

7. Social Host Liability

CSAP Primary Prevention Strategies

- Information dissemination
- Community-based process
- Environmental

Strategy

Social host liability laws hold adults accountable for serving or providing alcohol to minors. They also hold adults responsible for underage drinking that occurs on property they own, lease or otherwise control.

In some states, social host liability is covered under dram shop law. Dram shop liability refers to a drinking establishment's potential financial liability for serving or selling alcohol to an intoxicated or underage person who later causes injury to themselves or a third party. However, dram shop law normally only covers commercial services and not individuals.

Note that social host laws vary by state. Some state laws may only target those who provide alcohol to underage youth. In addition, social host liability ordinances may provide a combination of criminal and civil penalties, ranging from fines, jail time, administrative fees and response costs.

Key Terms

- 1. State-level social host civil liability:** Imposes, by statute or court decision, a civil duty on social hosts across the relevant state that can be enforced through litigation brought by injured private parties seeking monetary damages against the host.
- 2. State-level social host criminal liability:** Involves a violation enforced through criminal prosecution and leading to criminal sanctions, such as fines or imprisonment. Social host criminal liability is closely linked to state laws prohibiting individuals from furnishing alcohol to youth under the age of 21.
- 3. City or county criminal infraction:** Social host liability is treated as a criminal matter, but the punishment, at most, is a monetary fine.
- 4. City or county criminal misdemeanor:** Social host liability is treated as a misdemeanor, carrying possible jail time as a penalty.
- 5. City or county civil or administrative citation; city or county response costs recovery:** Offenders face no criminal penalties, no criminal monetary fines and no jail time. Instead, these ordinances declare an underage drinking party on private property a civil public nuisance, which threatens the public health, safety and general welfare.
 - a. Under city or county civil or administrative citation ordinances, persons who own, lease or otherwise control the property on which an underage drinking party occurs are civilly responsible for civil or administrative monetary penalties for allowing an underage drinking gathering to occur on the property.
 - b. Under city or county civil response cost recovery ordinances, persons who own, lease or otherwise control the property on which an underage drinking party occurs are civilly responsible for the associated costs of police, fire or other emergency response services. The ordinance allows local governments to recover the cost of police officers and court time to respond to the offense.

Considerations for Planning

Surveys of youth show that the most common source of alcohol is their own home or from persons over the age of 21 who purchase alcohol for them. Social host liability laws may deter parents and other adults from hosting underage parties and purchasing/providing alcohol for underage youth.

Unfortunately, some adults believe underage drinking is just a part of growing up and they turn their backs on underage drinking. In some cases, parents even encourage alcohol consumption by hosting parties with alcohol for minors at their residence. Often, parents underestimate the hazards and consequences of alcohol use by minors. For teens, drinking is often viewed as a rite of passage and they begin to expect fewer rules and restrictions. As you begin to plan for this strategy, consider the possible opposition to implementing social host liability laws.

In spite of possible resistance to this strategy, research shows social host liability laws are effective. An analysis of all 50 states shows that social host laws help reduce drinking and driving, as well as heavy drinking.

Fundamental Steps

1. Determine whether or not your state has a social host liability law. Go to www.socialhost.org for information on social host ordinances and much more. If your state already has social host liability laws in place, evaluate their comprehensiveness and enforcement. Determine any gaps with the current law. If there is no law or ordinance in place, it will be necessary to mobilize the community for support and assistance before attempting to enact any new laws or regulations.
2. Review existing data that show underage youth are accessing alcohol from their home or from someone who is over the age of 21. Determine how the availability and access to alcohol contributes to underage drinking and other alcohol-related problems in the community. Also, examine other sources of alcohol distribution within your community. Establish a case that demonstrates how a social host liability law could limit the access and availability of alcohol, as well as reduce the alcohol-related problems in your community.
3. Obtain and strengthen community support for this strategy from parents, merchants, law enforcement, elected officials and other key community members. Increase public awareness by demonstrating the relationship between underage drinking laws and alcohol-related problems in the community. Inform them of the purpose of the law and how it can protect youth and the community from alcohol-related problems. Emphasize how these laws and ordinances can act as a strong deterrent in adults providing alcohol to minors and/or intoxicated individuals.
4. If gaps have been identified within the current law, begin to draft a template to enhance legislation that appropriately addresses the concerns of your community. If no social host liability law or ordinance exists, draft a comprehensive law that addresses the identified problems.
5. Hold individual meetings with those who are in key positions to affect change (e.g., local representatives, law enforcement, elected officials, insurance agencies, neighborhood organizations). Distribute examples of the suggested new or revised regulations on social host liability and obtain their support.

