

PROTECTING YOUR CHURCH:

Creating an Alcohol Service Policy



TM

Insurance Board does not take a position on whether it is appropriate for alcoholic beverages to be served at church functions or guest/tenant functions on church property. This is a choice to be taken by each congregation after careful consideration of local circumstances and the risks that may be associated.

This paper is intended to provide considerations and standards for organizations who wish to serve alcohol as part of their activities.



INSURANCE BOARD
Partners in Protection

Insurance Considerations

Insurance policies usually provide limited coverage for “host liquor liability” by means of a policy exclusion. That is, the policy excludes coverage for injury that results from “causing or contributing to the intoxication of a person,” furnishing alcohol to minors, and violating statutes regulating the sale, gift or use of alcoholic beverages, but only if “you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.” The operative phrase is “in the business of.” When might your church be considered to be “in the business of” selling or providing alcoholic beverages?

Because standard general liability insurance will not cover the business of serving alcohol, it may be necessary to purchase specific liquor liability insurance. This may be obtained either as ongoing coverage or for a special event of a defined period. A common special event might be an athletic tournament sponsored by an organization to benefit a charitable organization.

Liquor liability insurance requires a special application. It will require a description of the controls on serving alcohol, the training of servers and the type of security to be employed. Your review of a liquor liability application will be an education in itself toward understanding the responsibilities. Discuss this option with your local insurance agent.

Note: Nothing in this document is intended to waive or alter any of the terms, conditions, exclusions, endorsements or defenses within the policy of insurance at issue, all of which are expressly reserved and reaffirmed. This document is provided for informational purposes and not for the purpose of providing legal advice. You should contact your attorney to obtain advice with respect to any particular contractual or legal matter as may apply in your state. Use of this form does not create an attorney-client relationship.

State Laws

Research of your state laws is the place to begin understanding what is “the business of” serving alcohol. Common understanding would indicate that serving alcohol in a private setting where no exchange of money is involved is a social activity not regulated by the state (other than underage drinking). The meaning of the “in the business of” exclusion of insurance policies has been litigated from state to state. The decisions of the various courts are not consistent and are based upon the specific facts. Therefore, it is not possible to accurately state what “in the business of” means in your state.

In the absence of legal counsel, if your state laws require the issue of a liquor license or permit for the activity you are managing, it is prudent to regard the activity as falling within the meaning of “in the business of” serving or furnishing alcoholic beverages. Otherwise, you should consult legal counsel to determine whether your special events are considered “in the business of” in your state.

Risk Management

Given the constraints of insurance coverage and state law, there are several methods to manage the risk of serving alcohol. Generally, a risk transfer strategy is recommended as will be described below.

Risk Transfer: Approved and Licensed Caterers—Given the opportunity to enhance fund raising by including alcoholic beverages in the price of a ticket or separate sale, the easiest way to manage the risk is to use a professional caterer who can provide the following documentation:

- State liquor license
- Proof of adequate liquor liability insurance & general liability insurance
- Documentation of means of training wait staff
- Contract terms including contract of indemnity favoring the customer (church) and providing additional insured status. Consult an attorney to assure that indemnity language is sufficient and enforceable.

While some effort is required to verify the qualifications of a caterer, the due diligence will return dividends in terms of your comfort level during an event. While offering church facilities to the community is a part of ministry, all users, whether a member hosting a one-time event or long-term tenant, need to be treated at arm's length. While their respective missions may be compatible with those of your church, their guests, clients and employees may view your church as any other landlord.

NOTE: While using a licensed caterer at a fund-raising event may be a means of risk transfer, under state laws, your organization may still be required to obtain a temporary liquor permit.

What about wedding parties and other non-church events? Public sites, such as parks or museums, who do not ordinarily serve alcohol, commonly rent their facilities for private parties, including weddings. To control care of the site and liquor service, these facilities commonly have a pre-approved list of caterers. A similar practice by churches eliminates the challenge of verifying the qualifications outlined above for each and every caterer a prospective party might be considering.

In addition to the qualification of caterers, it is also important to have a contract with the rental party which includes defense and indemnity provisions. The purpose is to have the other party assume liability for injuries that may occur at their event. You should consult legal counsel to assure that your indemnity agreement is sufficient for your purpose.

DIY (Do It Yourself) Selling—Where alcoholic beverages are included in the price of admission or sold separately, serving alcohol is a labor intensive process. (Under no circumstances should self-service be permitted.) Advanced planning and training of volunteers will be required. Your chief objectives will be to:

- Verify identification to prevent under-age drinking; Control consumption; prevent excess consumption.
- Because an event site may be somewhat chaotic, a “separation of duties” approach is recommended to separate “identification and purchase” from “alcohol service”.

