

Duty of care for harm caused by one customer to another

Our previous two snapshots dealt with the duty of care to a customer for harm caused by the customer's own intoxication. A further relevant consideration is liability for injury caused to a third party by the deliberate unlawful act of another patron. For example, where one patron punches another on hotel premises.

Courts have held that persons in the position of hotel manager or licensee may be liable for injury to a patron caused by the deliberate unlawful act of another patron. A duty arises from the statutory obligation of licensees and managers to control conduct on licensed premises and to exercise reasonable care for the safety of patrons. Breach of the duty can occur when the manager or licensee knew or ought to have known of the need to intervene to protect patrons and fails to take reasonable steps to safeguard patrons from a foreseeable risk of harm. This duty extends only to preventing injury to a person on premises under a licensee's control.

Accordingly, licensees should not be inhibited in using their powers under the *Liquor Control Act* to refuse service, request persons leave licensed premises and remove persons who have not complied with a request to leave.