;
- providing alternative means of transportation or designated drivers;
- providing accommodations for intoxicated guests;
- confiscating the vehicle keys of an intoxicated individual;
- calling local police if none of the above options is effective.

A business organization also cannot wash its hands of responsibility by intentionally structuring the environment so as to make it impossible to know whether intervention is necessary. In *Gouge v Three Top Investment Holdings Inc* (Ont, 1995), the Court held that a cash bar effectively deprives a host of a means of preventing over-service. In eliminating the opportunity to monitor a guest's level of alcohol consumption, the Court found the host to be partially liable for any injuries caused, whether to the guest or a third party, as a result of a guest's intoxication.

However, a business organization may delegate the responsibility of monitoring consumption to an independent commercial alcohol provider, thereby minimizing its exposure to potential liability. Even then one must take reasonable steps in selecting the commercial host so that the latter will not over-serve alcoholic beverages and will take appropriate steps if someone becomes intoxicated.

A host's primary responsibility is to monitor the alcohol consumption of guests and, where employees or guests become intoxicated, to take all reasonable steps to ensure that inebriated individuals and third parties are not at risk of foreseeable harm. If a host is aware that an employee or guest is intoxicated, it may be enough to ensure that a sober companion will take responsibility for the individual's safe transport home. By ensuring safe transport, the host protects itself against liability much more effectively than by assuming safe transport.

Management Responsibility

Directors, as the guiding minds of corporations, must ensure the corporation has adopted and implemented policies and measures designed to preclude employees or clients from being served so much alcohol that they become a danger to themselves or to others. If directors have not fulfilled their responsibilities toward

an employee or a client, a court might disregard the corporate structure and hold directors personally responsible for the injuries sustained by an employee, client or other persons. Liability can depend upon their level of involvement, or lack thereof, in the decision-making process and personal knowledge of the social gathering.

Although officers are not necessarily responsible for formulating and implementing corporate policies and procedures that ensure the safety of employees or other persons, they too may be held personally responsible for injuries sustained by employees or other persons in cases where they failed to fulfill their responsibilities.

The fact that directors or officers are not personally involved in the function serving alcoholic beverages does not necessarily absolve them of responsibility. Directors or officers are generally entitled to delegate carefully their responsibilities to competent personnel.

The senior management directly responsible for the organization of a social function is at the greatest risk for individual liability, on the same basis as outlined above. The corporate veil is not a shield from liability.

Financial Responsibility

If a corporation, its directors, officers or managers are found responsible for the injuries sustained by an employee, client or another person, they will be obliged to compensate the injured person for special and general damages.

In the case of special damages, the injured person will be entitled to claim from the corporation or individual(s) found responsible for some of the expenses incurred prior to the time of trial. This may include such things as medical and travel expenses.

General damages are intended to compensate for future financial losses and expenses, including the loss of enjoyment of life, loss of future earnings and future medical costs.

The sum of both general damages and special damages may result in a corporation or individual having to pay large sums of money. In *Jacobsen*, the award was $2.7 million and the accident involved only one person.

Workers' Compensation

A company which contributes to WCB cannot assume it is safe from civil liability if an employee is injured as a result of drinking at a corporate social gathering. Although the legislation precludes an employee from suing an employer if WCB benefits are assessed, such an action is precluded only when the injury results during the course of employment. Because drinking and driving are not usually

aspects of an employee's job, the statutory bar may not apply, and it could be open for an employee to seek civil damages.

Furthermore, WCB provisions do not prevent claims where a third party is injured as a result of an employer's providing alcohol to an employee and failing to discharge its duty of care.

Suggested Measures

While the following is not an exhaustive list of possible options available to a corporation or a director in avoiding liability, it is intended to provide helpful suggestions.

A business can avoid responsibility by refusing to provide alcoholic beverages at its social gatherings. Many businesses have recently taken this approach. However, in a social climate where alcohol may be seen as an integral part of doing business, this option may be impractical.

The two major responsibilities of a host are:

1. to avoid over-consumption of alcohol by guests; and
2. to take steps to ensure guests arrive home safely if they become intoxicated.

Should a corporation or other business decide to provide alcoholic beverages, it must monitor and limit the levels of consumption by employees and guests. This requires that the consumption of each person attending the social gathering be monitored, not just the general consumption patterns of the group. However, monitoring consumption is difficult. Moreover, individual alcohol tolerance levels vary and what may appear to be reasonable consumption for one will not be reasonable for another.

A host must also dissuade intoxicated people from exposing themselves or others to danger, such as driving a motor vehicle. However, this too raises practical problems. Although it is difficult to determine a reasonable course of action in dissuading a person from driving a motor vehicle, the following are some considerations:

- provide taxi vouchers to all employees or guests at the start of the function;
- get friends of the person to intervene, to offer a ride or to persuade the person not to drive;
- have staff available to drive people home in their own cars, or engage a company that provides this service;
- have the person wait until the effects of the alcohol wear off;

- take the keys to the motor vehicle away from the person until he or she is sober;
- as a last resort, if the person insists on driving a motor vehicle, advise them that you will call the local police—and make the call.