It is also important that event promotion and presentation of beverage choices not over-emphasize alcohol consumption. Where the focus of an event is youth and youth activities, where minors will be present in large numbers, careful consideration should be given to whether alcohol service is an appropriate message.

After considering the challenges of DIY service/selling, you must consider carefully whether you can trust a guest organization on your site to maintain a similar and sufficient standard of care.

Strictly Social—A strictly social event might include providing alcohol service where there is no expectation of cash purchase or donations corresponding to the service of alcohol. To qualify as strictly social two criteria are required:

- Access is restricted to invited guests;
- There is no admission charge or sale of alcoholic beverages.

The size of a strictly social event may still imply a high standard of care to prevent underage service or over-consumption. Employment of an experienced bartender or caterer might be appropriate. Unlimited drinks should not be permitted.

Non-Church Guest Events—Above, the preferred “risk transfer option” was described for wedding parties and other non-church events. If you are permitting an outside party to serve (or sell) alcohol instead, it is recommended that you insist organizers meet standards similar to the guidelines listed, and in all cases should include a contract of indemnity and insurance requirements within a Facility Use Agreement. As always, obtain legal counsel to assure proper legal form in your state.

Alcohol Service Guidelines

Use of these guidelines does not provide assurance that injuries or claims will not result during events in which alcohol is served. These are provided as an example only of procedures intended to control the service (and selling) of alcoholic beverages. Circumstances and local statutes may require additional precautions. Execution of these guidelines does not create a presumption of insurance coverage. Presentation of these guidelines does not constitute an endorsement by Insurance Board of the serving or sale of alcoholic beverages.

Standard of Care

The watchfulness, attention, caution and prudence that a reasonable person in the circumstances would exercise. Failure to meet the standard of care is negligence.

DIY Identification and Serving The following is an EXAMPLE of a process for managing DIY alcohol service and demonstrates a standard of care in serving the public.

- Choose sufficient volunteers who are at least 21 years of age to perform the separate functions of cashier/identification or server.
- Volunteers may not consume alcohol while performing the alcohol service or cashier/identification function.
- Organize and staff shifts of a reasonable length to assure adequate staffing of the service area and control of revenue.
- Prohibit persons under 21 from lingering in the alcohol service area. Do not permit them to serve, deliver, stock or tap alcohol.
- Post a sign: *No person born after Day/Month/Year may purchase alcoholic beverages.*
- Sell tickets for individual drinks not to exceed xx (your choice) in number. Do not permitted unlimited service.
- Cashiers shall check photo identification to verify age prior to sale of tickets.
- Each eligible patron shall receive a wrist bracelet attached by the cashier or a suitable durable ink stamp. The stamp shall be carefully secured to prevent misuse.
- No server shall serve alcohol to a person not bearing a bracelet or stamp.
- No server shall accept cash in payment for beverages, only tickets purchased in advance.
- Tickets are accountable at all times and are to be counted. Tickets are "money".
- No patron will be served more than one drink in exchange for one ticket at one time.
- All alcoholic beverages are to be dispensed into plastic cups or glasses. No cans or bottles are to be served.
- Servers shall have absolute authority to refuse service to a person they believe to be intoxicated. Refusal of service shall be reported to an official of the event or security officers.
- At least two event officials are responsible to adequately secure supplies of alcoholic beverages and conduct periodic inventories against ticket count. Beverage consumption should be reasonably in proportion to ticket sales.
- A post-event debriefing shall be conducted among officials and volunteers to identify any control problems or observed accidents to assure a sufficient record in the event of later claims.
- Establish a time (usually one hour) prior to the end of the event at which service of alcohol shall be suspended.

General Service Guidelines The following are general guidelines for serving alcoholic beverages.

- Alcoholic beverages are to be clearly marked as such or served in segregated areas. (Be mindful of recent reports of small children receiving alcoholic beverages in restaurants.)
- Non-alcoholic (NA) beverages are to be served with the same level of attractiveness and access as alcoholic beverages. Persons choosing not to drink shall not be made uncomfortable in exercising their preference.
- Availability of alcoholic beverages shall not be promoted disproportionately.
- BYOB (bring your own bottle) events shall not be permitted.
- Alcohol shall not be permitted at events at which youth are the focus or dominant in attendance.
- Abide by state and local statutes regarding licensing/permits and service of alcohol.
- Prepare to comply with any open container restrictions that may apply to an outdoor event.
- Prepare to comply with local ordinances which may require notice to police or private security based upon alcohol service or the numbers attending.
- Hard liquor (anything other than beer and wine) is served only if a certified server is present.