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## ENTERTAINING GOOD FRIENDS AND THEIR KIDS THIS SUMMER? CAN YOU BE HELD LIABLE IN PENNSYLVANIA AS A SOCIAL HOST IF YOUR GUESTS LEAVE YOUR HOME INTOXICATED AND HURT THEMSELVES OR OTHERS?

### *Social host liability in Pennsylvania*



furnish alcohol to underage drinkers in their homes.

If you're like us, you love to entertain. However, what happens when you fail to police the amount of alcohol your adult guests consume? Or even worse, your underage guests consume your alcohol without your knowledge because you've left the alcohol on the table or in an unlocked cabinet? Can you be held liable for "furnishing alcohol?" The law in Pennsylvania is well established when it comes to hosting adults who become intoxicated. There is no liability for the service of alcohol to adult guests. But when it comes to minors, the law is more protective and liability can potentially attach to social hosts who purposely arrange a party and

#### **IN PENNSYLVANIA, THERE IS NO LIABILITY FOR THE SERVICE OF ALCOHOL TO ADULT GUESTS**

The Pennsylvania Courts have consistently **declined** to impose liability on hosts who served alcohol to an adult guest. See *Klein v. Raysinger*, 504 Pa. 141, 470 A.2d, 507 (Pa. 1983); *Burkhart v. Brockway Glass Co.*, 352 Pa. Super. 204, 211, 507 A.2d 844, 847 (1986); *Bemis v. Gumbeski*, 369 Pa. Super, 101, 534 A.2d 1099 (1987); *Brandjord v. Hopper*, 455 Pa. Super 426, 688 A.2d 721 (1996) (*If the driver is an adult, it is his choice to consume alcohol and drive. Consequently, the proximate cause of any accident would be his own decision whether to consume alcohol and drive, not another's who provides him alcohol or fails to prevent him from driving.*)

In *Klein v. Raysinger*, the plaintiffs asserted that the defendants, social hosts, served alcohol to a visibly intoxicated adult guest, at their home, although the defendants knew that the adult guest would be driving. Subsequently, the visibly intoxicated adult guest was involved in a motor vehicle accident, injuring the plaintiffs. The plaintiffs asserted that the defendants were liable, in negligence, as social hosts who served alcohol to a visibly intoxicated person, and knew or should have known that the visibly intoxicated adult guest intended to drive. 504 Pa. 141, 470 A.2d, 507, 508 (Pa. 1983). The Pennsylvania Supreme Court, in *Klein v. Raysinger*, however, declined to extend liability to the social host who has served intoxicants to adult guests. *Id.* at 510. Specifically, the Pennsylvania Supreme Court ruled that there is no social host liability for serving intoxicants to adult guests. *Id.* In so ruling, the Pennsylvania Supreme Court stated as follows:

Thus, the great weight of authority supports the view that in the case of an ordinary able bodied man it is the consumption of alcohol, rather than the furnishing of the alcohol, which is the proximate cause of any subsequent occurrence. This is in accord with the recognized rule at common law. We agree with this common law view, **and consequently hold that there can be no liability on the part of a social host who serves alcohol beverages to his or her adult guests.** *Id.* at 510.

In *Bemis v. Gumbeski*, the Pennsylvania Superior Court evaluated whether Pennsylvania law recognizes a cause of action against a social host who provides alcohol to an adult guest. 369 Pa. Super, 101, 534 A.2d 1099 (1987). Further, in *Bemis v. Gumbeski*, the defendant social host served alcohol to an adult social guest who subsequently was involved in a fatal motor vehicle accident. 369 Pa. Super, 101, 534 A.2d 1099 (1987). The defendant social host filed preliminary objections for failure to state a cause of action, which the court granted and the Superior Court affirmed. *Id.* at 1100.

In so holding, the Superior Court noted that the issue for consideration was whether a “social host who has served alcohol to an intoxicated adult guest can be held liable for a fatal traffic accident later caused by that guest.” *Id.* at 1101. **The Superior Court held that “the law in Pennsylvania is well-settled on this issue” and “no cause of action will lie against a social host who serves alcohol to an adult guest.”** *Id.* at 1101.

