NYS

Alcohol & Your Child

Information Every Parent Should Know

David A. Paterson
Governor

Division of Alcoholic Beverage Control
State Liquor Authority
&
New York State Office of Alcoholism
and Substance Abuse Services

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David A. Paterson, *Governor*

State Liquor Authority

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Underage Drinking Not a Minor Problem is a campaign of the New York State Office of Alcoholism and Substance Abuse Services. For more information go to www.oasas.state.ny.us.

New York State Office of Alcoholism & Substance Abuse Services
1450 Western Avenue • Albany, NY 12203-3526
518-473-3460

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Message to Parents

The New York State Liquor Authority, in partnership with the New York State Office of Alcoholism and Substance Abuse Services has developed this pamphlet to provide you with helpful information that will assist you in understanding the importance of your role in protecting your children from the problems associated with underage drinking, and to inform you about the laws related to this issue. In addition, we believe that it is important that you are aware of the various resources available on underage drinking prevention, and your role as a key player in helping to enforce the underage drinking laws.

Underage alcohol use is a serious issue impacting communities across New York State. Adults play a role when they sell or serve alcohol to youth under the age of 21, when they host parties where young people are drinking, and when they condone underage alcohol use. Every community, neighborhood and family should be concerned about alcohol use by youth under 21 because it is associated with the three most common causes of teenage deaths: accidental deaths, homicides and suicides as reported in the 2003 National Survey of Parents. In addition, the Substance Abuse and Mental Health Services Administration reports that higher levels of alcohol use are associated with unplanned or unprotected sexual activity among adolescents, posing increased risk for teen pregnancy and sexually transmitted diseases including HIV. Alcohol use and higher levels of use among adolescents is associated with poor grades, absenteeism and higher school drop-out rates. In addition children who start drinking before the age of 15 are four times more likely to develop alcohol dependence than those who begin drinking at age 21.

The enforcement of the underage drinking laws requires an awareness and commitment from parents, schools, communities, clergy, healthcare and law enforcement professionals. The health and safety of our children, families and communities can not be compromised due to the devastating, and often fatal consequences of underage drinking. Everyone can play a role in reducing the use of alcohol by youth under 21 by using the following environmental strategies:

- Limit the access of alcohol to youth.
- Create clear, consistent no-use messages in each community.
- Implement evidence-based programs and practices in our school and community settings.
- Partner with state and local key stakeholders to address the issues related to underage drinking.

Research shows that parents are the most influential factor in protecting their children from engaging in high risk behaviors, including underage drinking. We hope this information is helpful and we encourage you to utilize the resources that are listed in this pamphlet for more information.

Parents Can Make a Difference

A Comprehensive Strategy

Give your children a clear no use message. Research shows that when parents clearly communicate to their children about their expectations to abstain from drinking alcohol, as well as set consistent boundaries and have regular discussions about alcohol, teens and preteens are far less likely to drink. No parent wants to think of their child as one of the thousands of teens who drink – or about the things that can happen when they do. Still, by the time they're in their senior year of high school, four out of five teens have consumed alcohol. The time to act is now.

It's never too early or too late to start talking with your child about the dangers of alcohol. There are many opportunities to get a discussion going: before school, on the way to practice, after dinner. Talk with your child about a recent alcohol-related incident in your community or about the negative affects of alcohol use. Also let them know it's against the law, and lots of smart, cool people choose not to drink. Be a good listener; ask open-ended questions and most of all focus your attention on the conversation and listen to what your child is saying. When having discussions, be prepared that your child may use comments such as: "You drank when you were my age", "All the kids are doing it", "Drinking is not as bad as other drugs" and "Other parents are more lenient". Similar comparison of experiences can be pitfalls unless all relevant facts are considered. Remember; alcohol is a drug; reckless or excessive use can cause dependency just like any other drug.

By showing interest in your children you show them that you care. By staying involved, you're taking an important step toward keeping them healthy and safe from alcohol use. Monitor your children's activity; know where they are going, who will be there, and when they are expected to be home. Be sure to call ahead to be certain there will be responsible adult supervision.

Remember, parents are a child's most important role model. Teach by example. It is important to act the same way that you expect your child to act.

Be informed. Take responsibility to learn about what's happening in your area and about the prevention programs that are available in your community and school so you can give your children the information and support they need. As parents, you should work together with other parents, school officials, community groups, local law enforcement and state and local agencies to prevent underage drinking in your community.

