

**NEW YORK
STATE LIQUOR AUTHORITY**

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

ALCOHOL AND YOUR CHILD
INFORMATION EVERY PARENT SHOULD HAVE

George E. Pataki
Governor

Edward F. Kelly
Chairman

Lawrence J. Gedda
Commissioner

Joseph C. Zarriello
Commissioner

INTRODUCTION

Dear Parents:

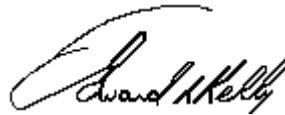
The New York State Liquor Authority (SLA) works in conjunction with state and local police in the enforcement of the Alcoholic Beverage Control Law. As the law relates to unlicensed keg and teen parties, the police are the primary enforcement agency. Despite the ongoing efforts by law enforcement, underage drinking (including excessive drinking and binge drinking) continues to plague our communities and neighborhoods. As the legal purchase age changed from 18 to 19 and presently to 21, the category of underage persons now includes individuals considered adults by many other legal standards.

As retail licensed establishments (such as taverns, restaurants and hotels) become more stringent in their efforts to avoid underage sale/delivery, underage persons have turned to private parties including keg parties in homes, hotel rooms, campsites, and other private locations to avoid detection. These types of parties are popular with middle school, high school and college students and are the most problematic for law enforcement officers. **These parties should not be viewed as harmless teenage activity.**

Unlike licensed establishments, where inspections, legal standards and levels of supervision are required, the organizers of underage drinking parties are generally unconcerned, improperly prepared, and careless in the safety or well being of their attendees. In many cases, the organizers of underage parties promote excessive drinking and the use of illegal narcotics, in order to make money or take advantage of the underage attendees, especially females. These unlawful activities can result in sexual assaults, fights, serious injuries and death.

We, as adults and parents, have a responsibility to protect the health, safety and welfare of our children and to take affirmative steps in not permitting, participating, facilitating, and/or condoning any party or event that allows the consumption of alcoholic beverages by underage persons.

In developing this pamphlet, it is our desire to provide helpful information that will assist parents with underage drinking concerns.



Edward F. Kelly
Chairman

A BALANCED STRATEGY

Enforcement activities alone will not deter underage drinking. There is no single method that will achieve success in combating this problem.

The skillful application of a balanced strategy provides the best opportunity to reduce and discourage access, use and abuse of alcohol by underage persons. This strategy should incorporate the following:

A. Education:

Parents must take the lead role in providing information and guidance to their children in the health, safety and legal consequences of the unlawful purchasing or possessing of alcoholic beverages, use of false or altered identification, drinking, binge drinking and irresponsible behavior fueled by alcohol.

Instances of alcohol consumption by very young children are increasing, therefore the educational process should commence at the grammar school level. Studies show that children at this age level are usually obtaining their alcohol from unlocked and unsupervised supplies of alcoholic beverages in the home. Parents must continually check the availability and quantity levels of alcoholic beverages in their homes.

Parents should be mindful of their own consumption of alcohol because children learn from what they see and they do not necessarily consider all relevant factors when processing this information. A parent's philosophy on underage drinking is most influential with their children. This includes permitting your underage son or daughter to consume alcohol while at home. They may interpret this privilege as unrestricted permission to consume alcohol anytime.

Teenagers should have a clear understanding between the lawful appropriate use of alcohol and the illegal improper use of alcohol. Parents should contact their child's school to encourage and support educational efforts, prevention programs and student alcohol policies.

Community coalitions and neighborhood organizations have achieved positive results in addressing issues related to underage drinking. For more information on these programs, check web site: www.alcoholfree.org.

B. Encouragement:

Our children need positive and proper guidance from educators, peers, friends and family, especially as it pertains to the use of alcohol.

Parents with liberal policies on their children's consumption of alcoholic beverages at home may conflict with other parents more restrictive policies. Careful consideration should be made when establishing policies with your child. Some adults take comfort in the premise that "as long as my child doesn't drive it's ok to drink." Keep in mind that unfortunate incidents and injuries have occurred with underage drinking that did not involve a motor vehicle.

There are also misguided rationalizations involving reduced or low alcohol-content products such as LA beer or wine coolers as being a compromising alternative beverage. These products are still alcoholic beverages and can produce the same effects and results as their counterparts.

Parents should not underestimate or casually dismiss pressure exerted on their children by friends or schoolmates to consume alcoholic beverages. Your child's desire to be accepted by their friends, peers and schoolmates may cause them to do things that you might not expect from them. Therefore, you should be vigilant in knowing your child's friends, whereabouts, activities, and behavior to insure not only their welfare but the safety of his or her friends as well, especially at prom and graduation time.

As parents you must communicate and work together with other parents, school officials, community action groups, police and the State Liquor Authority, in order to curb underage drinking. All adults have a responsibility to insure the safety of all children in the community. Just because your child may not be involved does not mean their friends are not. Their parents may not know what is going on, and a call from you or law enforcement may make the difference. If you are going out of town, especially if you are leaving your children in charge of the house, contact the police so they can monitor activities for you.

C. **Enforcement:**

As indicated earlier, enforcement of the Alcoholic Beverage Control Law rests with state and local police when it relates to underage drinking at unlicensed private parties. Many of these unlicensed private keg parties or drinking parties may involve crimes or violations of other New York State laws.

