

THE FPT NEWS

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The Drinking Age in New Jersey

The Law, Myths, and Reality

Almost every day we hear another story about parents who let their teenage kids have a party in their home or about the neighbor's kid who throws a bash while the parents are out of town. In states like New York and Illinois, as well as recently in Glen Ridge, New Jersey, we learn of parents being criminally prosecuted for allowing such parties to take place in their homes - their initial ignorance defense of, "I was upstairs and did not know what was going on," either rejected or withdrawn. Across the country, the academic community was rattled when the Mercer County Prosecutor obtained criminal indictments of college administrative personnel related to the death of a Rider University freshman from alcohol poisoning on the theory that these academic bureaucrats must have had a general idea that drinking took place in campus residence halls and fraternities.

Closer to Home

All parents of teenagers have to deal with the myriad times their teenager will say, "Jimmy's parents let him do it, why don't you let me?" You might even have a stock, explanatory answer to cover any number of topics before you reach the inevitable, "because I said so."

When it comes to drinking alcohol, most parents say, "because it's against the law until you're 21." It seems so obvious an answer, not to mention it casts the "blame" for the kid's plight away from your parental decision making powers and upon the overwhelming power of the State of New Jersey. Yet, if the kid is typical, in time the subject arises of wine at Passover Seders, toasts on New Year's Eve, and other special occasions. Do not worry; you are not being a hypocrite. The law is. There is no question that when it comes to

purchasing alcoholic beverages, we have a bright-line rule in New Jersey - you have to be at least 21. But to consume alcohol? The line is not so bright.

Are You Ready for This?

New Jersey law actually permits "underage" drinking under limited circumstances. First, a kid may drink if the drinking is part of a religious observance, ceremony, or rite. No surprise here. Most parents, however, are surprised to learn that they may permit their underage kids to drink at home. Moreover, if you and the kid are in someone else's home, and the kid has the host's permission and yours, the kid can drink legally. See N.J.S.A. §§2C:33-17(b) and 40:18-1.2 (c).

Note the requirements VERY carefully: (1) a private home; (2) host's permission; (3) parent or guardian's physical presence; (4) parent or guardian's permission; and (5) the parent/guardian and the host are of legal age.

Let's Be Clear

You cannot take the family to a bar or restaurant and order the kid a drink. You cannot let the kid drink at a wedding reception held at a catering hall (no matter how splashy). You cannot let the kid walk around with a beer at the volunteer firefighters' picnic or a glass of wine at the art gallery. But in your home, you may allow use of alcohol for your kid. Thus, a parent is on firm ground when the kid wants to host a kids-only party, but there is no passing of the buck if the kid wants to have a beer with the dad in the living room or wine at the family dinner table. The choice is yours.

Believe it or not, some kids are pseudo-savvy about the law and have convinced their parents that all they need is a parent's written permission slip and it's ok for them to drink. Some kids actually walk around with permission slips in their wallets and

purses. One of our clients was so convinced of her kid's view of the law, she collected the permission slips (and car keys) at her front door when she allowed the kid to host a beer bash. Well, imagine her angst when advised that the permission slips were worthless unless the parent or guardian attended the bash, too.

Public Policy Goals

The public policy behind New Jersey's alcohol consumption law seems clear: Parents are permitted to teach their underage kids how to drink responsibly in the home setting, whether it is a holiday event, family dinner, or Monday Night Football. Presumably, as adults with children, we have learned how to drink responsibly ourselves and can show our kids that you do not have get hammered and out of control to have a good time.

The whole issue of the drinking age is bound to arise politically as the war in Iraq and Afghanistan goes on. Is it rational to bestow the awesome responsibility of protecting our freedom on someone underage but deny the same man or woman a drink? We may remember when the drinking (and voting age) was first reduced to 18 back in the 1960's and 1970's - the Vietnam War Era. Well, history does seem to have a way of repeating itself.

Now some believe that kids will drink irresponsibly no matter what parents do, and in large measure this is correct. We all get the occasional reminder or even know of or have been personally touched by the tragedy of underage drinking and driving. Nevertheless, research suggests that kids - even the most misbehaved kids - model their conduct on their parents and take

heed of what their parents say (even if they do not always adhere to it). So along with that talk about sex and drugs parents should have with their kids, talk about alcohol use, too.

Stand on Firm Ground

The next time you hear, "Jimmy's parents let him drink" or "everyone else has parties," you do not have to be so dismissive. You might even try saying, "You can go to Jimmy's - provided I am invited, too," or "You can have a party - provided each guest arrives with a parent." Sure, the kid will scoff at first, but if enough parents did it, who knows? The kid might actually learn something.

There are other legal issues about underage drinking not addressed here, such as social host liability and the driving laws. And we certainly do not advocate underage drinking. For more information, check our website and consult with an attorney. - *Alan C. Thomas*

For more information or to learn about our law firm's services and experience, see our website at www.fpmtlaw.com or call telephone number (201) 569-5959 and ask to speak with one of our partners:

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