6. Meet with city council members, county commissioners and other identified elected officials. Provide them with an example of the new or revised regulations. Work with them to enact the suggested regulations on social host liability within your local community.
7. Work with law enforcement to ensure that any current laws or ordinances are being enforced on a consistent basis.
8. Identify immediate, intermediate and long-term outcomes of the strategy. Continue to monitor and evaluate progress.

Helpful Tips and Suggestions

Establishing Support and Obtaining Partners

Consider what specific organizations and agencies are within your community that would invest in this strategy. Contact local insurance agencies, local merchants and businesses, parent groups and other organizations that might be directly impacted by the social host liability laws. Highlight the relationship between easy access to alcohol and increased alcohol-related problems in the community. Inform parents and other adults that they are breaking the law and contributing to alcohol-related problems when they provide alcohol to youth.

Media Awareness and Advocacy

- Hold a press conference describing the data collected about the number of alcohol-related problems that occur in the community. Discuss how implementing social host liability laws can reduce alcohol-related problems as well as economic costs to the community. Identify individuals who are affected by this issue and can serve as credible spokespeople. Feature those people at your press conference.
- Be prepared to educate parents about other risks (falls, fights, accidents, alcohol poisoning, unplanned, unwanted or unprotected sexual encounters) involved with allowing youth to drink in their home or on their property.
- Try to get media coverage of the problem. Stage a press conference near or at an area where there are, or have been, a large number of parent-hosted parties.
- Issue press releases highlighting key activities and important events, such as public hearings, on potential social host liability ordinances or laws.
- Write letters to the editor about the problems caused by the lack of social host liability laws.
- Write an editorial in your local newspaper and explain the issue clearly and quickly, and identify how social host laws will help.

Potential Partners

- Local media – television and newspaper
- Local, county and state law enforcement agencies
- Local/state liquor control commission
- Parents
- Youth
- Local substance abuse prevention agencies
- Local/state health department
- Local businesses

Estimated Timeline

- Six to nine months for the planning, implementation and evaluation of the strategy
- Possibly 12-18 months of enacting new legislation

Potential Barriers or Obstacles

- Inability to obtain support from community members
- Opposition from local businesses and the alcohol industry
- Lack of support from legislators

Possible Short- and Long-term Outcomes

- Reduction in the number of youth who report obtaining alcohol from home or another residence
- Reduction in the number of private parties providing alcohol to minors
- Reduction in alcohol-related crashes, injuries and fatalities
- Rates of youth DUI arrests
- Rates of adults arrested for providing alcohol to youth
- Rates of adults arrested for violating social host liability laws
- Attitudes and awareness of social host liability laws
- Support for social host liability laws

Suggested Resources

Supplemental Resources Related to this Strategy

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Additional Resources and Information Available at faceproject.org

Links (A browser document called "Helpful Links" is located on the Resource CD for easier navigation.)

www.alcoholpolicy.niaaa.nih.gov/Prohibitions_Against_Hosting_Underage_Drinking_Parties.html?tab=Maps

Alcohol Policy Information Service website on state ordinances against hosting underage drinking parties.

www.lcpsa.com/uploads/Social_Host_ordinance_final.pdf

Linn County, Iowa social host ordinance adopted 3-5-2009.

www.socialhost.org

Your online source for information about social host ordinances and more.

