

# Loss Control



FARMERS

## Information Bulletin

### Liquor Liability for Restaurants

In many restaurants, alcohol sales can be one of the marketing strategies used to attract clientele. This important source of revenue also creates a potential for civil and criminal liability.

An explosion in liquor liability legislation has occurred in the past decade as states have taken an increasingly aggressive approach to enforcing state laws on the sale and service of alcoholic beverages. Surveys showed that when drivers were arrested for drunk driving, more than half the time they named commercial establishments as the place where they had last obtained alcohol.

In the 1970s, states revived implementation of their laws regarding liquor liability. The intent of these laws was to hold vendors and individuals liable for selling or serving alcohol to people who appear intoxicated or for sales to minors. Each state's laws impose differing levels of liability.

#### RESPONSIBLE BUSINESS PRACTICES

Each state has an alcoholic beverage commission, which governs the sale and distribution of alcoholic products. Most commissions offer formal employee training programs to vendors to assist with developing responsible practices. Following are some common responsible business practices.

*Know the Alcoholic Beverage laws of your state and municipality. Adopt the policy that no employee serves alcohol until they have completed formal alcohol awareness training.*  
*Develop protocol for handling alcohol related situations.*  
*Check ID's for persons appearing 30 years of age or younger.*  
*Require a food order or provide food with alcoholic beverages.*  
*Use a written report to record the details of an alcohol related incident. The report should contain details such as the date, time, server, manager, witnesses, documentation of refusal of service, false ID presentation, transportation, and law enforcement contact.*

Each state has laws and penalties for driving while intoxicated. Most states have set .08 blood alcohol content (BAC) as the legal limit to be considered intoxicated. It is important to understand that the courts in liquor liability cases have also held establishments liable in cases in which the patron was not charged with driving while intoxicated.

The idea of driving while under the influence has opened servers to even more challenges. In these cases, the patron is charged with "driving under the influence" when the investigating officer finds the driver has consumed alcohol but falls short of the state legal limit for intoxication. Knowing that alcohol impairs a driver's abilities, this citation then forms the basis for legal liability and can be tracked back to the serving establishment.

#### CONCLUSION

Employee training and uniform management enforcement of policies is essential. Owners cannot be everywhere in their establishments at once, and employees have to be trusted to adhere to policies and act in prudent manner. Documented training demonstrates a company's commitment to reducing the potential for injury and can be useful in the defense of any legal actions. Inform employees of the consequences of serving persons that could be under the influence but not intoxicated. Have procedures in place to have management assist with these situation.

Training the servers is a key step in managing this exposure. Your state Alcoholic Beverage Commission can assist you with some of your required training needs.

Additional Reference sources:

<http://www.cocktailtimes.com/awareness/>  
[www.restaurant.org](http://www.restaurant.org)