

A Community Education Tool: Frequently Asked Questions About Social Host Liability

What is a Social Host? Any person who allows an event or gathering to take place on property they are in control of and/or a person who organizes such an event or gathering.

What is a Social Host Ordinance? A social host ordinance is a municipal criminal law that holds hosts accountable if they allow minors other than their own children to consume alcohol on private property at parties or gatherings.

Why focus on house parties? House parties have repeatedly been identified as the primary source by which youth obtain alcohol. We're doing a pretty good job preventing commercial sales to minors, but there is work to be done to reduce underage access in social settings. Research shows that kids whose parents or friends' parents provide alcohol for teen get-togethers are more likely to engage in heavier drinking, to drink more often and to get into traffic crashes. (USDHHS- NIH- NIAAA - "Make a Difference")

Are social host laws effective? A national study found that social host liability laws lowered the probability of binge drinking and drinking and driving among all drinkers. (Stout and Davies 2000). Social host ordinances are enforcement and educational tools designed to change community social norms relative to underage drinking and reduce youth access to alcohol. Currently 23 states have social host statutes and over 150 communities have enacted social host liability laws. Anecdotal evidence from law enforcement officials indicates that social host ordinances seem to be effective tools in reducing the number and size of underage drinking parties. Helena was the first city in Montana to pass a social host ordinance, Billings and Great Falls have since followed suit.

What is binge drinking and how does it relate to house parties? Binge drinking is defined as having 5 or more drinks in one sitting for males and 4 or more drinks in one sitting for females. Montana teens report one of the highest binge drinking rates in the nation and Lewis and Clark County 12th graders report a rate higher than the Montana average. Because alcohol is often freely available and drinking games are common at house parties, binge drinking often occurs. This heavy drinking is strongly associated with injury, motor vehicle crashes, violence, sexual assaults, unintended pregnancies and sexually transmitted diseases. Research proves that binge drinking can seriously damage the developing adolescent brain.

Don't most of the large underage drinking parties happen when the parents aren't home? Under this social host ordinance, persons between the ages of 18 and 20 can also be cited for hosting underage drinking parties. A parent could only be cited if it's proven that he/she knew about the event and didn't take reasonable steps to prevent it.

If I'm away from my home and my child hosts an underage drinking party, would I be held responsible? Under Helena's social host ordinance, adults are not responsible for hosting the party if they are away from home and youth hold a drinking party without their knowledge. A teen or other person in control of the house could be cited for hosting the party in addition to possessing alcohol. Under other state statutes and case law, the owner of a home may be held liable for injuries or other consequences that occur regardless of whether or not the homeowner is present. The social host ordinance does not change existing state law.

We already have a law against contributing to the delinquency of a minor. Isn't that enough? Under existing law, adults are prohibited from providing alcohol to persons under the age of 21 other than their own son or daughter. However, there is often little legal recourse a community can take to hold accountable adults/minors who know of and allow alcohol consumption by underage youth at home parties. The Social Host Ordinance helps to fix this gap in the law.

Does a Social Host Ordinance make it illegal for parents to give alcohol to their own child? No. Montana Code Annotated 16-6-305 allows for a parent to provide alcohol to their underage child in non-intoxicating quantities.

16-6-305. Age limit for sale or provision of alcoholic beverages -- liability of provider. (1) (a) Except in the case of an alcoholic beverage provided in a nonintoxicating quantity to a person under 21 years of age by the person's parent or guardian, physician or dentist for medicinal purposes, a licensed pharmacist upon the prescription of a physician, or an ordained minister or priest in connection with a religious observance, a person may not sell or otherwise provide an alcoholic beverage to a person under 21 years of age.

(b) A parent, guardian, or other person may not knowingly sell or otherwise provide an alcoholic beverage in an intoxicating quantity to a person under 21 years of age.

(c) For the purposes of this section, "intoxicating quantity" means a quantity of an alcoholic beverage that is sufficient to produce:

(i) a blood, breath, or urine alcohol concentration in excess of 0.05; or

(ii) substantial or visible mental or physical impairment.

(2) A person is guilty of a misdemeanor who:

(a) invites a person under the age of 21 years into a public place where an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for the person;

(b) permits the person in a public place where an alcoholic beverage is sold to treat, give, or purchase alcoholic beverages for the person; or

(c) holds out the person to be 21 years of age or older to the owner of the establishment or to the owner's employee.

(3) It is unlawful for any person to fraudulently misrepresent the person's age to any dispenser of alcoholic beverages or to falsely procure any identification card or to alter any of the statements contained in any identification card, including a tribal identification card.

(4) A person 21 years of age or older who violates the provisions of subsection (1)(b) is, in addition to applicable criminal penalties, subject to civil liability for damages resulting from a tortious act committed by the person to whom the intoxicating substance was sold or provided if the act is judicially determined to be the result of the intoxicated condition created by the violation.

I don't see anything so wrong with youth drinking at someone's residence, where there is a responsible adult supervising. If they're going to drink, isn't this the best kind of setting in which it could happen?

- First and foremost, it's illegal. (Excepting Montana Code Annotated 16-6-305) What message do we send when we tell our kids it's okay to break the law?
- Secondly, we should not assume that teens are going to drink and use drugs no matter what. Helena youth have told us to raise our expectations when it comes to underage drinking.
- Underage drinking is both a public health and public safety issue. Carroll College reports alcohol abuse as the number one public health issue on campus. We understand much more now about the negative and possibly long term effects of alcohol on the teen brain. Alcohol can permanently damage the developing adolescent brain. 18 to 20 year old drivers in Montana have the highest DUI related fatality rate in the state.
- Do adults really supervise these parties? As mentioned earlier, house parties pose serious health and safety issues.
- Where will the party be tomorrow or next week?

Does this violate my property rights?

A Social Host Ordinance does not negatively impact anyone who does not permit those under the age of 21 to drink alcohol in their homes or on their property. As long as you don't break the law, you will not be cited. If you willingly violate the social host ordinance, you could be cited.

In summary: Helena's social host ordinance addresses the problem of underage drinking by closing the loophole that makes it easier for teens to access alcohol where they most frequently do, in a social setting. Reducing easy access to alcohol by youth in turn reduces binge drinking. The social host ordinance holds teens and adults accountable for allowing or organizing underage drinking in a social setting. It gives parents an additional reason to say "no" to teen parties that include alcohol and provides our community one more opportunity to prevent tragedy rather than react to it. Social host ordinances are simply one strand of an effective multi-pronged approach to change an environment that allows our youth easy access to alcohol. **Finally, the ordinance reinforces a message from the community that underage drinking is unhealthy, unsafe and unacceptable.**