Summary: Open House Assembly Ordinance

The proposed ordinance holds adults responsible for underage drinking at parties on their property or on-premise under their control. This ordinance applies to parties at hotels and motels, as well as at private homes, in meeting rooms or other rented facilities.

Proposed Ordinance OPEN HOUSE ASSEMBLY

Section 1. Definitions.

Adult – A person 18 years of age or older.

Alcoholic Beverage – Any beverage containing more than one-half of one percent alcohol by volume.

Residence or Premises – A hotel or motel room, home, yard, apartment, condominium or other dwelling unit, or a hall, meeting room or other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for social functions and whether owned, leased, rented or used with or without compensation.

Open House Assembly – A social gathering of three (3) or more persons at a residence, other than the owner or those with rights of possession or their immediate family members.

Control – Any form of regulation or dominion including a possessory right.

Section 2. Prohibition.

1. No adult having control of any residence or premises shall allow an open house assembly to take place or continue at this residence or premises if:
2. At the open house assembly any person under the age of twenty-one (21) years possesses or consumes any alcoholic beverage in violation of Minnesota Statute section 340A.503.
3. The adult knows or reasonably should know that a person under the age of twenty-one (21) years will or does possess or consume any alcoholic beverage at the open house assembly in violation of Minnesota Statute section 340A.503.
4. The adult fails to take reasonable steps to prevent the possession or consumption of the alcoholic beverage by such persons under the age of twenty-one (21) years in violation of Minnesota Statute section 340A.503.

Section 3. Presence of Adult. Whenever an adult having control of a residence or premises is present in that residence or premises at the time of the violation of Section 2, it shall be prima facie evidence that such person knew of this violation.

Section 4. Protected Activities. The provisions of this section shall not apply to legally protected religious observances.

Section 5. Repealer. All ordinances or parts of ordinances are repealed only to the extent necessary to give this ordinance full force and effect.

Section 6. Penalties. The penalties for violation of this section shall be as follows:

1. For the first violation, a fine not exceeding fifty dollars (\$50).
2. For subsequent violations, a fine not less than one hundred dollars (\$100) and not exceeding seven hundred dollars (\$700).

This ordinance shall take effect immediately.

Sample Ordinance

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF DUBLIN
ADDING CHAPTER 5.94 TO THE DUBLIN MUNICIPAL CODE
RELATING TO UNDERAGE DRINKING**

The City Council of the City of Dublin does hereby ordain as follows:

Section 1. Chapter 5.94 shall be added to the Dublin Municipal Code to read as follows:

**Chapter 5.94
SOCIAL HOST ORDINANCE**

Sections:

- | | |
|----------|---|
| 5.94.010 | Purpose. |
| 5.94.020 | Definitions. |
| 5.94.030 | Hosting, permitting or allowing a loud or unruly gathering. |
| 5.94.040 | Exceptions. |
| 5.94.050 | Reasonable steps to prevent consumption of alcohol; self-reporting. |
| 5.94.060 | Violation – Penalty. |
| 5.94.070 | No mandatory duty of care. |
| 5.94.080 | Preemption. |

5.94.010 Purpose.

- A. To protect the public health, safety and general welfare.
- B. To promote the reduction of underage drinking by imposing penalties on persons responsible for loud or unruly gatherings where alcohol is consumed by, served to or in the possession of minors; thereby enhancing the enforcement of laws prohibiting the consumption of alcohol by minors and reducing the costs of providing police services to parties, gatherings or events by requiring hosts to ensure minors are not consuming alcoholic beverages.

