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## A Brief Review of Social Host Liability in Canada

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With the holidays drawing near, many social calendars are filling up with work parties, friendly get-togethers, and lavish family dinners. Undoubtedly, much time and effort goes in to planning these occasions. However, hosts ought to take a quick break from cooking their turkeys to consider some torts – not their desserts, but their potential exposure to legal liability!

Many people who have worked in the hospitality industry or who have taken a basic Smart Serve course are familiar with the concept that a server at a restaurant or a bar may be held responsible for over-serving a patron. This responsibility applies to actions the intoxicated patron may later take when off the restaurant premises, and even extends to third parties who may be harmed by the intoxicated patron. However, fewer people understand the legal obligations of social hosts – that is, individuals who entertain guests on their private property, without a motive of profit.

A few years ago, the Supreme Court of Canada dealt with the issue of social host liability in the context of a Bring-Your-Own-Booze (“BYOB”) party. In *Childs v Desormeaux*, 2006 SCC 18, the host was not held liable for an intoxicated guest subsequently getting into a motor vehicle accident and injuring a third party. In coming to this decision, the Court specifically distinguished commercial hosts from social hosts. The Court also relied on the fact that this was a BYOB party; the host was not trained to ascertain levels of intoxication; and, the guests were not expecting or reasonably relying on the supervision of the host.

However, this does not mean that social hosts are completely off the hook. The Court suggested that the outcome of this case could have been different if the social host had taken positive actions that contributed to the dangerous situation (for example, actively serving a guest alcohol, when the host was aware the guest was intoxicated and would be driving home soon). As such, the *Childs* case should not be taken to stand for the general proposition that social host liability does not exist in Canada. Reasonable caution should still be taken.

To better protect themselves, hosts should consider keeping a watchful eye on their guests’ consumption, especially if the party is not BYOB. Hosts can also encourage guests to use public transportation to get home. In some cases, it may even be responsible to confiscate an intoxicated individual’s car keys to prevent them from driving home drunk.

Ultimately, the key to a successful, liability-free holiday season is acting *reasonably*! Be smart, be safe, and be merry!



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