

FAST SOCIAL HOST FACTS LIABILITY

Minors Drink at Home

The movement to keep kids and alcohol separate has had some successes with alcohol retailers, due to heightened awareness of New Mexico's felony law for providing alcohol to minors. *Where* kids drink can be related to the ease with which they are able to obtain alcohol- and increasingly, it is easiest for them to find it at home.

Parents cannot legally give alcohol to their children's friends under the age of 21. Seven out of 10 high school students who drink do so either at their friends' parents' home (51%) or their own parents' home (20%).¹ Of course, some of this drinking is done without parental knowledge, but some is done with the assistance of parents with good intentions -- to keep kids at home and out of trouble.

Good parental intentions are not supported by science-- young people who begin drinking before age 15 are five times as likely to develop alcohol dependence than those who begin drinking at 21.²

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New Mexico provides stiff penalties for giving alcohol to minors:

- **Criminal:** It is a felony for adults to provide alcohol to minors who are not their own children. Minors 18-21 years of age can be charged with misdemeanor possession of alcohol.³
- **Social Host Ordinances:** If you host parties for minors, in some states you can be liable for fines and costs under social host liability ordinances. Communities around the country, and recently in New Mexico, are beginning to consider local ordinances to curtail irresponsible social hosting, especially with regard to minors. One model ordinance developed with assistance from the Pacific Institute for Research and Evaluation provides a way for a county or municipality to charge social hosts (including tenants) and/or landowners (including landlords) for the recovery of specific costs associated with providing law enforcement, fire or other emergency services on multiple occasions to the scene of a loud or unruly party where alcohol is being served to or consumed by minors.⁴ This recovery of costs is a civil matter which does not require proof beyond a reasonable doubt.
- **Nuisance Abatement Ordinances:** Currently, Albuquerque's Party Patrol uses the civil provisions of a

1 New Mexico Youth Risk and Resiliency Survey (YRRS): 2005 Report of State Results. New Mexico Departments of Health & Public Education; Santa Fe, NM, Green, D., Peñalosa, L.J., Chrisp, E., Dillon, M., Cassell, C.M., Tsinajinnie, E. Rinehart, J. & Ortega, W. (2006) page 24., online at <http://hsc.unm.edu/chpdp/Assets/Projects/yrrs/2005%20nm%20yrrs%20statewide%20report%20final.pdf>

2 *The NSDUH Report: Alcohol Dependence or Abuse and Age at First Use* -- SAMHSA's National Survey on Drug Use & Health

3 Section 60-7B-1A and F, New Mexico Statutes

4 See for instance, *Model Social Host Liability Ordinance with Legal Commentary*, Center for the Study of Law and Enforcement Policy, Pacific Institute for Research and Evaluation (Ventura, CA: Ventura County Behavioral Health Department Publication, 2005 at <http://www.venturacountylimits.org/>

general nuisance abatement ordinance when minors are found drinking at loud or unruly parties.⁵ There are two separate actions that can be taken under this ordinance. The first is a criminal action against the person responsible for the nuisance. This could be the person hosting the party where minors were found drinking, or the property owner. The second type of action is civil and remedial and is an action against the property itself. The purpose of this second action is not to punish but to abate public nuisances by removing the property from criminal use, to require that profits from criminal use be removed from criminals and to make property owners vigilant in preventing public nuisances on their property.⁶ Penalties include fines, costs and even **the loss of your home** in a seizure/forfeiture action for repeated violations.

- **Civil Lawsuits:** Another type of social host penalty is monetary. You can be sued civilly for damages that result from giving minors alcohol. Under New Mexico law, if you gratuitously provide alcoholic beverages to a guest in a social setting, you can be civilly liable for damages to any person for bodily injury, death or property damage due to the intoxication of the guest *IF the beverages were provided, "recklessly in disregard of the rights of others, including the social guest."*⁷ This law applies to any guest without age limitations.
- **Keg Registration:** New Mexico requires anyone who buys a keg of beer to provide their name, address and date of birth to the retailer, who records this information together with the control number and the date of purchase for every keg sold.⁸ This information is made available to law enforcement officials upon request. Social hosts who buy kegs of beer that turn up at underage drinking parties may find officers knocking at their door asking questions. This information can be used in both criminal prosecutions and civil lawsuits against social hosts.

What Parents and Communities Can Do:

- Don't provide alcohol to anyone under 21.
- If you hear about a party where alcohol is being served to minors, report it to authorities.
- If your local police department isn't active in curbing underage drinking, go with other concerned parents to talk to the chief to find out why. Find out what you can do to help.
- If your teen has a party, be at home.
- Don't let your teen attend parties where no responsible adults are present.
- Get other parents onboard- talk to the parents of your kids' friends about this issue and get their agreement not to provide alcohol to minors.
- Help teens plan alcohol-free events or help your kids plan alcohol free events in your home. Enlist in the help of other parents.

5 11-1-1-1 et seq. Albuquerque Code of Ordinances

6 Subpart C: Civil Abatement of Public Nuisance Offenses; in Rem Proceedings, Section 11-11-20(A), Intent, Albuquerque Code of Ordinances

7 41-11-1 New Mexico Statutes Annotated, *Tort Liability for Alcoholic Sales or Service*. Youth and inexperience make misuse of alcohol especially likely and therefore more foreseeable when the drinker is under the age of twenty-one. Giving alcohol to a minor (under 21) is a felony, and could also be considered a reckless act.

8 60-7B-12. Beer kegs; labeling; notice, New Mexico Statutes Annotated. A "keg" is a package of beer containing more than six gallons of beer at the time of sale.

