



## ***Playing Host This Holiday Season?***

### ***Know Your Responsibilities When It Comes To Alcohol***

By: Katherine M. Felucca, Esq.

The holiday season is once again upon us. For many, getting in the festive spirit involves libations, from eggnog with brandy to champagne. As we gather with family, friends and colleagues to share in the merriment, now is an opportune time to consider the legal responsibilities associated with furnishing alcohol at social gatherings, a concept known as “social host liability.”

It should come as no surprise that, in Massachusetts, there are criminal penalties for furnishing alcohol to underage guests. A person faces a fine of up to \$2,000, imprisonment for up to a year, or both, if he or she knowingly or intentionally supplies, gives or provides to or allows a minor other than his or her children or grandchildren to possess alcoholic beverages on his or her property.

Perhaps less known is that, in Massachusetts, a social host who serves too much alcohol to a guest, whether adult or minor, may in turn be served with a civil lawsuit for damages if that guest harms someone else. The term “social host” refers to anyone who hosts a social gathering who is not a licensed alcohol vendor, including private individuals, employers and organizations. The Supreme Judicial Court of Massachusetts recognizes a social host’s liability where:

- The social host knew or should have known that the guest was intoxicated;
- The social host nevertheless served or provided the guest with alcohol; and

- Because of his or her intoxication, the guest caused injury to a third person.

Social host liability most commonly arises when an intoxicated guest gets behind the wheel and causes an accident, although a social host may also be liable under other circumstances, such as where an inebriated guest commits assault and battery.

The rationale behind this body of law is that a social host who controls the alcohol supply owes a duty to the general public, since he or she is in a far better position than the general public to prevent harm to innocent third persons resulting from the guest's intoxication. Just as a bartender at a commercial establishment will "shut off" a patron, a social host may fairly be expected not to furnish alcohol to an obviously intoxicated guest.

Guests over the age of eighteen are deemed to be in a better position than their social hosts to prevent harm to themselves as a result of alcohol consumption. Thus, in Massachusetts, a social host is not liable to an adult guest who injures himself or herself while under the influence, even if the guest is under the minimum drinking age. Notwithstanding, a social host should not let his or her guard down, not only because no host would want to see a guest injured, but also because the host could still face liability for injuries caused to innocent third persons.

If you are hosting a social gathering this holiday season and will be providing alcohol, take measures to ensure that your guests drink responsibly, so your occasion may be nothing but joyous.

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*The information presented in this article reflects the personal views of the author and should neither be construed as formal legal advice nor the creation of an attorney-client relationship.*

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