

## **New York Statutes Regarding Alcohol and Persons Under the Age of Twenty-One**

Several New York statutes address the issue of alcohol use by persons under the age of twenty-one. Under the **New York State Alcohol Beverage Control Law**, a person may not sell or provide alcohol to a person under age 21. (ABC Law § 65(1)).

### **Unlawfully Dealing with a Child**

Under NYS Penal Law, the crime of **Unlawfully Dealing with a Child in the First Degree** prohibits providing alcohol to a person under 21. (Penal Law § 260.20(2)). It is no defense that the child acted as the agent or representative of another person, or that the defendant dealt with the child as such. The statute permits giving alcohol "where the tasting or imbibing of alcoholic beverages is required in courses that are part of the required curriculum." Additionally, the Penal Law ban does not apply to the parent or guardian of the minor. (Penal Law § 260.20(2); see also, ABC Law § 65(5)).

A related offense, **Unlawfully Dealing with a Child in the Second Degree**, pertains to a person under age 16 who is present in an establishment where alcohol is provided. This section contains an exception if the child is accompanied by a parent, guardian or an authorized adult. (Penal Law § 260.21(1)(a)). See also, ABC Law § 100(2-b)(a)).

The Alcohol Beverage Control Law allows for suspension of an individual's driver license for attempting to purchase or obtain alcoholic beverages using false identification/proof of age. (ABC Law § 65-b(5)).

### **Endangering the Welfare of a Child**

Providing alcohol to a person under the age of twenty-one when such provision is likely to result in injury or other risk to the welfare of the minor may constitute another crime, **Endangering the Welfare of a Child**. Penal Law § 260.10. The mere presence of a minor at a party where alcohol is served is insufficient. Any person who drives under the influence of alcohol with children as passenger may also be prosecuted for EWOC.

### **Driving by Persons Under the Age of Twenty-One**

New York State has a "zero tolerance" policy for persons under age 21 who drive while under the influence of alcohol. Even if not charged under the DWI or DWAI statutes, a minor with a .02 - .07% B.A.C. faces an administrative hearing and sanctions. (V & T Law §§ 1192-a, 1194-a).

The statute also authorizes judges to immediately suspend at arraignment the junior driver license or learner permit of a person under age 18 who is charged with DWAI or DWI, even without a blood alcohol reading. Courts are also required to notify parents or guardians if a youth fails to appear on a DWI or DWAI charge. (V & T Law § 1193(2)(e),(f)).

### **Unlawful Possession of Alcohol**

The Alcohol Beverage Control Law also prohibits possession with intent to consume alcohol by persons under the age of twenty-one. (ABC Law § 65-c). The ABC statute does not authorize arrest and sets a maximum punishment of no more than 30 hours of "community service".

### **Civil Liability**

New York law provides a cause of action for personal or property damage resulting from intoxication or impairment of a person under 21. (Gen Obl L §11-100 ).