5.94.020 Definitions.

For the purpose of this chapter, the following definitions shall apply:

“Alcohol” shall have the meaning of the definition of “alcohol” in Section 23003 of the

California Business and Professions Code, as that section may be amended from time to time. As of the introduction of this chapter, Section 23003 defines "alcohol" to mean "ethyl alcohol, hydrated oxide of ethyl or spirits of wine, from whatever source or by whatever process produced."

"Alcoholic beverage" shall have the meaning of the definition of "alcoholic beverage" in Section 23004 of the California Business and Professions Code, as that section may be amended from time to time. As of the introduction of this chapter, Section 23004 defines "alcoholic beverage" to include "alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer and which contains one-half of 1 percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances."

"Loud or unruly gathering" means a party or gathering of two or more persons at a residence or on other private property or rented public property upon which loud or unruly conduct occurs and at which alcohol is consumed by minors. Such loud or unruly gatherings include but are not limited to gatherings resulting in:

1. Excessive noise.
2. Excessive traffic.
3. Obstruction of public streets and/or the presence of unruly crowds that have spilled into public streets.
4. Public drunkenness or unlawful public consumption of alcohol or alcoholic beverages.
5. Assaults, batteries, fights, domestic violence or other disturbances of the peace.
6. Vandalism.
7. Litter.
8. Any other conduct which constitutes a threat to the public health, safety or quiet enjoyment of residential property or the general welfare.

"Minor" means any person less than twenty-one (21) years of age.

"Social Host" means any person who permits, allows or hosts a gathering at his or her place of residence or other private property, public place or any other premises under his or her control where alcoholic beverages have been consumed by a minor.

5.94.030 Hosting, permitting or allowing a loud or unruly gathering.

The following shall apply to the permitting, allowing or hosting of a loud or unruly gathering where alcoholic beverages have been consumed by a minor:

- A. Except as permitted by Article 1, Section 4 of the California Constitution, it is unlawful for any person to permit, allow or host a loud or unruly gathering at his or her place of residence, or on other private property or rented public property, if such person either knows or reasonably should have known that a minor has consumed an alcoholic beverage.
- B. A person who permits, allows or hosts a loud or unruly gathering shall be deemed to have actual or constructive knowledge that a minor has consumed alcoholic beverages if the person has not taken all reasonable steps to prevent the consumption of alcoholic beverages by minors as set forth in Section 5.94.050(A) below.

- C. Any person who permits, allows or hosts a loud or unruly gathering shall be rebuttably presumed to have actual or constructive knowledge that minors have consumed alcoholic beverages if such person is present at the premises of the gathering at the time any minor consumes an alcoholic beverage.

5.94.040 Exception.

This Chapter shall not apply to any location or place regulated by the California Department of Alcohol and Beverage Control.

5.94.050 Reasonable steps to prevent consumption of alcohol; self-reporting.

- A. It is the duty of any person who permits, allows or hosts a loud or unruly gathering at his or her place of residence or other private property public place, or any other premises under his or her control, to take all reasonable steps to prevent the consumption of alcoholic beverages by any minor at the gathering. Reasonable steps include, but are not limited to, the following: controlling access to alcoholic beverages at the gathering, controlling the quantity of alcohol beverages at the gathering, verifying the age of persons attending the gathering by inspecting drivers' licenses or other government-issued identification cards to ensure that minors do not consume alcoholic beverages at the gathering and monitoring the activities of minors at the gathering.
- B. A person who hosts a loud or unruly gathering shall not be in violation of this Chapter if he or she seeks assistance from the Police Department or other law enforcement agency to remove any person who refuses to abide by the host's performance of the duties imposed by this Chapter, or terminates the gathering because the host has been unable to prevent minors from consuming alcoholic beverages despite having taken all reasonable steps to do so, as long as such request is made before any other person makes a complaint about the gathering.
- C. A person who hosts a loud or unruly gathering shall not be in violation of this Chapter if any person at the gathering seeks emergency assistance to respond to any medical emergency occurring on the premises.