The State Liquor Authority regularly works with the police in the enforcement of alcohol laws relating to licensed establishments. Enforcement efforts involving licensed establishments consists of compliance checks (including underage sting operations) and reverse stings (Cops in shops) whereby the use of false identification by underage persons is monitored.

Parents should contact the State Liquor Authority and police to report bars, restaurants or stores that violate the law. Obviously, enforcement techniques such as stings and reverse stings would not be suitable for private teenage drinking parties. The police generally do not receive advance notice of these parties and, unfortunately become aware of a teen party only after an incident, accident, or injury occurs. If parents learn of an upcoming drinking party, they should contact the police immediately. The police might prevent the party from occurring without the need for an arrest but more importantly, may thwart potential tragedy. Some parents have rationalized that if they allow underage drinking parties at their residences they can at least exert some supervision over their children and their friends.

Remember there is no fail-safe plan and the parent sponsoring the party will be subjecting themselves to criminal and civil liability.

CIVIL LIABILITY

Under New York State common law and "Dram Shop Law", an adult/a parent may be held liable:

- ▶ if someone, particularly a minor, is injured on their property;
- ▶ if a minor dies as a result of drinking on their property;

- ▶ if an underage person gets into a fight, falls and hurts themselves or is sexually assaulted on their property especially if the alcoholic beverages were obtained on their property;
- ▶ if a neighbor's property is damaged by persons or minors attending a party at your home or apartment;
- ▶ if an underage person who was drinking on your property, leaves your property, and is involved in a motor vehicle accident, causes injury to themselves or others.

Although the above acts may or may not be covered under your homeowner's insurance policy, you may still be responsible for costs not covered or beyond your policy limits. Parents and adults have a legal responsibility to insure the safety of underage persons while on their property or under their care, custody and control. Parents have a duty to monitor parties hosted by their children.

CRIMINAL LIABILITY

NYS Alcoholic Beverage Control Law:

Section 100.1 Sale without an appropriate license

No person shall manufacture for sale or sell at wholesale or retail any alcoholic beverage within the state without obtaining the appropriate license.

This law applies when a person charges a fee to an attendee of a gathering (i.e.: keg party, fraternity party etc.) and provides alcoholic beverages.

Violation of this law is a misdemeanor.

Section 65 Prohibited sales

No person shall sell, deliver or give away or cause or permit or procure to be sold, delivered or given away any alcoholic beverages to

1. Any person, actually or apparently, under the age of twenty-one;
2. Any visibly intoxicated person.

This ABC Law is generally used if a violation occurs in an establishment licensed by the State Liquor Authority. It also addresses the unlicensed delivery by any person to someone under 21 or someone who is already intoxicated. The NYS Penal Law (listed next) has a similar statute that prohibits the sale or delivery of an alcoholic beverage to an underage person.

Violation of this law is a misdemeanor.

Section 65-c Unlawful possession of an alcoholic beverage with the intent to consume by persons under the age of twenty-one years.

This law is used when an underage person is in possession of an alcoholic beverage with intent to consume and the alcoholic beverage was not given to the underage by his/her parent or legal guardian. Although violation of this law is an offense, the underage person may be issued a summons to appear in court and be fined and/or receive other penalties as provided in this statute.

NYS Penal Law

Section 260.20 Unlawfully dealing with a child in the first degree

A person is guilty of unlawfully dealing with a child in the first degree when:

2. He gives or sells or causes to be given or sold any alcoholic beverage, as defined by section three of the alcoholic beverage control law, to a person less than twenty-one years old: except that this subdivision does not apply to the parent or guardian of such a person or to a person who gives or causes to be given any such alcoholic beverage to a person under the age of twenty-one years, who is a student in a curriculum licensed or registered by the state education department, where the tasting or imbibing of alcoholic beverages is required in courses that are given only for instructional purposes during classes conducted pursuant to such curriculum.

Unlawfully dealing with a child in the first degree is a class A misdemeanor.

Note: *The exception for the parent or guardian does not extend to premises licensed by the State Liquor Authority.*

Section 260.10 Endangering the welfare of a child.

A person is guilty of endangering the welfare of a child when:

1. He knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a child less than seventeen years old or directs or authorizes such child to engage in an occupation involving a substantial risk of danger to his life or health.

Endangering the welfare of a child is a class A misdemeanor.

Note: *A parent or guardian may be arrested if they knowingly provide unreasonable amounts of alcoholic beverages in a manner likely to be injurious to the physical, mental or moral welfare of a child less than seventeen years of age.*

False or Fraudulent Identification Cards

(Penal Law – PL)

The following criminal charges may be considered if an underage persons alters and/or possess a false or fraudulent written instrument officially issued or created by a public office, public servant or governmental instrumentality.

Manufacturers or alters a driver's license:

1. Forgery in the 2nd degree (PL – §170.10) D Felony.
2. Possession of a forged instrument 2nd degree (PL - §170.25) D Felony
3. Criminal impersonation 2nd degree (PL - §190.25) A Misdemeanor
4. False personation (PL – §190.23) B Misdemeanor

There is also Alcoholic Beverage Control law and Motor Vehicle law that have criminal and administrative penalties for attempting to purchase alcoholic beverages with an altered or false NYS driver's license.

CONCLUSION

The purpose of this pamphlet is to give you some insight and information that will help you in addressing underage drinking issues. There are numerous books, informational sources and web sites that can be accessed for more in-depth knowledge on this subject matter. New York State and its law enforcement agencies are committed to the health, safety and welfare of our youth. Please contact us if you have any questions, information or complaints concerning underage drinking.