

PBPA Podcast Transcript
Serving Alcohol at Nonprofit Events
(28:26 minutes)



[00:00:00] **Sireesha:** Whether you're hosting a fundraising gala, volunteer appreciation dinner, or a community mixer, chances are your nonprofit probably has hosted an event where alcohol is provided in the state of Georgia. Providers of alcohol, even as a nonprofit hosting one of its many events may need to apply for an alcohol license. Under Georgia law, there's an extremely complex network of rules and regulations governing when an alcohol license is required for such an event. Today Rich Glaze will help us break down these labyrinthine rules for our nonprofit listeners.

Hello and welcome to the PBPA Podcast. In each episode of the PBPA Podcast, we explore legal questions relevant to Georgia nonprofits. I'm your host Sireesha Ghanta, Counsel and Education Director at the Pro Bono Partnership of Atlanta. PBPA strengthens our community by engaging volunteer attorneys to provide nonprofits with free business legal services. We provide numerous free resources via our website, including articles and webcasts specific to Georgia nonprofits and their business legal concerns. We also provide direct legal services to our clients. For more information on client eligibility requirements, to apply to be a client or to access our vast learning center, visit our website at pbpatl.org. Before we jump into this episode's topic, keep in mind that this podcast is general information, not legal counsel, contact your attorney for guidance on your nonprofits' specific situation.

Rich Glaze is a partner with Barnes and Thornburg where he advises clients on complex regulatory matters. He has been named to the best lawyers in America for the past nine years, and he is a dedicated PBPA volunteer advising nonprofits on corporate and regulatory questions. Rich, thank you for being here today to help us navigate the complex regulatory landscape of alcohol licensing.

[00:02:26] **Rich:** Sireesha, thanks for having me. I'm looking forward to this.

[00:02:29] **Sireesha:** So Rich, some of our listeners may be thinking, I'm a nonprofit just hosting the standard nonprofit type events in the way all nonprofits do. How could an alcohol license apply to me? But there are some situations where a license or special permit is required. Let's start very generally with a quick overview.

[00:02:51] **Rich:** Sireesha, I'd like to start off with a little introduction to help folks appreciate the context and evolution of the regulation of alcohol in the United States. Early in this country's history, drinking alcohol was pervasive and almost entirely unregulated. This led to widespread alcohol overuse and the consequences of this to society became alarming. Thus the country ended up with a constitutional amendment to prohibit the sale and consumption of alcohol.

Prohibition ended in 1933, but alcohol consumption had continued to increase. And interestingly, aside from a national drinking age, federal regulation of sales to consumers is somewhat limited. As the laws have evolved, then sales of alcohol to consumers is largely regulated at the state and local level, and has resulted in, as you say a web of state and local regulations that anyone who wants to sell a alcohol has to navigate before they're permitted to do so.

For our purposes today, I wanna assume a few things. First, that the event sponsor that we're talking about will be a nonprofit corporation. That the event will serve alcohol. That attendees will either be

charged to attend or will be purchasing alcoholic drinks. And that the event will be in the Atlanta metro area and we can depart from any of these assumptions. But this will be the core of my presentation on what the regulations are. So if attendees will be charged either for attending a function that set, that provides alcohol, or drinking the alcohol, then the drinks will be considered to be sold and trigger the regulations. The county the regulations that are involved are state, county, and municipal regulations and not federal.

[00:04:58] **Sireesha:** So even though a nonprofit is not selling alcohol by itself. But just serving it at an event inclusive in the ticket prize, they are subject to these licensing rules. Can you tell me a little bit more Rich about the types of alcohol licenses and what is required for a nonprofit event?

[00:05:24] **Rich:** So cities and counties in general are entities we have to satisfy before we sell alcohol. Cities and counties and sometimes you have to deal with both have license application forms and fees, and these applications require a number of different hoops to jump through, including background checks, providing financial documents.

Evidence of lawful occupancy, et cetera. And then once you satisfy the cities and counties, then the state takes its turn. And the state also has a license that's required to sell alcohol and, in addition to licensing, state rules govern the verification of legal age, which is of course required before selling alcohol. And also have open container laws that would apply, particularly to drivers who might be leaving your event with an open container.

So what I was going to do is use the city of Atlanta as an example of what licensing requires. And I want to go through in some detail because it's a lot and before you embark on a event that involves a sale of alcohol, you need to appreciate what you're getting yourself into and how long it takes.

