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Holiday Season Celebration Reminder To Manage Intoxication Risks

With New Years Eve celebrations approaching and the Holiday Season wrapping up, businesses should take some common sense steps to minimize the risk of waking up in 2011 with a liability hangover. Participation of employees and clients in company sponsored and other social celebrations and activities can promote big rewards in relationship development and morale if properly managed. However, traditional holiday toasts and the wide-spread consumption of other intoxicating substances commonly included at New Years Eve and other parties and social activities create heightened risks for business whether or not the event is company-sponsored. Read about other common Holiday Season-related celebration risks and management tips [here](#).

Most businesses recognize that accidents caused by alcohol or other intoxication at work or work-related functions can create substantial liability exposures both to workers and any third parties injured by a drunken employee. In many states, businesses also may face “dram shop” or other claims if employees, family members or other guests attending company sponsored functions injure others after over-imbibing. Risks are heightened when an employee consuming alcohol at a company or client-related social function drives a company or his own automobile when under the influence of drugs or alcohol.

Businesses concerned with these liability exposures should take steps to manage the potential risks that commonly arise when employees, clients or other guests consume alcohol at company sponsored events or while attending other business associated festivities.

Whether concerned with intoxication in the workplace, at work-related events or at off-duty social activities, the obvious starting point is to review existing drug and alcohol and related background investigation, drug and alcohol testing, privacy, off-duty conduct and related policies and procedures. In addition to ensuring these policies are appropriately tailored to meet existing legal requirements, businesses also should consider whether these policies should be revised to reach business-relevant off-duty conduct and locations.

To minimize these risks at company-sponsored events, many companies elect not to serve or limit the alcohol served to guests at company sponsored events. To support the effectiveness of these efforts, many businesses also choose to prohibit or restrict the consumption of guest provided alcohol at company events.

Businesses that elect to serve alcohol at company functions or anticipate that employees will attend other business functions where alcohol will be served need to consider the potential liability risks that may result if the alcohol impaired judgment of an employee or other guest causes him to injure himself or someone else. The relaxation of judgment that often results from the consumption of alcohol or other intoxicants also heightens sexual harassment and other discrimination risks. Any company that expects that an employee might consume alcohol at a company sponsored or other business associated event should communicate clearly its expectation that employees not over-imbibe and abstain from driving under the influence. Where off-duty socialization among employees is anticipated in light of company culture, similar reminders concerning off-duty conduct having implications on company policy or reputation also often are in order. Many businesses also find it beneficial to redistribute information about employee assistance programs (EAPs) along with this information. You can find other tips for planning workplace parties to minimize alcohol related risks on the U.S. Department of Labor’s website [here](#).

When addressing business related alcohol consumption, many businesses will want to consider not only alcohol consumption at business related events as well as potential costs that may arise from off-duty excess alcohol consumption. Whether resulting from on or off duty consumption, businesses are likely to incur significant health and disability related benefit costs if an employee is injured in an alcohol-related accident. Furthermore, even when no injury results, productivity losses attributable to excess alcohol consumption, whether on or off duty, can prove

expensive to business. Accordingly, virtually all businesses can benefit from encouraging employees to be responsible when consuming alcohol in both business and non-business functions.

Businesses also may want to review their existing health and other benefit programs, liability insurance coverage and employment policies to determine to ensure that they adequately protect and promote the company's risk management objectives. Many health and disability plans incorporate special provisions affecting injuries arising from inappropriate alcohol use as well as mental health and alcohol and drug treatment programs. Similarly, many businesses increasingly qualify for special discounts on automobile and general liability policies based upon representations that the business has in effect certain alcohol and drug use policies. Businesses can experience unfortunate surprises if they don't anticipate the implications of these provisions on their health benefit programs or liability insurance coverage. Reviewing these policies now to become familiar with any of these requirements and conditions also can be invaluable in helping a business to respond effectively if an employee or guest is injured in an alcohol-related accident during the Holiday Season.

Businesses also should consider reviewing their policy on the duty of an employee or contractor to notify the company of accidents, moving violations and driving while intoxicated or other criminal charges resulting from the consumption of drugs or alcohol. Requiring notification of traffic related charges and accidents can help management prepare to defend against potential liability exposures that may arise from an accident or other incident. Where a worker suffers an injury, notification may be essential to enable the business to provide required notification to worker's compensation carriers and regulators, conduct timely investigations, and meet other critical responsibilities. In addition, driving under the influence or other criminal charges may impact company liability insurance risks, signal possible vicarious liability or other suits. To help facilitate the ability to adequately investigate these concerns, businesses also should review and update privacy, background check and other investigations and other related policies to ensure that they are legally compliant and are sufficiently broad to reach to relevant off-duty or off-site conduct.

Businesses also should make advance arrangements to minimize foreseeable safety risks from intoxication at social or other events. When in doubt, company policy and practice should be to regulate consumption to safe levels, to require the arrangement of safe alternative transportation of any employee or guest at risk of intoxication, and to provide other safeguards to minimize the risk of injury to workers or others. The cost of arranging a taxi ride home quickly pales when compared to the significant legal costs that can result if an accident results.