Similar considerations apply to other dangers, such as an intoxicated person setting out to walk home lightly dressed on a cold winter night.

Adopt Policies and Procedures

Drafting a business policy and procedure is an important exercise because it ensures that management and employees of the corporation are aware of the expected standard of conduct and the consequences of failing to meet that standard. The application of a standard policy will also serve to reduce potential liability; however, it must be consistently applied and made known to all employees. The following is a list of some of the provisions that should be considered for a corporate policy directive:

- structure social events so drinking is limited (e.g., limit the hours the bar is open and close the bar one or two hours before the event ends);
- provide non-alcoholic beverages and food;
- host events that have entertainment or activities as the focus, with drinking as incidental (e.g., theatre or sports events);
- strictly prohibit all drinking games;
- adopt zero tolerance regarding the consumption of alcohol as part of the conditions of the workplace (there may be situations, for example, where employees of the corporation make drinking alcoholic beverages an accepted standard of conduct, such as Friday lunch sessions; a policy directive of this nature should discourage this type of behaviour);
- strictly prohibit drinking alcoholic beverages at the workplace;
- provide taxi vouchers or chits to all employees and guests that attend company-sponsored social gatherings where alcohol is provided (in *Jacobsen*, the Court held that a policy of providing taxi vouchers may satisfy a corporation's obligation towards its employees or others and that such a policy may do away with the necessity of having to monitor alcoholic consumption; however, monitoring is still recommended);
- put a designated driver program in place prior to hosting a social gathering;
- advise employees in an information circular prior to all social gatherings that overdrinking is not condoned, that drinking and driving is dangerous and is

to be avoided and alert employees to the necessity of making alternate travel arrangements;

- expect all directors, officers and employees to consume in moderation when entertaining company clients (this sensitizes everyone to the need to drink alcoholic beverages in moderation when entertaining for company purposes);

- do not make social events for employees mandatory (attendance should be voluntary).

Devising policies and procedures that are effective also requires the corporation to follow through on its policies. Directors, officers or employees who do not comply with the expected standard of behaviour should be subject to sanctions. The corporation must adhere to the policy directive if it is to have any value.

Insurance

Most businesses maintain some form of liability insurance that will provide coverage for injuries sustained by employees or guests; however, some policies exclude activities conducted outside the workplace or activities conducted outside the scope of employment. Accordingly, before hosting a social function at which alcoholic beverages will be served, the business should review its insurance policy and exclusions to ensure adequate coverage in the event that claims are made.

In *Danicek v Alexander Holburn Beaudin & Lang* (2012) a Vancouver law firm's insurance policy was found not to cover injuries sustained at a nightclub attended as an after-party, following a firm dinner where alcoholic drinks were provided. At the nightclub an associate, while dancing, fell backwards onto a student, causing the student to suffer a mild traumatic brain injury. The BC Court of Appeal found that the visit to the nightclub had "a far more tenuous connection" with employment and thus the injuries were not covered by the firm's insurance.

Common Questions

Is a business responsible for injuries caused to third parties by an intoxicated employee or guest who is under its control?

- A business may be held responsible to a third party injured by an intoxicated employee or guest who was under its control if it was reasonably foreseeable that the injured party would be endangered by the intoxicated employee or guest. However, the corporate host must know, or ought to know, that the employee or guest was intoxicated and could pose a danger in order for a duty of care to arise.

Is a business responsible for the actions of an intoxicated employee who drinks alcoholic beverages and becomes intoxicated outside the workplace or on his or her own spare time?

- A business that knowingly encourages an employee to drink outside the workplace may be held responsible for the injuries sustained by both the employee and third parties.

Is a business responsible for the injuries sustained by an intoxicated employee, guest or third party if it has simply refused to continue to provide alcoholic beverages once the person was visibly intoxicated?

- Responsibility does not stop there. If alcoholic beverages are served at a corporately hosted function, the business has a duty to ensure that an employee or guest does not pose a threat to himself or herself or to any other person. This duty requires that businesses take all reasonable affirmative steps to ensure intoxicated employees or guests do not injure themselves or others.

Is a business responsible for the injuries sustained by the intoxicated person and others in cases where the intoxicated employee or guest leaves a social gathering with a sober companion?

- Provided there is no reason to expect that a sober companion will not assist, there should be no further responsibility. In *Stewart v Pettie* (1995), the Supreme Court of Canada held that it is reasonable for even a commercial host to assume that a sober companion will take responsibility for the safe transportation of an intoxicated person.

To what sort of social gatherings does corporate responsibility extend?

- A business organization may be held responsible for injuries sustained by an intoxicated person or others in cases where it hosts a social gathering. Accordingly, corporate responsibility may arise in the context of such functions as dinner parties, lunches or company parties.

Closing Note

While the foregoing is couched in terms of what might be done to avoid liability, the objective of this guide, as is the courts', in formulating these principles, is to avoid as far as is reasonably possible a motor vehicle accident or any other incident occurring as a result of an employee's or other guest's intoxication. The potentially tragic consequences of such accidents profoundly affect the injured persons and their families. Avoiding such personal losses, and not just the legal responsibilities for those losses, is imperative for the business organization, its employees and the general public.

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