

Spencer County, Kentucky
Ordinance 14
Fiscal Year 2007 Series

**An Ordinance Imposing Liability on Social Hosts who Allow Minors to
Obtain, Possess, or Consume Alcoholic Beverages at Parties**

Whereas, it has been determined that minors often obtain, possess, or consume alcoholic beverages at parties held at private residences or private premises that are under the control of an adult who knows or should know of the illegal conduct, but fails to stop the conduct; and

Whereas, the underage consumption of alcoholic beverages poses an immediate threat to the public health, safety and welfare in that it results in an increase in alcohol abuse by minors, physical altercations, violent crimes including rape and other sexual offenses, accidental injury, neighborhood vandalism, and excessive noise disturbance, all of which may require intervention by law enforcements; and

Whereas, large social gatherings that require law enforcement intervention takes away valuable resources from other service calls within the county, thereby placing the community at an increased risk due to minimal level of police protection; and

Whereas, the prohibitions found in this ordinance are reasonable and expected to deter consumption of alcoholic beverages by minors by holding responsible adults who know of, or should know of, the illegal conduct yet fail to stop it;

Now Therefore, Be It Ordained by the Fiscal Court of Spencer County, Commonwealth of Kentucky, as follows:

Section 1: Definitions. The terms used in this ordinance have the meaning provided by state law except as expressly provided herein.

- a. An "adult" is any person over the age of twenty-one (21) years.
- b. An "alcoholic beverage" includes any liquid or solid material intended to be ingested by a person which contains ethanohol also known as ethyl alcohol, drinking alcohol, or alcohol, including, but not limited to intoxicating liquor, malt beverage, beer, wine, spirits, liqueur, whiskey, rum, vodka, cordials, gin, and brandy, and any mixture containing one or more alcoholic beverages. Alcoholic beverages include a mixture of one or more alcoholic beverages found or ingested separately or as a mixture.
- c. "Enforcement services" represents the actual amount of time spent by law enforcement personnel in responding to, or in remaining at, a party, gathering, or event at which a minor obtains, possesses, or uses alcoholic beverages including, but not limited to,

the salaries, benefits of such personnel, the actual costs of medical treatment incurred by such personnel; administrative costs attributable to the costs related to the enforcement of this ordinance.

d. A "family gathering" is a gathering where each minor present is supervised by his or her parent or legal guardian.

e. A "legal guardian" is a person who is lawfully vested with the power and charged with the duty of taking care of a minor.

f. A "minor" is any person under the age of twenty-one (21) years.

g. A "parent" includes any person who is a natural parent, and adoptive parent, a foster parent, or a stepparent.

h. A "party" is a gathering or event at which a group assembles for a social occasion or activity at a private residence or private premises.

i. "Private residence" is the place where one actually lives or has his or her home.

j. "Private premises" is privately owned land, including appurtenances or structures on the land.

j. A "social host" is an adult who permits a party where one or more minors consume one or more alcoholic beverages on property owned or controlled by the adult.

Section 2. Prohibition. The underage consumption of alcoholic beverages by minors poses an immediate threat to the public health, safety and welfare within any area of the county is hereby prohibited and declared to be unlawful. No adult who owns or controls a private residence or private premise shall allow a party to take place or continue at said residence or premises if a minor at the party obtains, possesses, or consumes any alcoholic beverages and the adult knows or reasonably should know that the minor has obtained, possesses or is consuming alcoholic beverages at the party.

Section 3. Prima Facie Evidence. Whenever an adult having control of the residence or premises is present at that residence or premises at the time that the minor obtains, possesses, or consumes any alcoholic beverage, it shall be prima facie evidence that such adult had the knowledge or should have had the knowledge, that the minor obtained, possessed, or consumed an alcoholic beverage at the party.

Section 4. Protected Activities. This ordinance shall not apply to legally protected religious activities or gatherings of family members.

Section 5. Enforcement Authority. The County Attorney, the County Sheriff, and the City Police Chief are authorized to administer and enforce the provisions of this ordinance.

The County Attorney, the County Sheriff, the City Police Chief and the Office of Alcoholic Beverage Control (ABC) may exercise any enforcement powers provided by law.

Section 6. Penalties.

a. As per KRS 530.070, any person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to a minor is guilty of a Class A misdemeanor.

b. Any person who violates subsection b, above, by purchasing an alcoholic beverage for a minor and the minor thereafter consumes the alcohol and there proximately causes great bodily injury or death to himself, herself, or any other person, is guilty of a Class A misdemeanor.

c. A social host who permits alcoholic beverages to purchased, possessed or consumed by a minor guest is guilty of a Class A misdemeanor and may be held liable for injuries sustained by third parties, including law enforcement personnel, as a result of the minor guest's negligence.

d. Any person who violates subsections a-c by furnishing an alcoholic beverage or by causing an alcoholic beverage to be furnished to a minor shall be punished by a fine of Two hundred dollars (\$200) for first offense, Three hundred dollars (\$300) for second offense, and Five hundred dollars (\$500) for third offense, no part of which shall be suspended, and the person shall be required to perform not less than twenty-four (24) hours of community service during the hours when the person is not employed and is not attending school. Ten percent (10%) of the fine shall go to the Spencer County Community Action Network (CAN) for alcohol prevention activities, media messages, and/or education.

e. A minor acting as a social host with no parents or guardians present shall be guilty of violating subsection c and shall be subjected to the penalties prescribed in subsection d.

f. A social host shall be liable for the cost of providing law enforcement services in response to a party in which minors have obtained, possessed, or consumed alcoholic beverages. Such costs include reasonable attorney's fees in the event of litigation.

g. Each incident in violation shall constitute a separate offense.

Section 7. Severability. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provision of this ordinance which can be given effect without the invalid provision or application, and to this end the provision of this ordinance are declared to be severable.

Section 8. Effective date. This ordinance shall take effect and be in full force sixty (60) days after its adoption and publication as prescribed by law.

Given first reading and approval on _____.

Given second reading and adoption on tabled indefinitely

David Jenkins
Spencer County Judge Executive

Attest:

Judy Puckett
Spencer County Fiscal Court Clerk