Businesses faced with suspicions or allegations of intoxication or other misconduct also should act promptly to investigate any concerns and if necessary, take appropriate corrective action. Delay in investigation can undermine the reliability and effectiveness of investigation efforts. Delay also can increase the liability exposure of a business presented with a valid complaint and complicate the ability to defend charges that may arise against the business. Additionally, delay also increases the likelihood that a complaining party will seek the assistance of governmental officials, plaintiff's lawyers or others outside the corporation in the redress of his concern.

If a report of an accident, or other liability related event arises, remember to consider as part of your response whether you need to report the event to any insurers or agencies. Injuries occurring at company related functions often qualify as occupational injuries subject to worker's compensation and occupational safety laws. Likewise, automobile, employment practices liability, and general liability policies often require covered parties to notify the carrier promptly upon receipt of notice of an event or claim that may give rise to coverage, even though the carrier at that time may not be obligated to tender a defense or coverage at that time.

Finally, businesses should keep in mind that the risks highlighted by Holiday Season celebrations continue to exist whenever employees, contractors or others consume alcohol or other intoxicants at social or other events throughout the year. Sporting events, marketing dinners and happy hours and other social gatherings that commonly occur during the year commonly create similar risks while engendering less attention. Accordingly, businesses should remind employees periodically throughout the year about substance abuse, intoxication and other similar policies throughout the year.

For Help With Investigations, Policy Updates Or Other Needs

If your organization needs assistance investigating a reported concern, reviewing and updating its policies or assessing, managing or defending these or other labor and employment, compensation or benefit practices, or needs other assistance auditing, updating or defending its human resources, corporate ethics, and compliance practices, or responding to employment related or other charges or suits, please contact management attorney and consultant Cynthia Marcotte Stamer at [cstamer@solutionslawyer.net](mailto: cstamer@solutionslawyer.net), (468) 767-8872.

Board Certified in Labor & Employment Law by the Texas Board of Legal Specialization and Chair of the American Bar Association RPTe Employee Benefits & Other Compensation Group and a nationally recognized

author and speaker, Ms. Stamer helps business manage people, operations and risk. She is experienced with advising and assisting employers with these and other labor and employment, employee benefit, compensation, risk management and internal controls matters. Her experience includes helping management both manage performance and manage legal risk and compliance. While helping businesses define and manage the conduct and performance of their employees, contractors and vendors, she also assists employers and others about compliance with federal and state equal employment opportunity, compensation, health and other employee benefit, workplace safety, and other labor and employment laws, advises and defends businesses against labor and employment, employee benefit, compensation, fraud and other regulatory compliance and other related audits, investigations and litigation, charges, audits, claims and investigations by the IRS, Department of Labor, Department of Justice, SEC, Federal Trade Commission, HUD, HHS, DOD, Departments of Insurance, and other federal and state regulators. She has counseled and represented businesses and their management on workforce and other internal controls and risk management matters for more than 23 years. Ms. Stamer also speaks and writes extensively on these and other related matters. For additional information about Ms. Stamer and her experience or to access other publications by Ms. Stamer see [here](#) or contact Ms. Stamer directly.

Other Helpful Resources & Information

If you found this article of interest, you also may be interested in reviewing other Breaking News, articles and other resources available CynthiaStamer.com or Solutions Law Press articles authored by Ms. Stamer including:

- [Avoiding Post-Holiday Celebration Sexual Harassment & Discrimination Liability](#)
- [Small Employers Should Weigh If Health Premium Tax Credit Justifies Changing Employee Leasing Arrangements](#)
- [2011 Standard Mileage Rates Announced](#)
- [Proposed New Defined Benefit Plan Annual Funding Notice Rule Reminder of Need to Carefully Manage Pension Plan Responsibilities](#)
- [Affordable Care Act Grandfathered Plan Rules Loosened To Allow Insured Plans Making Some Insurance Changes To Qualify](#)
- [Update Employment Practices To Manage Genetic Info Discrimination Risks Under New EEOC Final GINA Regulations](#)
- [DOL Proposes To Expand Investment Related Services Giving Rise to ERISA Fiduciary Status As Investment Fiduciary](#)
- [EEOC Attacks Medical Leave Denials As Prohibited Disability Discrimination](#)
- [Annual Benefit Limitation Waiver Guidance Offers Fast Acting Employers, Insurers Expanded Options To Meet Affordable Care Act Health Plan Rule](#)
- [New Insured Group Health Plan Non-Discrimination Rules Create Significant Liability For Employers & Insurers; Prompt IRS Also To Review Self-Insured Group Health Plan Rules](#)
- [Affordable Care Act's Health Plan External & Internal Review Safe Harbor & Other Regulations Require Health Plan Updates](#)
- [New Rule Requires Federal Government Contractors To Post New "Employee Rights Under The National Labor" Poster](#)

If you or someone else you know would like to receive future updates about developments on these and other concerns, please be sure that we have your current contact information – including your preferred e-mail – by creating or updating your profile [here](#). For important information concerning this communication click [here](#). If you do not wish to receive these updates in the future, unsubscribe by updating your profile [here](#).

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