

STOP YOUTH ALCOHOL USE ON PRIVATE PROPERTY



Raising children is a great challenge. Textbooks and websites offer advice to parents... but when it comes to questions about our children and their use of alcohol, clear answers are hard to find.

Should you ever serve alcohol to minors? Are you better off hosting a teen party at your house where you can monitor behavior? How do you stop other parents from allowing your children to drink alcohol at their home or holding a teen party with alcohol? How do you stop your own child from drinking?

To find the answers, we need to understand the scope of the problem of underage drinking in New Jersey.

Every day, our State tackles multiple problems resulting from the use of alcohol by youth, including alcohol-related youth violence, traffic crashes, high risk sex, criminal behavior, injury, medical care, work loss, pain and suffering, poisoning, psychosis, youth suicide and Fetal Alcohol Spectrum Disorders.

In 2007, 44% of New Jersey's 8th grade students have used alcohol and 21.4 % of middle school students drank one or more drinks in the past 30 days.

This 2009 survey also revealed that within the last 30 days:

- almost half of all high school students report drinking,
- more than a quarter had five or more drinks in a row.

In New Jersey High Schools, none of the grade levels met the Healthy New Jersey 2010 goal to decrease the percentage of underage drinking in the past 30 days to 37%



The effects of alcohol on young drinkers can be devastating. Science concludes that the human brain is not fully developed until age 25 and that alcohol can disrupt the normal development of the brain. Alcohol can adversely affect an individual's ability to form new memories and make decisions. Alcohol may cause individuals to lose their inhibitions and be willing to engage in behavior they would normally avoid if they were sober, such as violence, vandalism, sex, date rape, other criminal behavior, or drug use.

In spite of the dangers, public attitudes towards underage drinking often condone alcohol use and portray drinking as a rite of passage, which sends messages to the youth that alcohol consumption is an acceptable behavior. Many young people do not know that consuming too much alcohol can actually be fatal. Binge drinking (consuming five or more drinks on one occasion) is particularly dangerous. Alcohol poisoning is one of the greatest dangers of binge drinking. It is a serious condition that can occur when the blood alcohol concentration rises too high. Symptoms include severe vomiting, depressed respirations and seizures. It can result in coma and even death.

The physical effects of alcohol, coupled with emotional immaturity, compound the danger for young drinkers. Some intoxicated youth have injured or killed themselves in fires, falls, motor vehicle accidents, or other tragedies that might well have been avoided if they were sober. Considering these dangers, 2009 statistics regarding alcohol use among high school students are quite alarming.



Age	2009 Alcohol Use
15 years or younger	64.4%
16-17 years old	78%
18 years old	88%

What does the law say?

In New Jersey, the act of providing alcohol to a non-relative minor, on an unlicensed premises (such as your home), is illegal under New Jersey state law. As a further deterrent to underage drinking, municipalities in New Jersey have the ability to enact an ordinance making it unlawful for any underage person to possess or consume an alcoholic beverage on private property and hold the youth accountable. Of the municipalities in New Jersey, 52% of them have successfully enacted and enforced such an ordinance to prevent underage drinking from taking place on private property. Visit the Partnership For a Drug-Free New Jersey website (drugfreenj.org) to view the list of New Jersey municipalities that currently have a private property ordinance.

Where do they get it?

Among students in New Jersey who drank alcohol in the last 30 days, 32% reported that someone gave it to them. Many underage drinkers obtain alcohol from their parents, in their homes, or from other adults who would rather their children and children's friends drink in their home than somewhere else.

**Many underage drinkers obtain alcohol
from their parents, in their homes...**



QUESTIONS FROM PARENTS

Is a statewide law too harsh?

Minors cited under a statewide law would be found guilty of a violation (not a crime), and the penalties pale in comparison to existing laws preventing youth use of alcohol on public property. Potential punishment for a violation of the state law is reasonable and proportionate, and considerably less than the punishment for a similar violation on public property.

Current Public Property Law

Current youth use of alcohol on public property is subject to a fine of between \$500 and \$1,000, a maximum of six months in prison, and a mandatory loss of driver's license for six months.

Proposed Private Property Law

A statewide private property law would limit the fine to the juvenile for a first offense to \$250, and fines for subsequent offenses to \$300. Judges may also, but are not required to, postpone eligibility for or suspend the driving privileges of a juvenile for six months. In lieu of either of the penalties stated, youth and their families can be given the option to participate in an education class on youth use of alcohol.