In *Brandjord v. Hopper*, the defendant and his three friends collectively purchased and consumed alcohol together. When the defendant was driving his friend’s home, the defendant struck the plaintiff, causing the plaintiff to sustain injuries. Plaintiff filed suit against defendant’s friends for negligence. 455 Pa. Super 426, 688 A.2d 721 (1996). In affirming the trial court’s granting of the three friends’ motions for summary judgment, the Superior Court noted:

The principle enunciated in *Klein* ... is not limited merely to protect hosts of parties. Our Supreme Court stated in *Klein*, in **the case of an ordinary able bodied man it is the consumption of the alcohol, rather than the furnishing of the alcohol, which is the proximate cause of any subsequent occurrence. Here, [Defendant] chose to drink and chose to drive. These actions caused [Plaintiff’s] injuries.** 455 Pa. Super 426, 688 A.2d 721, 726 (1996). (Internal citations omitted) (Emphasis added)

## **IN PENNSYLVANIA, LIABILITY CAN ATTACH TO YOU AS A SOCIAL HOST IF YOU KNOWINGLY FURNISH ALCOHOL TO MINORS IN YOUR HOME**

In *Congini v. Portersville Valve Co.*, 504 Pa. 157, 470 A.2d 515 (Pa. 1983), the Pennsylvania Supreme Court established social host liability for an adult who "knowingly served" a minor intoxicants. But in *Alumni Assn v. Sullivan*, 572 A.2d 1209 (Pa. 1990), the Pennsylvania Supreme Court **declined to extend the "standard to impute liability to an adult who knew or should have known alcohol was being served to a minor on the adult's property."** *Id.* at 1213.

In *Lobby v. Local 13 Products*, the Pennsylvania Superior Court explained the knowingly furnished standard, in order to impose liability under a **social host theory**:

The phrase social host liability designates a claim in negligence against a person (the host) who provides alcoholic beverages to another (the guest), without remuneration. Appellant fails to allege that appellees actually furnished the drugs or that appellees were aware of the degree of consumption. Instead they contend that appellees encourage drug use in flyers advertising the party. Even if appellees assumed that people might use drugs at their party, this certainly does not rise to the level of providing drugs. **The knowingly furnished standard for social host liability ... requires actual knowledge on the part of the social host as opposed to imputed knowledge imposed as a result of the relationship.** 751 A.2d 220, 222 (Pa. Super. 2000). (Internal citations omitted) (**Emphasis added**)

Further, under Pennsylvania law, there is no social host liability "where the defendant was not involved in the planning of the event or the serving, supplying or the purchasing of the liquor." *Inwood v. Bergman*, 788 A.2d 983, 984 (Pa. Super. 2001).

In *Inwood v. Bergman*, *supra*, the Pennsylvania Court, reviewed the grant of a Motion for Summary Judgment on a social host liability theory, after the trial court determined that, as a matter of law, the plaintiffs failed to establish that defendants "knowingly furnished alcohol to the minors" in the case. *Id.* Further, in *Inwood*, *supra*, the plaintiffs asserted and the trial court and the Superior court rejected the argument that Defendants "knew that there was a substantial risk of consumption of alcohol, allowed a group of possibly untrustworthy minors to gather at their home without supervision and with unfettered access to alcohol." *Id.* However, the court noted that the plaintiffs "presented no evidence that [defendants] agreed to an underage drinking event at their home, much less planned one. Further [plaintiffs] presented no evidence [defendants] purchased alcohol for the purpose of consumption by minors." *Id.* at 984.

The *Inwood* court further noted that there was evidence that the defendants purchased the alcohol but there was no evidence it was purchased for this event. *Id.* Further, Plaintiff presented no evidence that Defendants supplied alcohol to the minors at the event, "other than the perfectly mundane event of storing alcohol in their home in an unlocked area." *Id.* at 84. The court declined to attribute social host liability for this activity. *Id.* at 985.

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