



# When Alcohol Is Involved: A Look at Additional Passenger Liability

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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



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FOCUSED ON WHAT MATTERS TO YOU

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