

Tips for social hosts as holiday season approaches

By AdvocateDaily.com Staff



Holiday party hosts must take care to protect themselves and their guests from the consequences of accidents involving intoxication, Toronto personal injury lawyer **Jasmine Daya** tells **AdvocateDaily.com**.

Daya, managing principal with **Jasmine Daya & Co**, says hosts may be well-practised at dealing with guests who have overindulged on alcohol, but they have even more to think about this year following the recent legalization of cannabis for recreational use.

"I'm not suggesting it wasn't used before it was legal, it's just there is a greater chance of liability attaching to hosts now that it's legal, and it's important to articulate in advance what the policy is for use at the party," she says. "Taking proper precautions will protect not only yourself but also your guests from negative consequences."

As a personal injury lawyer, Daya says her social hosting diligence is partly informed by the fact that her work brings her into contact with victims whose injuries were caused by people driving while impaired.

"It's not just the legal aspect that you have to think about when it comes to your obligations as a social host, but also how you would live with yourself if something were to happen to someone you care about," she says.

Every year, Daya gets a chance to put her advice into practice when celebrating the holidays at parties with the staff at her firm, and also at family get-togethers.

For work gatherings, she says the timing of any party is important.

"If you stop work at 5 in the afternoon and the party isn't until 7, then other festivities might occur in between, and you lose the ability to monitor alcohol or drug intake," Daya says.

Her firm's party generally takes place at lunchtime, with workers taking the rest of the day off afterwards.

"People tend to drink less at lunch, but it also ensures that we go straight from the office to the restaurant and can see what people are consuming," she explains.

Daya's policy, which is spelled out in the invitation ahead of time, is that anyone who drives to the venue will not be permitted to drink alcohol during the party.

"We have a staff of 16, so it's easy to monitor what people are doing, but if you have a bigger group, there should be people in place to observe on behalf of the employer," she says.

For parties hosted at her own home, Daya also sets out her expectations ahead of time in her invitation.

"You might not want to kill the vibe with rules, but it's better to put some in place than not," she says. "You can articulate them in a familiar way. I tell my friends that the alcohol will likely be flowing, so they are strongly encouraged not to drive."

When driving can't be avoided, such as for guests arriving from further afield, Daya offers them a bed (or sofa) for the night.

"As adults, we tend not to offer sleepovers, but it's far safer than driving," she says.

For larger parties, Daya says it may even be worth hiring a qualified server to dish out alcoholic drinks. In addition to monitoring intake, they can take over the sometimes uncomfortable job of cutting someone off.

"It can be awkward to tell a friend they've had enough, so having a stranger there to do it for you is very helpful," she says.

With all the focus on alcohol and drugs, Daya says it's easy to forget other precautions that minimize liability, such as ensuring walkways and railings are clear and safe. In addition, she says hosts should keep an eye out for slippery conditions in the facility's entranceway as guests track in snow or ice from outside.

The law on social host liability is still developing, Daya says. In a landmark 2006 **decision**, the Supreme Court of Canada opened the door to claims against social hosts in certain situations where harm was foreseeable, despite

rejecting liability in the specific case before it.

"Hosting a party at which alcohol is served does not, without more, establish the degree of proximity required to give rise to a duty of care on the hosts to third party highway users who may be injured by an intoxicated guest," the court concluded.

"What they're saying is that just by hosting a party and someone having an accident, doesn't mean you're automatically liable," Daya explains.

A more recent Ontario Superior Court **decision** appeared to increase the onus on social hosts by further defining when they could be liable.

"In that case, the judge found that liability could attach in cases where harm to the plaintiff was foreseeable or if the host had a paternalistic relationship of supervision and control over the plaintiff," Daya says.