5.94.060 Violation – Penalty.

- A. Violation of this Chapter shall be an infraction.
- B. Nothing in this Chapter in any way limits any other remedy that may be available to the City, or any penalty that may be imposed by the City, for violations of this Chapter.

5.94.070 No mandatory duty of care.

This ordinance is not intended to impose, and shall not be construed or given effect in a manner that imposes upon the City, or any officer, employee, agent or representative of the City, a mandatory duty of care toward persons or property within and without the City limits, so as to provide a basis of civil liability for damages, except as may otherwise be imposed by law.

5.94.080 Preemption.

This chapter shall not be interpreted in any manner that conflicts with the laws or constitutions of the United States or the state of California.

Section 2. Severability. The provisions of this Ordinance are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Ordinance or their applicability to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall take effect and be enforced thirty (30) days following its adoption.

Section 4. Posting. The City Clerk of the City of Dublin shall cause this Ordinance to be posted in at least three (3) public places in the City of Dublin in accordance with Section 36933 of the Government Code of the State of California.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 20____.

AYES:

NOES:

ABSENT:

ABSTAIN:

Tim Sbranti, Mayor

ATTEST:

Caroline Soto, City Clerk

1193024.8

Sample Letter to State Representative on Social Host Liability Laws

Note: Consult the "government" section of your local phone book, or go to www.house.gov/writerep to find out the name of your local state representative. Contact the representative's office for address information.

Date

Include your name, group name and address

Include your state representative's name and address

Dear Mr. or Ms. Representative:

I am writing to ask for your help in addressing a serious problem in our state – underage drinking. Recent surveys of high school students show that underage kids who drink get up to half of their alcohol from adults. Whether these adults realize it or not, underage drinking has many harmful consequences:

- car crashes
- assault
- addiction
- accidents and suicide
- vandalism
- unplanned, unwanted and unprotected sexual encounters
- teen pregnancy and sexually transmitted diseases

To help keep kids safe by reducing youth access to alcohol, many states have enacted social host liability laws that hold adults either civilly or criminally responsible for supplying alcohol to underage youth. We need these laws in our state, and I'm asking for your help. Please consider championing this issue for the kids of our state.

Feel free to contact me if I can help in any way, and thank you for your consideration.

Sincerely yours,

Your signature and group name

Source: "Social Host Liability: A State Policy to Reduce Access to Alcohol by Underage People," Alcohol Epidemiology Program, School of Public Health, University of Minnesota. 1998. "A Practical Guide to Preventing and Dispersing Underage Drinking Parties," Pacific Institute of Research and Evaluation. 2000.

Sample Letter to the Editor from Law Enforcement

Dear Editor:

The time for proms and graduation parties is upon us. We congratulate the graduates on this milestone in their lives and wish them success, health and happiness in all their future endeavors. Of utmost concern is making this graduation season safe for all participants. Don't let this time be marred by an incident involving alcohol or other drugs.

[Michigan Law] is very specific when it comes to underage drinking; no person under the age of 21 can purchase, possess or consume intoxicants. The first offense is a misdemeanor, carrying a \$100.00 fine, community service and a substance abuse screening. Additionally, anyone under 21 who operates a vehicle after consuming alcohol, regardless of the blood alcohol level, will lose their drivers license.

The law is also very clear on liability associated with hosting a party where alcohol is served. It is against the law to furnish (or sell) alcohol to anyone under the age of 21. A mandatory \$1,000 fine and up to 60 days in jail is the consequence of this action. A party host also has civil liability to think about. Whether the party is in your home, your garage, in an out-building or in a field, if you own the property, you are civilly liable if a person leaves your property after consuming intoxicants and injures themselves or others.

If you are planning on hosting a party where alcohol is going to be consumed, please make sure that no one under 21 is allowed to consume alcohol. Anyone who appears to be intoxicated should not be allowed to continue drinking, and should be given a ride home.