And so what I wanna do is just go through fairly quickly the process for getting a City of Atlanta license with the understanding that other cities have similar requirements. And even counties. Some counties have a barrage of things you have to surmount. So in the city of Atlanta, I want you start down the road to getting your license. You may be pleased to see that it starts with an online application. And so when you see that you may say, wow, great. Then all we have to do is submit an online license and then wait, and we'll be off to the races, and that's just part of it. So you have an application. That has very detailed questions and informational requirements that you submit to the portal. And all of these have to, or not all of them, ma, many of the accompanying documents have to be notarized to certify their truthfulness.

So some of these documents include a personal history form. Which has to be notarized. The application has a license fee of \$750 per application. And without paying this upfront, the processing does not begin. So that has to be paid and is non-refundable so far as I can tell. So after the first submission you will receive a confirmation message and be assigned a license record number, and an investigator or inspector will be assigned to contact you for further processing. So then let me talk just a little bit about the documents that are required. They include passport size photographs of the applicant agent, so your corporation has to have someone who takes responsibility and that person is referred to in the regulations as the "agent".

That person needs to show proof of citizenship. A copy of lease or other proof of occupancy for the venue you're using. A \$20 money order for fingerprinting and the 501©3 determination letter for your nonprofit, which establishes that you are a nonprofit. In addition to that, there's a federal clearance letter attesting that you've not been convicted of a crime for 10 years. There's a notarized

certificate of residence signed by the clerk of the county where this is going to take place. Certificate of incorporation, charter and bylaws. Three letters of reference and a certificate of residence in one of the following counties: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry Paulding, and Rockdale. Everybody recognizes those as the metro area of Atlanta.

So once you've surmounted those hurdles, then there's a license review board to evaluate your application. This meets on Tuesday at 5:00 PM twice a month. And when you go to the review board according to the ordinance, you have to be familiar with chapter 10 of the Atlanta Municipal Code, which is the code section that involves the regulation of alcohol.

So the board will either pass your application or deny it and then send its recommendation to the mayor's office. And then once that happens you're you can tell yourself that you've done a great job and that everything's wonderful, but wait. You still have to apply to the state for a license.

And let me just back up and mention one thing, not to cause any undue anxiety, but there's a big warning in on the Atlanta website that says. Chapter 10 of the Atlanta City Code states that temporary licensees and agents waive any and all rights available to them to appeal the decision by the chief of Police to deny their application for a temporary license or to revoke a temporary license to them in the applicant.

So once that's done it's time to apply to the state and before you apply to the state, you have to demonstrate that the city has approved your application. And then the state has a special alcohol license for special events put on by nonprofits. So the conditions of the license are that you can sell beer and wine for a period, not to exceed three days. You can't have more than six permits issued in any one calendar year for the \$25 filing fee. If you do, then it goes, the fee goes up, I think, to a hundred dollars. Then you have to apply and obtain a permit for a specified location, and you have to request the permit at least 10 days before the start date of the event.

Other requirements are a citizenship affidavit and an ATT-17 Georgia Alcohol and Tobacco personnel statement. This invasive statement requires details of any criminal convictions. And, the details being, what were they and what was the resolution. If you're an owner of an another alcohol business, any instances where you've applied for a permit or been denied a permit, and, interestingly to me, they also want the addresses of all of your living immediate family members, which are your parents, your sisters, your brothers, and even your mother and father-in-law. And then if you're using a representative, you may have to also have a power of attorney.

Other cities and counties around Atlanta have obviously have their own hoops to jump through. Some are or more stringent than others. Now some folks might be tempted to say, "Hey, why don't we go out in the county?", so to speak and go to an unincorporated part of the metro area? That won't necessarily be an advantage in all counties. In Gwinnett County for example, there's a stringent set of hoops to jump through that almost rival those of the city of Atlanta. So that won't necessarily be a solution. And of course, counties have their own requirements. So if you're in Atlanta and Fulton County, then you'll have to get an administrative permit from the Fulton County Police Department, which is nowhere near as strenuous as applying for the one for Atlanta. So that's an overview of what you might encounter if you're gonna have an event in this area.

[00:14:00] **Sireesha:** Wow, that is quite a lengthy and onerous process, Rich. Most of our nonprofits do not have the bandwidth to take on an application process of this length. So you mentioned that

this is triggered when a nonprofit charges for an event where they'll be serving alcohol. So I'm wondering does it make a difference if it's free entry to the nonprofit event? Or if it's based on donations where it's a donation to the nonprofit and that's why they're attending the gala.

[00:14:35] **Rich:** You mean a donation by the attendee?

[00:14:38] **Sireesha:** Yes.

[00:14:39] **Rich:** Okay. Yeah. I think any compensation that is given and, where alcohol is served, is gonna be considered a sale of alcohol. And that's what triggers this. So if you have an event that is totally free and everybody can just walk in and have free drinks I guess you could take a chance and not get the license to sell alcohol.

