

## Colorado Law - Social Host Liability for Serving Alcohol “Tis the Season to Beware”

Legal Viewpoint

By Jeffrey Kelley, Esq.

If you (or your kids) have ever thrown a party where alcohol is served, and have wondered what your liabilities are, you might be interested in the recent Colorado Supreme Court case addressing social host liability under Colorado’s Dram Shop statute, which dates back to 1879. In *Przekurat v. Torres*, 17SC15, 2018 CO 69 (Sept. 10, 2018) the Colorado Supreme Court confirmed that “actual” and not just “constructive” knowledge is required to hold a social host liable for serving alcohol to a minor.

### What Happened in *Przekurat*?

In *Przekurat*, the case stemmed from two roommates who were renting a house in Boulder, throwing a party to celebrate a friend’s birthday and another’s college graduation. An unexpectedly large number of young people attended the party, some who had been invited and others who heard about it through “word of mouth” and social media. Alcohol was provided by the roommates and guests also brought alcohol. Przekurat and several of his friends who attended the party, one of which was only twenty years old and ended up highly intoxicated. The twenty-year-old attempted to drive them home in Przekurat’s car - at 2:00 A.M. The underage, intoxicated driver lost control of the Przekurat car, rolling several times and gravely injuring Przekurat. The hosts had never met Przekurat’s friend prior to the party and were unaware he was underage. Przekurat’s father sued the hosts on behalf of his son under the Colorado “Dram Shop Statute.”

### History of Colorado Dram Shop Law - What is a Dram?

A “dram” is a measure of liquid, once used in colonial times, and a place where liquor was sold by the drink was called a “dram shop.” Colorado common law initially imposed liability only on the person who actually consumed alcohol. However, in 1879, Colorado enacted its first Dram Shop legislation imposing liability upon those who served alcohol to a “habitual drunkard” who then injured a third party. Under the 1879 law, a requirement of liability was receipt of written or printed **notice** not to sell or give alcoholic beverages to a *habitual drunkard*. Fast forward to Colorado’s Dram Shop Act of 1986, (whizzing past the era of horse drawn carriages, advent of automobiles, prohibition, etc.) and for the first time, Colorado law held a social host liable who willfully and knowingly served an alcoholic beverage to an underage person. At the time, social host liability was a fairly new concept in Colorado. Colorado then amended the social host law in 2005, to no longer require “willfulness,” but expanded liability to include social hosts “knowingly providing a place for underage drinking.”

## Colorado Law Now Clarified for Social Hosts and Minors

The importance of *actual notice* being required throughout the history of Colorado's Dram Shop legislation has now been reaffirmed in the 2018 *Przekurat* case. Przekurat's attorneys argued that *constructive knowledge* was sufficient to find social host liability because the hosts provided unrestricted alcohol to the many underage drinkers, and thus, there was sufficient evidence of constructive knowledge of underage drinking. The trial court disagreed, dismissed the case and Przekurat appealed. The Colorado Court of Appeals and the Colorado Supreme affirmed, finding "that the language of the Dram Shop Act clearly and unambiguously requires that a social host must have **actual knowledge** that a person is underage in order to impose liability for that person's actions."

The circumstances in *Przekurat* resulted in grave injuries to a young adult that will forever be with him and his family. Even in such tragedy, the Colorado courts held firm in strictly adhering to apparent legislative intent and did not relax the burden of proving **actual notice**. Although current Colorado law does not hold a social host liable for alcohol served to an adult and requires actual notice or knowledge of underage drinking, the possible consequences due to excessive drinking at a party should make any host want know the condition of their guests before they leave. An astute attorney could again test this law under the right circumstances. Clearly, a social host should take caution where alcohol is served at any party or gathering and must exercise extreme vigilance to ensure an underage person does not consume any alcohol, or severe penalties could be suffered by all.

Do you have a legal question? Send your inquiry question to [Jeff@klfpc.com](mailto:Jeff@klfpc.com). Appointments are available in both Black Hawk and Denver offices.

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