Strategy

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 and similar events) 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

- Any person, actually or apparently, under the age of twenty-one;
- 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 person by his/her parent or legal guardian. Violation of the underage possession 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:

> 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:

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:

- Forgery in the 2nd Degree
  (PL §170.10) - a Class D Felony
- Possession of a Forged Instrument in the 2nd Degree
  (PL §170.25) - a Class D Felony
- Criminal Impersonation in the 2nd Degree
  (PL §190.25) - a Class A Misdemeanor
- False Personation
  (PL §190.23) - a Class B Misdemeanor

Additionally, the Alcoholic Beverage Control Law and Vehicle and Traffic Law both contain criminal and/or 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 it's 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.

Laws in New York State

Underage Alcohol Possession

In New York State, if you're under 21 years old, it is a violation of the law to possess alcohol with the intent to consume. If caught, the youth can be fined, required to complete an alcohol and drug education seminar, and/or required to complete community service.

Zero Tolerance

If you are under 21 and drink and drive, you face strict penalties. Under the Zero Tolerance Law, for small amounts of alcohol, teens can lose their license up to 6 months to 1 year. For larger amounts of alcohol, DWI penalties apply, including possible jail terms.

Sean's Law

Underage drinkers who drive will have their junior license or driving permits promptly suspended if they are charged with an alcohol-related traffic offense

Lowering Blood Alcohol Content (BAC) for Driving While Intoxicated (DWI) from .10 TO .08

In New York State, the BAC for legal intoxication while driving has been lowered from .10% to .08%. This law allows for suspension of a license pending prosecution if the BAC at arrest is .08% or more.

Keg Registration

This law requires that an identification tag be attached to every keg sold at a retail store that contains the name and address of the retail store, the name of the purchaser, and keg identification number. This allows our law enforcement professionals to track keg sales, especially those purchased and then given to people under age 21 for consumption. It is against the law for anyone under 21 to possess alcohol with the intent to consume.

Social Hosts Laws

Some municipalities have enacted local laws that prohibit underage drinking in the home. Under certain circumstances, parents or guardians can be fined if they are found to be in violation of the ordinances. Check with yuour local government to see if you are subject to a "Social Host Law" in your area.

New York State Agencies

These agencies are responsible for coordinating statewide efforts in the prevention of alcohol abuse, and for regulating the alcohol industry.

Division of Alcoholic Beverage Control
State Liquor Authority

www.abc.state.ny.us

The State Liquor Authority is responsible for issuing licenses, permits and regulating trade and credit practices related to the sale and distribution of alcoholic beverages at wholesale and retail levels.

State of New York
Executive Department
Division of Alcoholic Beverage Control
State Liquor Authority
Alfred E. Smith Building
80 South Swan Street, Suite 900
Albany, NY 12210-8002

Tel: **(518) 474-0810**
Fax: (518) 402-4015

Governor's Traffic Safety Committee (GTSC)

www.nysgtsc.state.ny.us

GTSC is the primary state contact in the National Highway Safety Administration (NHTSA) Region 2. NHTSA works through its regional offices to support state programs aimed at reducing the number of alcohol related crashes and fatalities.

Governor's Traffic Safety Committee
Swan Street Building
Empire State Plaza
Albany, NY 12228

Tel: (518) 473-9007
Fax: (518) 473-6946

New York State Office of Alcoholism and Substance Abuse Services (OASAS)

www.oasas.state.ny.us

OASAS leads New York State's efforts to improve the lives of New Yorkers by ensuring quality prevention and treatment services for chemical dependence and problem gambling, and promoting recovery from addiction.

New York State Office of Alcoholism and Substance Abuse Services
1450 Western Avenue
Albany, NY 12203

General Information
Tel: (518) 473-3460

Report illegal purchase or consumption of alcoholic beverages by minors by calling

1-866-UNDER 21

Your confidential tip will be investigated

UNDERAGE DRINKING
Not a minor problem

Helpful Websites

www.**cadca**.org
www.**udetc**.org
www.**checkyourself**.com
www.**alcoholfreechildren**.org
www.**samhsa**.gov
www.**ojjdp.ncjrs**.org
www.**stopalcoholabuse**.gov
www.**pire**.org
www.**drugfree**.org
www.**medialiteracy**.net
www.**modelprograms.samhsa**.gov
www.**faceproject**.org
www.**camy**.org
www.**theantidrug**.com