\$250
FIRST OFFENSE

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MORE QUESTIONS FROM PARENTS

Will police officers have more access to my property?

Enacting a state law holding youth accountable for drinking under the legal age will not change these underlying requirements or that police must have “probable cause” to suspect a crime before they can act and enter private property and must meet the requirements for a warrant, exigency, consent, search incident to a lawful arrest, plain view or health and safety.



Police may enter private property to protect its residents from danger as long as they are not entering for the purpose of searching for evidence of a crime.

Police are often called to respond to incidents of underage drinking at “house parties” due to fights, sexual assaults, noise disturbances, etc. However, once at the residence, police currently are unable to respond to youth use of alcohol since the law does not specifically prohibit minors to be in possession of alcohol on private property.

Serving alcohol to minors without the permission or presence of a parent is already a disorderly person’s offense. What would change under a state law is that it would become a violation for youth to possess or consume alcohol on private property if their parent has not given permission and is not present.

The municipalities that have an ordinance prohibiting youth use of alcohol on private property, have not seen increased interference in the privacy of families. As for concerns related to the abuse of police power and private property rights, the Fourth Amendment of the United States Constitution provides that individuals are free from unreasonable “search and seizure” by the police. This means that police must have “probable cause” to suspect that a crime is happening before they can intervene.

What happens if I'm NOT even home?

Enacting this state law would not provide additional liability to the parent. It merely enables the police to take action to intervene and hold the children who are in possession and consuming alcohol, responsible.

Therefore, if a parent is on vacation and their child invites his/her friends over and they're drinking - the parent would not be found guilty of a disorderly offense as long as the parent did not have "reasonable" control over the private property, or made the property available (or left the property in the care of) another for the purpose of making alcohol available to underage drinkers.

STATE LAW:

It would become a violation for youth to possess or consume alcohol on private property if their parent has not given permission and is not present.

Will this law try to tell me how to parent my own children?

No. This law specifically would not change the law regarding parents' authority over their own children. It provides an exception to allow parents or legal guardians to allow their own minor children to possess alcohol if they (parent/guardian) are present and that parent/guardian is over 21 years old. This exception would be extended to house party situations.



The law is only concerned with youth obtaining liquor without their parents' permission or outside the presence of their parent. This also protects parents' and guardians' right to expect that when their child goes to another adult's home, they are safe from alcohol. The other adult doesn't have the right to allow your child to drink or give alcohol to your child.

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QUESTIONS FROM THE FIELD

What is the host's civil liability under current law?

Parents can be civilly liable on a variety of bases if they supply alcohol to minors and it results in injury to the minor, to third parties or causes damage to property. Civil liability can include: negligence, reckless misconduct and failure to exercise reasonable care and diligence. A parent who is found legally responsible under social host, negligence or reckless misconduct liability laws may be accountable for large money damages. The ordinance as authorized under state law to prohibit youth use of alcohol on private property, has no effect on this liability.

The Social Host Law, NJS 2C: 33-17 (availability of alcohol to under-aged) and NJS 2A: 15-5.6 (exclusive Civil Remedy), which are already in existence, address the criminal and civil liability of the adult who provides the alcohol. The youth use of alcohol on private property ordinance does not enhance or detract from laws regarding the adult server.

**The penalties...are
against the underage
person, not the adult
who served the alcohol.**



Is this a Social Host law?

No, the enactment of a state law will address the youth, not adults, filling a gap to hold youth responsible for possession or consumption of alcoholic beverages on private property. NJS 40:48-1.2 will not increase a person's liability under social host laws.

The penalties listed in NJS 40:48-1.2 are against the underage person, not the adult who served the alcohol. NJS 40:48-1.2 does not apply when a minor's own parent, guardian, or relative is supervising and gives permission for the consumption of alcohol.

Are college or university dorms “private property?”

Dorm rooms are not the property of the student. They are the property of the college or university and subject to the regulations established by the college or university. At public universities or colleges, law enforcement officers cite college students who are under the legal drinking age and caught drinking in their or a friend’s dorm room under 2C:33-15, which prohibits youth use of alcohol on public property or in any school. For private colleges, please refer to the individual college’s policies regarding alcohol possession.

