

# The Employers' Edge – 'Tis The Season – What Employers Need To Know Before Hosting Holiday Parties



Hosting a holiday party for your employees is a great way to thank them for their hard work throughout the year. However, holiday parties that get out of control or are not reflective of your workforce's ethnic diversity can create unforeseen liabilities, particularly where alcohol is involved. As a "best practice", the following suggestions will assist your organization in planning and holding a safe and inclusive holiday event:

- Hold an alcohol-free event. This is the lowest-risk option for employers.
- If you decide to provide alcohol at the event, speak to employees before the event about the risks of over-drinking. In addition to the issue of alcohol, employees should also be reminded that this is a workplace function and they are expected to behave in a way that is not harassing, discriminatory, intimidating or otherwise inappropriate.
- Holding a morning (brunch) event rather than an evening event where alcohol is served may reduce the consumption of alcohol.
- Do not provide free and open access to alcohol.
- Provide non-alcoholic drinks as an option.
- Avoid serving alcohol if your event includes physical activities, or serve the alcohol after the physical event is completed.
- Do not serve alcoholic beverages to under-aged employees or employees who are already visibly intoxicated.
- Have food available throughout the party, and accommodate diverse palates
- Provide alternative transportation for employees (i.e. taxi cabs). Encourage employees before the event to leave their vehicles at home and take advantage of the alternative transportation you are providing to get to and from the event.
- Arrange for a nearby hotel to have rooms available for employees who are unable to get home.

- Stop serving alcoholic beverages at least an hour before the party is over.
- Be respectful of the different cultural and belief systems among your employees when planning your event. Make sure the date of your event, your menu and activities reflect your workforce's religious and ethnic diversity.
- Where your workforce is culturally diverse, consider creating a holiday planning committee of representative employees to plan your event, and plan your event around the many religious holidays being celebrated around this time.
- Consider inviting your employees' family to accommodate those who may be unable to leave young children at home.
- Allow employees to opt out of your holiday event without a consequence or negative connotation.
- Make sure the venue is accessible to those attending your event.

## **The Law on Social Host Liability**

In 2006 the Supreme Court of Canada weighed in and confirmed that a social host of a party, unlike a commercial host such as a bar or restaurant, does not owe a duty of care to guests or third parties such that they would be required to prevent a guest from driving in an intoxicated state. In *Childs v. Desormeaux* ("*Childs*"), the defendants hosted a New Year's Eve party. After consuming alcohol at the party, a guest was involved in a head-on collision that killed one passenger in another vehicle and seriously injured three others, including the plaintiff. The plaintiff sued the driver, the hosts of the party and their home insurer.

The Supreme Court found that the party hosts could not reasonably foresee the accident and the plaintiff's injury and in any case had no duty to act. Social hosts do not have such a duty, unless they are in a situation where they can foresee harm to guests and their relationship to their guests falls into one of the following three categories:

1. the social host invites guests to participate in an inherent risky or dangerous activity that the host creates or controls;
2. there is a relationship of supervision or control between the host and the guest; and,
3. the host exercises a public function or engages in a commercial enterprise.

Although in *Childs* the Supreme Court did not address the potential obligations on employers when providing alcohol to employees at work functions, the decision suggests that employers are likely to be held to a higher standard than social hosts when alcohol is served at company-sponsored events. Employers may require employees to attend holiday parties, are required to maintain a safe working environment for employees and are in more of a relationship of supervision or control with employees than mere social hosts might be. As a result, employers may have a duty to protect employees who are intoxicated and third parties who may be injured by employees.

Wishing you and your employees a safe and festive Holiday Season.

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