

# LIQUOR LIABILITY

## Managing Hospitality Risk

### WHAT'S AT RISK?

When a licensed establishment over-serves a guest, or serves patrons under the legal drinking age, they set in motion a chain of events that can lead to significant bodily injury, even death, as well as property damage, lawsuits, civil and criminal penalties, fines, jail time, and loss of liquor license and business income. NSU statistics show that 83 claims involving liquor service over a 10-year-period cost \$5,826,135 in settlements and trial awards. That's an average cost of \$70,194 per claim!

### WHAT ARE YOUR LEGAL OBLIGATIONS?

You are first and foremost responsible for knowing and following all of the rules of your particular state and complying with the regulations under which your license is issued. If you operate within a county or city that imposes "special conditions" on licenses (local zoning) you must also comply with all such requirements.

Beyond the rules attached to your liquor license, there is a body of common law developed in your state through a series of lawsuits related to liquor service. You may expect insurance claims and lawsuits if damages arise from serving a minor, an intoxicated person, or an alcoholic. If the intoxication is determined to be a cause of a subsequent accident, and the accident was a foreseeable consequence of the service of alcoholic beverages to the drinker, you will have difficulty mounting a defense.

Every state is different, and there are often exceptions or additional responsibilities for hotels. In general, your obligations will include:



- Never to serve a perceptibly intoxicated person, under-age patron, or a known alcoholic.
- Serve only the types of liquor, and in manner permitted by your specific license.
- Be absolutely sure your servers are of legal serving age
- Stick to allowed hours of sales and service, and make a timely last call.
- Post all required signage.
- Train all staff to serve alcohol responsibly and to recognize and deal with potential problems.

### HOW CAN YOU BETTER PROTECT YOUR ORGANIZATION?

For some suggestions designed to assist you in developing sound policies and procedures for your organization, please turn this document over and review the attached checklist.

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For more information about this and other hospitality risk management topics, please contact:

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# Checklist: Liquor Liability

- Know your state and local laws:** Management and staff should be familiar with the governing statutes in your state and locality, and should annually check for any amendments to the statutes, which may have changed the requirements. New employees should be trained on the statutes.
- Establish a Written Alcohol Policy:** Put in writing the facility's policy on alcohol service, distribute the policy to all new and existing employees. Provide a training and question/answer period with an experienced supervisor for all employees once they have had a chance to review the policy, to make sure there are no misunderstandings. Have the employees sign acknowledgement that they have read, understood, and will abide by, the rules of the policy.
- Provide Professional Training on Responsible Alcohol Service:** Invest in training for your servers, and for other staff members who may interact with intoxicated guests (managers and supervisors, security staff, valet parking). Use reputable and well established programs such as T.I.P.S. and T.A.M.S. Keep documentation of all training.
- Avoid Promotions or Events that Encourage Excessive Drinking:** Although happy hours, two-for-one offers, "ladies nights" and various party events can enhance liquor sales, the risk involved negates the value of such promotions. When an establishment is clearly encouraging heavy consumption of alcohol, they will have an extremely hard time defending themselves should bodily injury or property damage result.
- Age Identification:** Check everyone who doesn't appear to be 35 or older. Refuse service to anyone who cannot provide legitimate proof that they are of legal drinking age (government issued photo identification with a physical description of the person on the document). When refusing service, have the server record the incident in a log.
- Intoxication:** All employees should monitor guests for intoxication. Service should be delayed or cutoff for guests approaching a drink limit or exhibiting signs of intoxication. Arrangements should be made to assure the safety of the guest. If necessary, arrange alternative transportation, such as a cab. In banquet contracts, insist the party provide a certain number of alcohol-free designated drivers. Prior to intervention, inform management and security, and after intervention, record the incident in a log.
- Drink Counting:** When possible, servers should count drinks served as a method of preventing over-service. A rule-of-thumb is 2-2-1; no more than two drinks during the first hour, no more than 2 during the second hour, and 1 during a third hour. Generally speaking, given the way that the human body processes alcohol, this should help assure that guests stay below the legal definition of intoxication. However, this method has its limitations. If patrons arrive with alcohol or drugs already in their system, or have other sources for alcohol/drugs during their visit, servers must still rely on training and judgment to identify signs of intoxication.
- Provide Food Service:** Make available and promote food at all service points where alcohol is served. Starchy and fatty foods can help slow the absorption of alcohol into the system, and taking time to eat can slow down the intake of drinks.
- Alternative Beverages:** Maintain and clearly advertise a variety of non-alcoholic or low-alcohol beverages as an alternative to alcohol. Encourage servers to promote and sell these beverages.
- Security:** Security staff should routinely check in at bars and restaurants within the hotel to monitor the situation, as well as banquet rooms and special events where beverages are served.