

# LawClips

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Topic for the Quarter

## Host Liability & Motorcycle Safety

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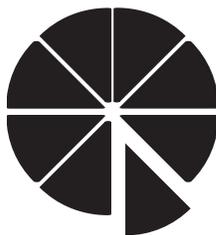
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# Stellpflug, Janssen, Hammer, Kirschling & Bartels, S.C.

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### Host Liability When Alcohol is Involved:

Graduation season is upon us. It is a time for celebration. It is also a time to use common sense when hosting a party for your graduate. Our firm has received a number of calls inquiring about potential liability on the part of a host who serves alcohol at a graduation party.

**The Law:** Wisconsin law prohibits giving away, selling or dispensing of alcohol to any underage person not accompanied by his or her parent, guardian or spouse who has not attained the legal drinking age. In addition, no adult may knowingly permit the consumption of alcohol or fail to take action to prevent the consumption of alcohol by an underage person on the premises owned by the adult or under the adult's control. Fines and penalties may be imposed on anyone who violates the law.

Parents or hosts can be held financially responsible for damages or injuries resulting from providing alcohol to underage youth. If a parent or host provides alcohol to a minor and that minor becomes intoxicated and is involved in a motor vehicle accident, the consequences could be devastating, both personally and financially, to the parent or host.

At Stellpflug Law, we recommend that social hosts utilize a trained bartender or caterer. We also suggest confirming that the bartender or caterer carries sufficient liability insurance. This suggestion may not be practical for every situation. Certainly, the use of a designated driver would help reduce the chances of an intoxicated person leaving the party and driving. Many of us know how difficult it can be to convince a friend to utilize the services of a designated driver or a taxi service. A host should keep in mind that it is his or her responsibility to maintain control of the festivities.

**Motorcycle Safety and Helmets:** As the summer months approach, motorists will again be sharing the roadway with motorcycles and mopeds. As the roadways become more congested and drivers become more distracted, crashes involving motorcycles or mopeds are not rare events. In 2004, 2,281 motorcyclists were injured and 80 motorcyclists were killed on Wisconsin's roadways. Of those who were killed, 75% were not wearing helmets.

**The Law:** Prior to 1978, Wisconsin law required all motorcyclists to wear a helmet. Currently, the law in Wisconsin is considered to be a "Limited Helmet Law." The only riders required by law to wear a helmet are those under the age of 18 and those who have an instructional permit. All other riders can choose whether or not to wear a helmet. All motorcyclists, regardless of age, are required by law to wear protective eyewear, including sunglasses or motorcycle goggles.

**The Facts:** While the majority of Wisconsin motorcyclists may not be required to wear helmets, they are certainly encouraged to do so by the Wisconsin Department of Transportation ("DOT") and the National Highway Traffic Safety Administration ("NHTSA"). The Wisconsin DOT and NHTSA have been encouraging each state to have and enforce a law requiring all motorcycle operators and passengers to wear federally approved helmets. There is no question that, in certain circumstances, the use of a motorcycle helmet can reduce the risk of a serious head injury. A helmet is the only head protection a motorcyclist has in the event of a crash. According to statistics, one out of every five motorcycle crashes results in head or neck injuries. Research also shows that, with few exceptions, head and neck injuries are reduced by the proper wearing of an approved helmet.

According to NHTSA's data, 88,000 motorcyclists were injured in highway crashes in the United States in 2006. That same year 4,810 motorcyclists were killed. Head injury was the leading cause of death. The NHTSA also conducted a Crash Outcome Data Evaluation System ("CODES") test which found that motorcycle helmets are 67% effective in preventing brain injuries. The CODES test also revealed that unhelmeted motorcyclists involved in crashes were three times more likely to suffer brain injuries than those wearing helmets.

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If you have any questions, please feel free to contact Attorney Robert Janssen (bob@wislawyers.com) or Attorney Debra DeLeers (debra@wislawyers.com).