But that doesn't really sound like your typical event, because obviously nonprofits want to raise money for the good things they do, and that's not a good way to, to make money.

[00:15:17] **Sireesha:** What if they're working with other organizations that have the license, such as if they're hosting their event at a brewery or restaurant, or if they're working with a caterer.

[00:15:29] **Rich:** That's way around, that's the work around. Of course that has its costs. Yeah. You're sharing revenues, but it's certainly a safe, much safer way to do it. And not only do these venues have a license, have gone through the licensing process, they're experienced. With, serving alcohol and having events like that and can maybe help avoid some of the pitfalls that you might otherwise encounter.

[00:15:57] **Sireesha:** So Rich, are there situations where the caterer's license would not be sufficient to protect the nonprofit?

[00:16:07] **Rich:** A license is great. That removes a lot of the red tape and other effort that the entity giving the, event would have to go through, but it's not sufficient in itself.

So like I say, so the licensing part is a big part of it, but there's still traps for the unwary out there, as it were. One, for example, if the caterer has a license, but it, its employee who's serving the alcohol, for example, doesn't abide by the requirements of the license, such as checking IDs, making sure that people don't go outside and, with open containers and the other miscellaneous requirements of a licensee, then that could cause problems for the host. Just because they're the ones responsible for hiring the caterer. And so in a civil liability, it, matter, like a dram shop Act lawsuit by someone who's hurt because of the alcohol that could make the host more likely to be sued or handheld liable if they are sued .

[00:17:17] **Sireesha:** That civil liability is definitely an important concern, and we will revisit that later in this episode. But to continue our conversation about the alcohol license, would it help for a nonprofit to ask for proof of a vendor's license? Should that be stipulated in a catering agreement?

[00:17:39] **Rich:** Absolutely. There's no question about that. And in addition to that you probably want to have a background check for the individuals who were working for the caterer.

[00:17:51] **Sireesha:** And maybe some insurance provisions in there too.

[00:17:54] **Rich:** Oh sure. The contract should not only state that the caterer has insurance, but the caterer should be willing to share the declarations of the insurance policy so that you can in, make sure that they are in fact insured and that the insurance covers what they're doing.

[00:18:15] **Sireesha:** Yeah. And it's not difficult for an organization to provide proof of insurance.

[00:18:20] **Rich:** No, I would imagine they had, they would do that routinely as a condition of being hired.

[00:18:26] **Sireesha:** Rich, what if it were an event where it's BYOB, where the nonprofit is providing the space, but they're not providing the alcohol. Attendees are just permitted to bring it on their own if they want to.

[00:18:42] **Rich:** That takes the selling of alcohol completely off the table, so you wouldn't have to go through that entire licensing process we've discussed before.

But you would be left with potential liability. For the conduct of the attendees. So if somebody drank too much, went home and crashed their car and hurt someone, if perhaps their inebriation was obvious and other people said, oh yeah, that guy was drunk and making all kinds of trouble, and you failed to control the person or evict the person, then that could be a liability issue.

But there BYOB events are very common and people do that all the time. It's just a matter of taking the care you need to take to make sure your crowd's not too unruly, and if it is, do something about it.

[00:19:38] **Sireesha:** So there are options for nonprofits who are looking to have a fundraiser where they're actually charging for entry and where they would like to serve alcohol without having to apply for this onerous license process. Rich, are there restrictions on who can serve alcohol at an event for a nonprofit?

[00:20:02] **Rich:** Yeah, that's a funny question. And it reminds me of an experience I had. My wife and I volunteered for a barbecue competition for a nonprofit. And we went and we showed up and they said, "Hey, can y'all go serve the beer?" And we said, "sure". So we, I. I think it was obvious that we were over 21, but those folks didn't train us or vet us in any other way. But that was probably not the right way to approach things. So your server is, could be a volunteer, it could be an employee it could be the caterer. So if it's the caterer, you don't have to worry about it. If you saw someone who's obviously not qualified to be the server, that would be something you might want to take up with the caterer. But presumably there'd be a, a legitimate employee who's over 21. when you check IDs and you don't wanna have to check 'em every time. So you might want to use an armband or a hand stamp or something like that. For folks to ensure that no underage people are served.

But if you're using volunteers or your own employees, they obviously have to be of age and you would want to train them about certain things to do and not to do. Particularly checking IDs making sure they don't serve inebriated people. And common sense matters like that.

[00:21:29] **Sireesha:** So if you have that license one time, is that good for several events or do you need to reapply every year before your annual gala?

