

Liquor Liability and Government Entities

LIQUOR LIABILITY EXPOSURE OPERATIONS

Governmental entities may have a wide range of exposures to liquor liability, depending upon the extent of their operations and who is dispensing alcohol. For simplicity let's divide these into Municipal Operated, Subcontracted, Special Events, and Private Groups Using Entity Facilities. Examples of each are as follows:

Municipal Operations

- Golf Courses/Athletic Complex
- Convention/Civic/Event Center
- Fairs/Parades/Festivals

Subcontracted

- Golf Courses/Athletic Complex
- Convention/Civic/Event Center
- Coffee Shop

Special Events

- Vendors – Fairs/Parades/Festivals
- Fairs/Parades/Festivals
- Groups Using Entity Facilities
- Private Party/Weddings/Celebrations

INTRODUCTION TO LIQUOR LIABILITY CONTROLS

Each State's Alcoholic Beverage Control (ABC) law typically says it is illegal to sell, deliver, or give away alcoholic beverage to a visibly intoxicated person. These are also referred to as Dram Shop Laws which historically were created to control how alcohol is sold, the socially responsible serving of alcohol,

and the assignment of management responsibility for server training. Most lawsuits assert that the law was not followed by over-serving a patron, serving to a minor, or not offering safe transport home after identifying the patron is intoxicated. The plaintiffs will try to show negligent training and negligent supervision in addition to operating outside the law.

MUNICIPAL OPERATIONS

If your municipal employees serve alcohol under the Municipal Operations or Special Event sections listed above, then it is a good idea to research your state's ABC laws and develop a Liquor Liability Plan. Below you will find an outline to get you started.

Components of a Liquor Liability Plan

1. Develop a Policy Statement directed toward employees from management showing they are committed to following and enforcing the State ABC laws
2. Develop policies and procedures addressing:
 - Server Intervention Training – initially at hire and a refresher annually
 - Prevention of Underage Serving
 - Refusal of Service (Cut-Off) to Patron – offer food/soda/taxi
 - Happy Hour & Drink Specials – limitations of service/type/duration
 - Server Conduct/Rules/Discipline
 - Incident Documentation
 - Volunteers – orientation, training, supervision

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As you can see, this liquor liability plan is more than simply having a server intervention training program. Yes, the server intervention training usually touches on these other topics but it is up to the entity to establish boundaries and acceptable conduct through formal policies.

Usually, if you can show policies & procedures have been developed and enforced, it makes for a strong argument in court that the entity operated in a reasonable manner. Documentation of training is essential as is documentation of any refusal of service (cut-off).

To help with documentation of a refusal of service due to intoxication a sample alcohol incident form is available through the provided links. If you see a person driving (either arriving or leaving) that is intoxicated, call law enforcement immediately.

SUBCONTRACTED OPERATIONS

How to handle Subcontracted Operations?

A vendor is often hired to operate the concession stands for food and drink. If alcoholic beverages are served it is commonly expected the vendor provide their own Liquor Liability coverage.

Ask for certificates of insurance from the vendor and the governmental entity optimally should be added as an additional insured. The amount of coverage should be discussed with your agent/broker. To be proactive, it can be required that the subcontractor have a written liquor liability plan that meets state law.

SPECIAL EVENTS

Special events often are operated on local government property but are not sponsored or operated by the entity. Liquor service is

frequently found being offered by various vendors. These should be handled the same way as the subcontracted operations are described above.

GROUPS USING ENTITY FACILITIES

Groups Using Entity Facilities sometimes have alcohol consumption planned for their guests only and no sales or serving of alcohol to the public.

A best practice is to use a Facilities Use Form which identifies this exposure and requires security guards when alcohol is present and often requires a damage deposit as well. The Facilities Use Form also would include a signed hold harmless agreement in favor of the entity.

INDUSTRY RESOURCES

Model Alcohol Management Policy:

<https://www.abc.ca.gov/FORMS/ABC620A.pdf>

ServSafe Alcohol Program:

<http://www.servsafe.com/Alcohol/>

TIPS Alcohol Training & Certification:

<http://www.tipsalcohol.com>

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To learn more about how OneBeacon Government Risks can help you manage risks, please contact us at OBGRRiskControl@onebeacongov.com.

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