

ATTORNEY AT LARGE

BY RICHARD HARTZMAN

SERVING DRINKS CAN CAUSE LEGAL HANGOVER

Furnishing alcoholic beverages is considered an essential gesture of hospitality at social gatherings of all kinds. But the misuse of alcohol is the nation's greatest drug abuse problem and is related directly to many accidental injuries and criminal acts. The problem of drunk driving has been particularly prominent in recent years, in large measure because of Mothers Against Drunk Driving (MADD).

The danger to life and property caused by alcohol abuse has led courts in a growing number of states to expand the scope of liability of those furnishing liquor to persons already intoxicated.

A person serving alcohol to an intoxicated guest can be held liable for injuries to that person and to innocent victims of his actions while intoxicated—be that driving drunk, barroom brawling or something else.

For example, in an Illinois lawsuit, the plaintiff's husband was served liquor at a bar well past the point of obvious intoxication. Upon returning home, he choked his wife and chased her around their apartment, threatening to kill her. In self defense she grabbed a pistol and shot him to death. Subsequently, she sued the bar owner for the wrongful death of her husband and recovered \$10,000.

In a Pennsylvania case, a hotel was found liable for injuries suffered by a man who had gotten drunk at a dance party held in a sixth-floor ballroom. The hotel had provided bartenders and waitresses and sold alcoholic beverages to those attending.

The plaintiff, after causing a commotion, was confined to a bathroom. He crawled through a window onto the roof and, in his drunken stupor, either jumped or fell some 45 feet to the kitchen roof below.

Parties found liable for injuries re-

sulting from excessive alcohol consumption can be taverns, hotels, restaurants, clubs, employers serving employees, and, in three states—New Jersey, Indiana, and Iowa—social hosts, including those entertaining at home. By extension, sponsors of meetings and conferences at which drinks are served also could be found liable.

Whether or not a party will be found liable for injuries depends on a number of factors, including the degree of control asserted in the furnishing of the alcoholic beverages. If the sponsor of an event leaves control to the facility where it is held—whether hotel, resort, restaurant or other place—he is not likely to be held legally responsible.

In drunk driving cases, liability will depend on whether the person supplying the alcohol knew that the intoxicated guest intended to drive.

Given the trend toward more stringent court decisions, it is well to take added precautions when serving alcohol. Ronald Beitman, a Falmouth (MA) attorney who publishes *The Dram Shop and Alcohol Reporter*, has a number of suggestions for protecting against liability stemming from alcohol consumption when you are handling the arrangements at a party:

1) Do not use volunteer help; hire bartenders—as many as you need. That way there will be no hard feelings toward colleagues who refuse to serve and no demands that employees “serve or get fired.”

The bartender should be directed not to serve anyone—no matter who he is—who is visibly intoxicated.

The person responsible for the party should limit his or her drinking to be able to back up the bartender and enforce the “no drinks” rule for the intoxicated.

2) Stay away from alcoholic punches, kegs and other things that take control of consumption away from you and your bartenders.

Serve food to reduce the effect of the alcohol.

3) Collect and label car keys from everyone at the party and keep them where they can be retrieved when guests are ready to go home. Do not give keys back to anyone who appears visibly intoxicated and provide alternative transportation. You may want to have the party in or near a hotel where those who've had too much to drink can stay overnight.

4) Shut down the bar 30 to 45 minutes before the end of the party, but don't



announce that it will happen. This will discourage those who like to down several drinks just before a party ends and it's time to drive home.

The threat of legal liability may discourage “hospitality” in the form of uncontrolled alcohol flow at social gatherings. But with many persons dying each year due to alcohol abuse, this may not be a big price to pay. □

Richard Hartzman is a member of the bar in New York and Colorado. He practices law in New York City and writes on a variety of subjects for M&C. We urge you to send in your questions and meeting planning experiences that relate to the law.