[00:21:38] **Rich:** So you need to apply every year.

[00:21:40] **Sireesha:** Rich, if a nonprofit decides to embark on this journey, can you give us a little idea of what's the turnaround time like? How far in advance of their event, should they start their process with the city of Atlanta?

[00:21:53] **Rich:** The city of Atlanta requires at least 90 days so that's the minimum. And then on top of that, the state requires 10 days notice to give the state license. So that's a hundred days. And if you're gonna be that far out anyway, it would make sense to add couple of weeks onto that just for a cushion because there's a lot of discretion involved and, folks get busy and don't always make deadlines. If it's an important event leave yourself plenty of time.

[00:22:26] **Sireesha:** And so nonprofits, be sure you have your license in hand or as well on its way to being procured before you advertise your event for a certain date and time because you don't want to embark on the application process and then have it delayed and then have to reschedule your event or a new day.

Now Rich, let's talk about penalties for noncompliance. What would happen if a nonprofit proceeded with an event without going through the local jurisdiction and the state licensing process?

[00:23:04] **Rich:** There's civil and criminal consequences. I say civil, it's an administrative, so their fines. But it's also a misdemeanor to sell alcohol without a license.

A misdemeanor being a crime punishable for less than a year. So you can pay, in Georgia, you can be fined up to a thousand dollars and sentenced up to 12 months in jail if you do this. Now, that's not gonna happen generally on the first offense, but it can be serious.

And, As , I may have mentioned before you can put in danger your ability to get subsequent licenses.

[00:23:47] **Sireesha:** And now Rich, I'd like to shift to considerations that are outside the licensing process and for other questions that we often hear from our nonprofit clients about serving alcohol at events. One of them is regarding insurance.

Does a nonprofit need additional or any special type of insurance coverage if they're providing alcohol at their events?

[00:24:12] **Rich:** In addition to your, general liability insurance, you can review that policy, talk to your agent, make sure you're covered, and if there's an exemption for that, which very well could be, you can get additional per event insurance. You can check with your current insurer or shop around for a one-time policy for an event that will specifically cover alcohol related instances.

[00:24:41] **Sireesha:** And let's talk a little more about the alcohol related incidences. Could a nonprofit be liable for incidents that occur during or immediately after an event if they're related to alcohol that was served at the event.

[00:24:59] **Rich:** Yeah, you're referring, to dram shop liability. Dram Shop what they used to call a bar or social host liability. So there is a responsibility when you're hosting an alcohol event that two, make sure, one, you check IDs and two, that you don't over serve. So if you see somebody who's been overserved or you believe they have, then it's up to you to keep from making the situation worse. And it's also your responsibility to not serve underage persons.

If either of those occur and that person harms somebody. On the way home, for example, in their vehicle, then you can be liable for the damages caused by that accident. And as you can imagine, those damages can be pretty severe depending on the severity of the accident. And I'm not minimizing, of course, the human cost to folks who get hurt in an accident.

[00:26:00] **Sireesha:** Rich, you have left us with a lot to consider here, and this has been very helpful guidance for nonprofits to consider: what their options are if they're looking to serve alcohol at events, and to give them some guidance on the process that's involved. If they choose to pursue application for alcohol license to serve at their event.

Any final thoughts or important takeaways that you would like for a nonprofit to keep in mind if there's one or two things that they remember from this episode?

[00:26:31] **Rich:** Yeah, just to summarize, make sure to look at what you're doing and determine whether a permit is required, and err on the side of obtaining a permit.

Check all the municipalities, the county, the city, and also check state laws. Apply early. Be prepared to check IDs. Consider liability insurance. And also consider using a third-party vendor to avoid all these licensing issues.

[00:27:02] **Sireesha:** Regarding working with third parties such as restaurants or caterers. This is also a matter of risk analysis for an organization. Working with such third parties lead to added costs for a nonprofit, but considering the risk involved of a nonprofit serving alcohol itself without a license, a nonprofit may decide that the added cost of hiring a caterer or hosting at a restaurant is outweighed by the risk of serving alcohol themselves without a license.

Rich, thank you so much for sharing your time and expertise with us today. We really appreciate this.

[00:27:41] **Rich:** It was my pleasure. Thank you for having me.

[00:27:44] **Sireesha:** We hope that you found this episode of the PBPA Podcast to be informative and helpful. We add new episodes every month with short conversations about general, yet important legal information for Georgia nonprofits. Remember that this is not legal counsel. Talk to your attorney about your organization's specific concerns. Thanks for tuning into the PBPA Podcast. And to all nonprofits listening out there, thank you for all the good work you continue to do in our community.