Let's make [insert year] the year when no one is arrested, injured or killed because of celebrations that got out of hand. Let's honor our graduates and ensure their safety and their futures by not allowing alcohol to be part of the party.

Working together, we can make our community a safer and healthier place to live.

Sincerely,

Your signature and group name

Sample Letter to the Editor on Social Host Liability Laws

Note: Follow the instructions in the opinion section of your local newspaper for submitting a letter to the editor. Most newspapers print these instructions in the opinion-editorial section, or you can call the newspaper for instructions.

ISSUE: Social Host Liability Laws Needed in Our State

Recent research of youth across the country shows that underage drinking is more prevalent than we adults could have ever imagined. One survey of high school students showed that underage kids who drink obtain about one-half of their alcohol from adults – oftentimes, from parents themselves. While some adults may think that drinking is just a part of growing up, the following list of problems associated with underage drinking should make us think again:

- car crashes
- assault
- addiction
- accidents and suicide
- death from alcohol poisoning
- vandalism
- unplanned, unwanted and unprotected sexual encounters
- teen pregnancy and sexually transmitted diseases

One way to discourage adults from supplying alcohol to kids is by enacting and enforcing social host liability laws. Many states have enacted these laws that hold adults civilly and/or criminally responsible for providing alcohol to underage youth, or who knowingly allow underage drinking in their homes or on their property.

Although these laws certainly won't eliminate all underage drinking, it is one of the things that we can do to help reduce it here in [NAME OF YOUR STATE]. Join me in writing to our state representatives to quickly enact this type of legislation.

Sincerely,

Include your name here

Source: "Social Host Liability: A State Policy to Reduce Access to Alcohol by Underage People," Alcohol Epidemiology Program, School of Public Health, University of Minnesota. 1998. "A Practical Guide to Preventing and Dispersing Underage Drinking Parties," Pacific Institute of Research and Evaluation. 2000.

Sample News Release – Social Host Liability

Note: Send this release to the local news editor at your newspaper. Call the newspaper for the editor's name and for instructions on submitting the release.

FOR IMMEDIATE RELEASE

Supplying Alcohol to Youth Poses Problems for Adults

Recent surveys show that adults are contributing to the problem of underage drinking – and now they can be held responsible for it. Surveys conducted among high school students indicate that when kids get their hands on alcohol, about half of the time it's from an adult. These adults may be individuals over age 21 that purchase alcohol for their underage friends, but it's also common for underage kids to obtain alcohol from parents themselves.

What adults need to know is that they can be held responsible – criminally and/or civilly – for providing alcohol to underage youth. Increasingly, communities are enacting social host liability laws that allow people to bring civil suits against adults who provide alcohol to underage youth, or who knowingly allow underage drinking in their home or on their property. Each state's laws vary in their provisions. In the state of [INSERT NAME OF STATE], social host liability laws have been enacted. [YOU MAY WANT TO INCLUDE A FEW SENTENCES HERE ABOUT THE SPECIFIC PROVISIONS OF LAWS THAT APPLY IN YOUR COMMUNITY.]

Social host liability laws have been created to help remedy the problems that are undeniably linked with underage drinking: car crashes, recreational vehicle accidents, vandalism, date rape, assault, teen pregnancy and sexually transmitted diseases, accidents, suicide and death by alcohol poisoning.

Social host liability laws are especially relevant as the season for high school proms and graduation parties approach [CUSTOMIZE FOR ANY TIME OF YEAR]. Young adults and parents need to know that if they fail to take responsibility for supplying alcohol to kids, they may find themselves legally responsible.

For more information, contact: [INSERT YOUR NAME AND PHONE NUMBER]

Source: "Social Host Liability: A State Policy to Reduce Access to Alcohol by Underage People," Alcohol Epidemiology Program, School of Public Health, University of Minnesota 1998. "A Practical Guide to Preventing and Dispersing Underage Drinking Parties," Pacific Institute of Research and Evaluation, 2000.