

GRADUATION PARTIES AND ALCOHOL

Legal Ramifications of Underage Drinking

The presence of alcoholic beverages at Edgewood events has been an occasional problem in the past. Obviously, it is in the best interest of all to not have our children consuming alcoholic beverages at the parties, whether or not they will be driving. Hosts may not be aware, however, that they face substantial legal exposure if alcohol is provided.

Under Wisconsin statutes, a parent who is involved in the consumption of alcoholic beverages by an underage person other than one's own child may be charged civilly and prosecuted for such violations. Specifically, the statutes prohibit:

1. Procuring for, selling, dispensing or giving away alcoholic beverages to an underage person.
(Section 125.07 (1) (a)1, Wis. Stats.)
2. Knowingly permitting or failing to take action to prevent the illegal consumption of alcoholic beverages by an underage person on premises owned by or under the control of a parent.
(Section 125.07 (1) (a)3, Wis. Stats.)
3. Intentionally encouraging or contributing to a violation by an underage person of laws relating to alcoholic beverages.
(Section 125.07 (1) (a)4, Wis. Stats.)

A parent who violates these statutes could face a fine of up to \$500 for each violation and, if previously convicted of such violation, a fine as high as \$10,000, along with a jail term up to nine months. Further, a parent could be charged with a separate violation for each underage person involved in the alcoholic beverage consumption. The fact that a parent is not home during an alcohol related party or provides a hotel room for the party does not immunize a parent from charges if they knew of the party and the consumption of the alcoholic beverages. Finally, to the extent the parent knowingly provides alcoholic beverages to a person under 18 years of age, and the person dies or suffers great bodily harm as a result of the alcohol consumption, a parent could be fined not more than \$25,000 or imprisoned for not more than ten years, or both.

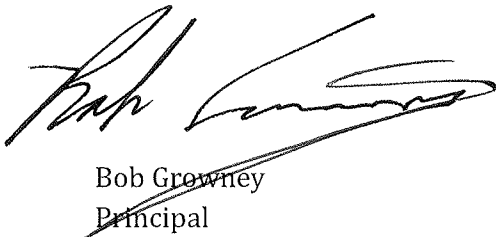
With respect to the underage person, an alcohol-related offense could subject the person to a fine of not less than \$250 nor more than \$500 for the first violation, not less than \$300 nor more than \$500 for a second violation, and not less than \$500 nor more than \$750 for a third violation within 12 months. In addition, the individual may lose his/her driver's license from 30 to 90 days for the first violation, one year for the second violation, and up to two years for the third violation within 12 months. In addition to the alcohol-related offenses of procuring, possessing and drinking alcohol, an underage person is also subject to charges related to identification card violations. Such violations could subject a person under the age of 18 years to a fine of not less than \$100 nor more

than \$500 for the first violation, not less than \$300 nor more than \$500 for a second violation, and \$500 for a third violation within 12 months. For persons between the ages of 18 and 20 such violation could subject them to a fine of not less than \$100 nor more than \$500. Driver's License suspension may also be ordered. In addition to the fines and loss of operating privileges, an underage person may also be ordered to attend alcohol assessment and counseling and/or ordered to participate in a supervised work program.

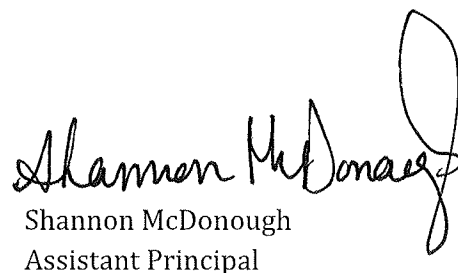
Both parents and students should know that for all persons under the age of 19, the "not a drop" rule applies to operating a motor vehicle, and to the extent a driver under the age of 19 exhibits any evidence of alcohol consumption, they may be charged with an offense which will result in a 90-day driver's license suspension. In such an event, the cost of auto insurance would rise dramatically.

In addition to the above civil and criminal penalties, under the Wisconsin Supreme Court decision of Koback v. Crook, it is negligence per se to furnish alcoholic beverages to minors in a social setting. The parents were found liable for substantial monetary damages to an injured passenger in a motor vehicle operated by a minor who had consumed alcohol at a graduation party hosted by parents. The court's rationale would likely apply to parents who merely condoned the presence of alcoholic beverages at the party. Homeowner insurance policies may not cover such damages.

(Reviewed by Edgewood Attorney, Joseph Boucher 2016)



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