



## American Wine Society Insurance Program

At the AWS Conference in Cincinnati a number of Chapter Chair-persons voiced questions about AWS insurance coverage and how it applies to host liability at Chapter and other AWS meetings. The concern most often expressed has to do with the scope of coverage provided to hosts and members at AWS events where wine is consumed. Specifically, what type of coverage is available in the unlikely event an attendee at a meeting consumes wine and becomes legally (or presumptively) intoxicated which then contributes to an accident involving property damage or personal injuries. Fortunately, the AWS has not faced this circumstance, and hopefully never will. Our credo, Promoting Wine Appreciation through Education carries as a corollary that we will taste wine in moderation, and it has stood the test of time. Nevertheless, the AWS provides \$1 million in general liability coverage through the Insurance Company of North America. Our agent is Wright and Company, of Washington DC.

This article will not attempt to analyze the law of host liability in each of the states where we have active chapters. Suffice it to say that state laws differ, and some quite significantly. Some states provide hosts of social events extensive immunity, others much less. The trend at least in the area where use of alcohol and motor vehicles are concerned is to find hosts responsible for the subsequent conduct of invitees. It is impossible, however, to make conclusions on broad generalities. Each situation that occurs will depend on the facts, and the law in the state where any incident occurs.

There are a number of general aspects to AWS coverage of which you should be aware. Each chapter is insured when an incident results from acts committed by members working for the chapter and under its direction. Members are insured when named in a claim or lawsuit as a result of chapter activities when they are acting on behalf of the chapter. AWS activities include: wine tastings, dinners, banquets, parties, auctions, picnics, meetings, concession stands to name but a few, when sanctioned by the AWS, including its chapters. The owners of premises used or rented by the chapter (e.g. a restaurant, civic center, church) can also be named as an additional insured.

To ensure coverage the sponsoring AWS chapter must comply with AWS membership and participation requirements defined in the AWS Bylaws. For example, AWS members may bring one or more guests to any chapter or regional meeting, and coverage is provided. However, the Bylaws provide at Article VIII Section 2 that "No individual shall be a guest of the Society on more than three occasions." While an inadvertent oversight may be deemed excusable by the underwriter, it is best to comply in good faith with AWS Bylaws. In other words, encourage your guests to become dues-paying members.

The following example should make AWS insurance coverage clearer. Suppose the chapter president hosts an AWS wine tasting at her personal residence. Twenty members and two guests (their first meeting) attend. One member, Fred Finkle, has a little too much to drink at the tasting and on the way home injures Mabel, an innocent third party, in an auto accident. Mabel sues the

Chapter, the host and all AWS members and guests in attendance, including Fred. The Insurance Company of North America will provide defense for the Chapter, the host, the members, and the guests. The coverage will pay, up to the policy limit, any judgment/settlement against AWS, the host, the members and the guests. The AWS policy excludes coverage for the use of a vehicle, therefore, Fred will have to look to his personal auto policy for his defense and settlement or Judgment payment. What usually happens is that Fred does not have adequate policy limits (or has no insurance) so the jury looks to the deeper pocket, AWS. North America will defend regardless of the merits of the suit/claim.

Here are some other important coverages and exclusions:

Coverage Includes:

Personal and advertising liability -Pays claims against AWS for unfair competition, idea misappropriation, infringement of copyright, and claims brought as a result of promotions, advertising or publicity activities.

Blanket Contractual Liability -Protects AWS for bodily injury or property damage assumed under oral or written contracts or agreement.

Medical Payments -Pays without regard to liability for injuries received at an AWS function.

Exclusion: Bodily Injury or property damage for which any insured may be held liable by reason of:

1. Causing or contributing to the intoxication of any person;
2. The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
3. Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

These exclusions apply only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

This latter set of exclusions is primarily applicable to wineries, wholesalers, wine stores, bars, or restaurants. The Important words in this exception are "In the business." Our society, at present, is not in any of these businesses. Therefore, you have coverage as a host (organizer of the event).

What about convention/festival liability coverage? If you plan a major festival or regional conference where members of the public are invited and you will be using some type of public or private accommodation to site the event, then It Is easy to secure proof of coverage for this special event. In fact, in most cases the owners or operators of the facility siting the event (church, hotel, civic center, etc.) are going to require proof of Insurance and that they be named as an additional Insured. As an additional Insured, if there was an accident, the facility's defense would also be handled by our policy. All it takes is an advance phone call to Angel Nardone, AWS Executive Director. Don't wait to the last minute as she needs time to contact Wright and Co., our Insurance agent.

Insurance is not a substitute for common sense. The AWS encourages each Chapter to exercise

restraint and moderation when planning tastings. Set ground rules In advance. At our Chapter we regularly inform members that they should not drink wine before attending a tasting. No one who becomes visibly intoxicated will be provided additional wine for tasting. People are encouraged to sniff, taste and spit. The person planning the tasting should carefully estimate the number of bottles of wine to be tasted based on the anticipated attendance, keeping moderation in mind.

If you have further questions concerning AWS Insurance, please call me Dave Darugh at (214) 291-8122. I don't know all the answers but I will be glad to find out.