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In the Line of Duty

When Bouncers Act, How Can Liability be Limited?

How far must a bouncer in a bar or nightclub go to protect a customer? Is the bouncer registered? Is he required to take a bullet? Unfortunately for those who own bars or nightclubs in California, a state worth watching for its progressive regulations regarding security guards, the answer is not straightforward and the decision may be one for a jury, based on the circumstances. However, there are ways in which you may potentially reduce your exposure to liability.

In California, a bouncer is considered a security guard. Essentially, there are two kinds of security guards working in bars and nightclubs: those employed directly by the bar or nightclub and those

employed by a private patrol operator who contracts with the bar or nightclub to furnish a security guard. Usually the contract is for the security guard to protect persons or property. A security guard employed directly by the bar or nightclub must not be armed, whereas a security guard employed by a private patrol operator can be armed.

When hiring a security guard, consider the following tips. First, be certain the security guard is registered with the state. If the security guard is employed by a private patrol operator, check to see that the operator is licensed and registered with the state and that the security guard has his permits and training for baton, tear gas or firearms if he is to carry them. In California, you can obtain this information from the Department of Consumer Affairs, Bureau of Security and Investigative Services for the State of California at www.bsis.ca.gov. A security guard also must complete 40 hours of training, including an exam administered by a private patrol operator or by a certified training facility within six months of registering.

A security guard is not a police officer and does not have the same authority as a police officer. A security guard does have the rights of a private citizen and the authority to use weapons, depending on the permits he has.

So what is a security guard to do when a patron creates a risk to other patrons? Although a private citizen is not liable for failing to protect another person, a security guard can be liable to a customer for failing to act affirmatively as a reasonable security guard to protect the customer while on the business premises. Although there is no law saying this protection includes taking a bullet for a customer, a security guard is obligated to act reasonably and comply with his duties described in the

contract with the bar or nightclub.

To protect customers, a security guard should first attempt to talk to the people involved and gain their cooperation without any physical contact. When

tell the person being arrested that he is being arrested, the reason for the arrest and the security guard's authority to make the arrest.

Once the security guard has made

To protect customers, a security guard should first attempt to TALK TO THE PEOPLE INVOLVED and gain their cooperation without any physical contact. When this is not possible, the security guard should arrest the patron. ... Once the security guard has made the citizen's arrest, HE MUST CALL THE POLICE, turn the person arrested over to a police officer as soon as possible, inform the police officer of the offense and FILE A FORMAL CRIMINAL COMPLAINT.

this is not possible, the security guard should arrest the patron. In California, an arrest is the actual reasonable restraint of a person. A security guard has the power to make a citizen's arrest when that person has committed a felony or has committed or attempted a lesser offense in the presence of the security guard. The security guard must

the citizen's arrest, he must call the police, turn the person arrested over to a police officer as soon as possible, inform the police officer of the offense and file a formal criminal complaint. If the police officer decides to release the person arrested by the security guard, the arrest is considered merely a detention, and the person is free to go

without any charges filed.

Therefore, to help reduce risk of liability, security guards and their employers should begin by obtaining and confirming proper registration, training and certificates. In the course of their work, security guards should act reasonably when approaching and speaking with patrons. If restraint is necessary, they should take caution, follow the rules when arresting the patron and immediately call the police. If there are weapons involved and the security guard is unarmed, all he may be able to do is observe and call the police. But, if the security guard is armed and has his permits, it is up to him to act reasonably and in compliance with his training as required under the circumstances. **NCB**

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