A law prohibiting youth use of alcohol on private property provides a less severe alternative under which the police may charge the student. In municipalities that enacted an ordinance prohibiting youth use of alcohol on private property, officers often chose to cite the underage drinker under the less severe ordinance, if private and public property were in close proximity.

Will a statewide law give police authority to enter college dorm rooms?

Generally, college students maintain their Fourth Amendment right to privacy when it comes to their dorm rooms, and therefore if police, including state authorized campus police, want to enter a dorm room, they need to meet the criminal investigation requirements regarding entering a private residence as stated in “questions from parents.” (See “*Will Police Officers Have More Access to My Private Property?*”)

However, administrators, resident assistants and dorm supervisors are permitted to enter a dorm room pursuant to provisions in the university/college handbook, or an educational mission, signed housing agreement consenting to health, welfare and safety checks. Most colleges have regulations prohibiting the use of alcohol on campus, including dorms, by students under the legal age to drink. School officials at private colleges are not government actors and thus the Fourth Amendment does not apply to their conduct. In public colleges or universities the Fourth Amendment applies but the signed housing agreements give indirect consent for a school authority to enter the room.

Although the students’ indirect consent doesn’t transfer to police; the administrator, supervisor, or assistants can turn over their findings and other evidence to the police to be used to prosecute students under state law.

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SUPPORTIVE STEPS

How do I convince the legislature to pass a statewide law?

1 Talk to Others

Find other parents and community members who may also want to see a statewide law prohibiting youth use of alcohol on private property enacted.

2 Make a Statement

Develop a unified message regarding youth use of alcohol and the need for a law such as this primer, which can be your guide to help you provide additional information on the need for this bill to your legislators.

3 Talk to Your Legislators

Explain to the legislators in your district the need for this law, the consequences of underage drinking, and the loopholes in the current law.

- Let your legislators know that this law has wide public support as evidenced by 52% of New Jersey's municipalities successfully enacting and enforcing ordinances prohibiting youth use of alcohol on private property.
- If you are from a town that has an ordinance prohibiting youth use of alcohol on private property, give them examples and stories about the impact of the ordinance on youth and families.
- Remember, you elect your legislators and they care about your experience and stories on this issue.

4 Speak Out!

Hearings will be held where the public can testify about a proposed law. Be prepared to testify and have facts and stories to support the need and benefits of the proposed law. The committees vote to amend, release, or not release the bill. If they vote in favor of the measure, it goes to the governor.

For more guidance, you can contact your local Childhood Drinking (CD) Coalition for additional information on the proposed legislation and the many facts that support the need for it to be enacted. Find your local CD Coalition on www.starttalkingnj.com.

What can be done to decrease youth use of alcohol and the dangerous consequences?

New Jersey has statewide laws that prevent minors from purchasing alcohol, drinking in public or allowing adults to serve minors on unlicensed premises. However, there are no statewide laws prohibiting the possession or consumption of alcoholic beverages by minors, on private property.



The municipal-level private property ordinances have proven successful in reducing youth use of alcohol within the respective towns, however, sporadic laws enable youth to relocate the “drinking party” to a town that does not have an ordinance prohibiting youth use of alcohol on private property and subjects youth to the dangerous consequences. In order for this law to reach more young people and prevent devastating consequences, it’s necessary to enact a uniform statewide law.

A statewide law prohibiting the youth use of alcohol on private property would help protect youth from the dangers of underage use and binge drinking. Youth who drink on private property often leave in a motor vehicle, so this is also an effective tool for combating drunk driving among New Jersey’s youth.

IN CONCLUSION

It’s very important that young people learn that drinking under the age of 21 is not only dangerous, but is also illegal. Current state law does not provide any consequences to youth who drink on private property and municipal ordinances are random. Youth may perceive the mixed-message as justification that their drinking is socially acceptable. We are civically responsible to provide statewide safety measures that protect our youth.

There is no one answer, nor is there a single strategy to prevent youth alcohol use to keep them safe. Enacting a state law to prevent youth use of alcohol on private property will help address some of the problems that arise from youth use of alcohol. Prevention efforts are more effective when they are combined with laws that prohibit youth use of alcohol and create norms that let young people know that underage drinking is not acceptable and will not be condoned. It is one tool that may help to prevent young people from hurting themselves or others with alcohol or from potentially enduring a lifetime of alcohol-related problems.

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