FTR Now

Enjoying a Safe Holiday Season

Date: December 5, 2008

The holiday season is once again upon us. While some employers may be scaling back on festivities this year, it remains as important as ever that employers take proactive steps to ensure the health and safety of their employees who attend office parties or other celebrations.

Over the years, a number of court decisions have signalled that employers face a risk of liability should an employee drink too much at an office function and then be permitted to drive. There is a risk that the employee will injure him- or herself, or that the employee may injure an innocent third party. Thus, prudent employers will want to take a number of steps to provide all attendees with a safe environment and safe transportation alternatives for returning home. Prudent employers will also take a number of steps to minimize the liability associated with holiday events where alcohol is served.

To assist you in your holiday planning, we have provided the following range of options for employers to consider in order to avoid situations where an employee becomes intoxicated and leaves a holiday event in an unsafe condition.

- Consider whether to have an alcohol-free event. While the caselaw does not go so far as to say that an employer must never serve alcohol to its employees, this option is the lowest risk alternative for employers.
- If you provide alcohol, do not provide an open and unsupervised bar. If you choose to provide an open bar, do not keep it open for the entire evening.
- Monitor employees' alcohol consumption. Take positive steps to keep track of how much employees are drinking. Establish a system ahead of time to assist in this endeavour.
- Consider utilizing a ticket system to limit the number of drinks an employee or other guest may have during the party.
- Hire a third party to tend the bar and serve the drinks to employees and guests. Instruct the third party to monitor consumption. Identify a contact person for the third party, should a problem arise.
- Prior to the event, inform employees that they are not to drink and drive either to or from the event. This could be done in a bulletin announcing the details of the party, and should be repeated at the beginning and end of the event.
- Set up alternative transportation for employees. It is important that this be arranged prior to the party, and that alternatives are adequately communicated to employees. This step is crucial if your party will occur in a location that is difficult to get to without a car.
- Provide taxi chits to employees. Do not wait until after employees have been drinking to offer a cab – you may have difficulty convincing an intoxicated guest that he or she is unable to drive.
- Consider establishing car pools with designated drivers who would not drink, and who would undertake to take the other members of the car pool home after the event.
- Assist in arranging for hotel rooms for employees who live far from the event, perhaps by arranging a reduced rate with a nearby hotel.

Even if employers take positive steps to control and limit alcohol consumption, there may be some employees who drink too much and do become intoxicated. In that event, employers may have an obligation to take positive steps to ensure that the employee does not drive. For example:

- Take away the employee's car keys or vehicle. Consider a system whereby employees leave their car keys with an attendant at the start of the evening to avoid the situation of having to remove keys from an intoxicated guest.
- Arrange to have a sober co-worker drive the employee home. Alternatively, call the employee's spouse. Don't just offer to do so.
- Insist that the employee take a cab, and pay for it.

- If all else fails, and the employee insists on driving in an intoxicated state, call for police assistance.

By planning ahead of time, employers can help avoid many of the problems associated with excess alcohol consumption, and can ensure that an enjoyable and safe time is had by all their guests. Any member of the firm would be happy to assist you with your plans.

We wish you and your employees an enjoyable and safe holiday season.

The articles in this Client Update provide general information and should not be relied on as legal advice or opinion. This publication is copyrighted by Hicks Morley Hamilton Stewart Storie LLP and may not be photocopied or reproduced in any form, in whole or in part, without the express permission of Hicks Morley Hamilton Stewart Storie LLP. ©