

SUBJECT: Alcoholic Beverages - Host Liability

Executive Summary	1	A case in point.....	1
Legal liability	1	Approaches to Consider	1

INTRODUCTION

This release describes Wisconsin's alcohol liability immunity statute, §125.035, Stats.

EXECUTIVE SUMMARY

There have been numerous questions from credit union leadership and employees regarding the credit union and their possible host liability when alcoholic beverages are served at credit union meetings. Since this concern applies to chapter meetings, credit union board meetings, League sponsored functions and other meetings, League attorneys were consulted for their opinion. Is there any potential credit union liability in the event of injury to either the consumer of the alcohol or to a third-party? Following are excerpts from their response.

LEGAL LIABILITY

Although 1985 legislation provides some protection from liability, it does not remove all risk. Under Wis. Stat. § 125.035, a host is immune from civil liability arising out the act of selling or giving away alcohol to another person unless the provider:

- Forced another to consume the alcohol or represented that there was no alcohol in the beverage; or
- Knew or should have known the person was under the legal drinking age [which is age 21, not 18].

The legislative history of this statute confirms its broad scope. "This bill provides that no civil liability may be imposed on a person because he or she furnished alcohol beverages to another person." Thus, it is clear, that in Wisconsin, a party who simply serves alcohol to another will not be liable for the other's tortious acts, unless the facts squarely fit within one of the exemptions found in § 125.035(3) & (4), Stats., described above.

Wisconsin's immunity statute, § 125.035, Stats., will generally protect the credit union from liability for injuries to third persons caused by non-employees attending sponsored events. The credit union must, however, under general negligence principles, exercise reasonable care in preventing a guest or employee it knows is engaging or intends to engage in injurious conduct, from injuring others at a credit union event. In addition, if the credit union entrusts its vehicles to persons it knows are under the influence of alcohol, the negligent entrustment theory of liability could be invoked to hold the credit union liable.

A CASE IN POINT

A Menomonee Falls firm was recently sued for a fatal car crash after an employee got drunk at an office Christmas party. The Wisconsin Court of Appeals ruled that the company was immune from liability for providing the alcohol. However, the company supervisor who reneged on a promise to the employee a ride home may be sued, and the court ruled that the company may still be liable for the behavior of the supervisor.

APPROACHES TO CONSIDER

Legal liabilities aside, no credit union wants to be responsible in whole or part, for any tragic accident involving employees or members. Some ideas many organizations use to assure safety for all involved in company-sponsored events include:

1. Issue a clear policy statement before any party that drinking to excess is unacceptable behavior-that everyone can have a good time without over imbibing.

2. Have a high-ranking official abstain from alcohol so he or she can keep an eye on guests and make sure that intoxicated employees do not drive.
3. Arrange for some nondrinking employees or taxis to take home those who are unfit to drive themselves.
4. Make sure nonalcoholic drinks are available, and serve meals or snacks; high-protein foods, especially, help retard alcohol absorption.
5. Use a professional bartender who will stay sober, serve only measured shots, and cut off individuals who over imbibe; be specific with the bartender as to how long the bar is to stay open.
6. Some organizations have given up employee holiday functions in favor of a party for the children and grandchildren (up to 10 years old) of employees.

★ ★ ★ ★ ★

League publications are designed to provide accurate information with regard to the subject matter covered, with the understanding that the League does not render legal services. If you have general questions regarding this release, please call The League at (608) 640-4050 if local; or (800) 242-0833. For specific legal advice, please consult your credit union's attorney

Legal Affairs Department

JCE/pb

© 2020 Wisconsin Credit Union League