



THE FLOYD LAW FIRM PC

HOT

Too Much Eggnog?-Liability Associated Alcohol & Minors At Parties

Once again, the holiday season has fallen upon us. It is traditional for many businesses to host a holiday party to celebrate another year of success and to honor employees. However, most businesses are probably unaware of the potential hazards that can surface when holding such an event.

Imagine you are hosting an evening cookout and invited all of your fellow co-workers to attend. Suppose one of those co-workers happens to be twenty-years-old and decides to have a few beers and/or shots of liquor that you provided. You notice he is getting a little drunk so you pull him aside and have him sip on some coffee to sober up. Then this underage co-worker leaves the cookout in his own car and ends up in a one-car accident that takes his life. This co-worker's mother next sues you for wrongful death. Are you liable?

Well, in the last year the Supreme Court of South Carolina made it clear that the answer to this question is YES. On February 5, 2007, the Court issued an opinion that changed the basis for social host liability. (See *Marcum v. Bowden*, 643 S.E.2d 85) Prior to that date any liability attributed to social hosts was grounded in violation of alcohol control laws, which criminalize the transfer of alcohol to minors. However, the Court changed the basis of liability to incorporate the common law and not the alcohol laws. The Court's reasoning for abandoning the statutes and adopting the common law was to avoid the multitude of exceptions contained in the codified laws. The exceptions gave rise to an inference that only underage persons could be protected and not the general public. According to the Court:

"an adult social host who knowingly and intentionally serves, or causes to be served, an alcoholic beverage to a person he knows or reasonably should know is between the ages of 18 and 20, is liable to the person served and to any other person for damages proximately resulting from the host's service of alcohol."

The Supreme Court was careful in its holding to provide that this new common law duty was only to apply prospectively, meaning that any suits brought after February 5 could be based on this newly created social host liability theory.

Therefore, as a host it is imperative, especially around the holidays, to maintain control of alcohol distribution at a party in which minors might be present. One suggestion might be to provide a card that states language similar to the following: ALCOHOL WILL BE SERVED AT THIS PARTY. IT IS ADVISED THAT NO ONE UNDER 21 ATTEND. This may anger or frustrate persons that wish to bring their children, but it will aid in eliminating a large risk associated with underage drinking and driving

We wish you a prosperous, healthy, and happy New Year, but please remember to be safe as well.

TIPS

FOR

OUR

CLIENTS

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