



When Alcohol Is Involved: A Look at Additional Passenger Liability

Marc H. Kallish
Roetzel & Andress LPA

© Roetzel & Andress LPA 2015



From Bachelorette Parties in Limos to Underage Drinkers on Party Buses, liabilities increase when alcohol is added – even in non-driver related accidents.



The Old Adage:

“Getting there is half the fun” has never been more true.

- Alcohol being consumed in Limos, Party Buses and Specialty Transports has become more common.
- It can be provided by the carrier or can be brought aboard by passengers.

In Most States, Common Carriers Have:

A Heightened Duty of Care to its passengers while the passengers are on board and alighting.

This heightened duty has been interpreted by different courts:

- In Ohio, a common carrier has a duty to exercise the highest degree of care to its passengers consistent with the practical operation of the system. *Cotril v. Laketrans*, 1999 WC 1074117 (11th App. Dist., Nov. 19, 1999).
- In Illinois, carriers owe the “highest degree of care” to one who is in the act of alighting from the carrier’s vehicle.

When alcohol is served on a common carrier, not only does the higher standard of care apply, but also increased and heightened liabilities.



4 Categories of Alcohol Liability

Courts across the country have separated Common Carrier/Party Bus/Limousine Liability involving Alcohol into 4 Categories:

- 1) When Alcohol is served to Adults;
- 2) When Alcohol is served to Minors;
- 3) When Alcohol is consumed by Adults while on a carrier, but not served by the carrier; and
- 4) When alcohol is consumed by minors on a carrier, but not served by the carrier.

1) When Alcohol is Served to Adults

If the carrier is “serving” the alcohol to adults, they likely will be liable under the state’s Dram Shop laws or Social Host laws.

- “Serving” means the alcohol is provided by carrier, whether paid for or not by the passenger.



1) When Alcohol is Served to Adults

Typical State Dram Shop Laws Require:

- Prohibitions from serving obviously intoxicated individuals.
- Responsibilities to keep minors from consuming alcohol.
- Liability extends to the carrier if alcohol is consumed on a carrier then patrons are involved later in a vehicle crash or other incident that causes death or injury to third parties (i.e., fights, etc.).

2) When Alcohol is Served to Minors

- All 50 states prohibit minors from possessing alcohol and almost all states have laws prohibiting any person, and particularly a social host, from serving or making alcohol available to minors.
- If a carrier knowingly (or unknowingly) provides a minor alcohol, it will be liable for all incidents and accidents that arise from the alcohol use.
- Carrier may also be liable for criminal prosecution if the providing of alcohol violates local or state law.
- Negligent/Negligence per se claim.

3) When Alcohol is Consumed by Adults While on a Carrier, but Not Served by the Carrier

- Liability to the carrier is unlikely.
- Even if passengers consume large amounts of alcohol on the carrier, in most situations there is no liability to the carrier. *Knoud v. Galante*, 696 A.2d 854 (1997); *Davis v. Dionne*, 26 A.3d 801 (2011) (Passenger consumes large amount of alcohol on carrier then dropped off at car – Court finds carrier not liable for resulting accident).
- Some exceptions to this Rule but focuses on general negligence. *Commerce Ins. Co. v. Ultimate Livery Service, Inc.*, 897 N.E. 2d 50, 452 Mass. 639 (2008).

4) When Alcohol is Consumed by Minors on a Carrier, but Not Served by the Carrier



- Alcohol brought on the bus by Adults – but served to minors
- Alcohol brought onto bus by minors with driver knowledge
- Alcohol brought onto bus by minors without driver knowledge

See:

Cassaro v. Zodiac Tour and Travel Inc., 1989
WL 225729 (Pa. Com. PL Oct. 10, 1989)



California Passenger Charter – Party Carrier Act

- New law passed in California
- Requires special permit to conduct operations when alcohol is served
- Must notify at time of booking if there will be minors and alcohol on the carrier
- Requires Chaperone over the age of 25
- Chaperone must take responsibility for any underage drinking and notify the charter party
- Chaperone must verify all IDs and read a statement to minors

Where the law is going?

- Is California statute being adopted across the nation?
- What are the legal trends involving alcohol and transportation?
- How can you protect your company?



Final Considerations



Marc H. Kallish

20 South Clark Street, Suite 300

Chicago, IL 60603

312.582.1604

mkallish@ralaw.com

