

Social Host Responsibility

What Every Parent of a Teenager Ought to Know

Spring 2004

By *Donna Toman Salvidio* Attorney for Fletcher, Tilton, & Whipple, P.C.

The at-home consumption of alcohol by minors is an age-old problem. It has become more problematic in recent years as families have both parents working, or a single parent working full-time. Until recently, the illegal consumption or possession of alcohol by a minor at a private residence was not a violation of criminal or civil law. The only exception was if a social host directly placed an alcoholic beverage into the hands of a minor or adult who was visibly intoxicated. As a result, private residences became a safe haven for illegal drinking on the part of minors.

Under legislation passed in 2000, a parent may now be held criminally liable for merely allowing a person (not his or her child or grandchild) under 21 years old to possess alcohol in his or her home. It is now a misdemeanor (punishable by a fine of not more than \$2,000 or imprisonment for not more than one year) for a social host to permit a minor to possess alcoholic beverages on his or her property. A social host is a person who owns or controls property at which alcoholic beverages are being offered.

Problems may generally occur in two situations. In the first, a social host permits minors to possess or drink alcoholic beverages at a social gathering held in his or her home during, for example, a graduation or holiday party. Adults and minors attend the party and alcoholic beverages are provided to the guests by the social host. In the second instance, a homeowner does not actually give permission or furnish alcoholic beverages to the minors. The minors bring the alcoholic beverages to the home or social gathering and consume them there. Oftentimes, the host turns a "blind-eye" to the minors' activity.

With the advent of this criminal statute, there will now be serious consequences if the homeowner does nothing. He or she can be fined, go to jail and potentially face substantial civil damages for which he or she may not be insured.

To date, there are a myriad of issues the courts and the insurance industry will need to address. What is the effect of this criminal statute on the civil liability of homeowners? Will the courts expand their interpretation of social host liability in light of this criminal statute? Will the current homeowner's liability insurance policies provide coverage if there is civil liability?

The courts are likely to provide guidance to these questions in the years to come. Until then, the significant consequences of the social host law should make homeowners more vigilant in monitoring underage alcohol consumption at their parties. With the graduation season upon us, it would be prudent to pay closer attention to how young people are celebrating.

Fletcher, Tilton, & Whipple, P.C (508) 798-8621