

**Wisconsin's Social Host Law:****Sanctioning Adults Who Allow Underage Drinking on Property They Control**

Wisconsin's revised Social Host Law has been in effect a year. This memo reviews the provisions of the law, local implementation and how community groups can include it in their plans to prevent and reduce underage drinking.

Wisconsin's Social Host Law makes it illegal to provide a location for underage drinking.

**It sanctions:**

- Adults (age 18 and older)
- Who "knowingly permit" or "fail to take action to prevent" underage drinking
- On property the adult owns and occupies *OR*
- Occupied by the adult and under their control
- Includes hotel/motel rooms, bed & breakfasts, cabins/cottages or campgrounds an adult has rented

**Sets consequences:**

- While providing a location for underage drinking illegal, it is not a crime.
- Violations carry a \$500 forfeiture for a first offense.
- Subsequent offenses may include from 30 days to nine months in jail.

**It remains allowable to allow underage drinking when:**

- Alcohol is provided as part of a religious services
- Alcohol is served to underage persons accompanied by their parent, guardian or spouse of legal drinking age<sup>i</sup>

**Interpretations May Differ:**

Even when laws and ordinances are identical, the interpretation may vary between jurisdictions. Some jurisdictions may provide guidance to their law enforcement agencies on how to interpret specific laws and potential violations to meet the circumstances of the community. Interpretations can also change over time as situations faced by law enforcement change.

For example, how municipalities determine whether an adult "***failed to take action to prevent***" underage drinking could differ. Some communities may decide that failing to secure alcohol already on the property is failing to prevent underage drinking, while other municipalities may adopt a different standard. The phrase "***knowingly permit***" is also open to interpretation.

In some parts of Wisconsin, the terms “*occupy*” and “*control*” could suggest the adult must be in the structure where underage drinking occurs, while in rural portions of the state, outbuildings, barns or even docks could be considered under the adult’s control. These are issues the police and local prosecutors will consider when the circumstances require it. However, if a municipality interprets the law too broadly, the courts might determine that they have overreached, as happened in 2017 when an Appellate Court ruled that local ordinances that made it illegal to provide a location for underage drinking were invalid since they went further than state law.<sup>ii</sup>

Remember also, the term *social host* is generic and used differently in other states, and explanations or advice from other states may not apply in Wisconsin.

### **How the State Law Works Locally:**

Most Wisconsin municipalities have adopted Wisconsin State Statutes, Chapter 125<sup>i</sup> (the portion of state law regulating alcohol) into their local ordinances, a step permitted so that offenses can be prosecuted as ordinance violations in municipal court. This step has no impact on the legality or illegality of any act—when state government makes something illegal, it is illegal throughout the state. What changes is whether the violation is charged as a state violation in Circuit (County) Court or as a city, village or town ordinance violation in municipal court.

Many—but not all—municipalities adopted Chapter 125 in a way that assures changes made at the state level are also adopted by the municipality. When the state law changes, the municipal code also changes automatically.

But some municipalities must adopt each change in state-level alcohol policy as they occur. The municipal clerk knows if this step is necessary in your municipality. In those cities, villages and towns, failure to adopt the new language *does not* make it legal to provide a location for underage drinking; it simply requires any citation to be written as a violation of state law until the change is adopted locally. In some situations, citations may be written as a violation of state law, while remaining a civil violation and not a crime.

### **Role for Community Coalitions:**

Community coalitions working with local police and schools can support enforcement of this law by making it clear that the community does not condone illegal underage drinking anywhere and looks unfavorably upon adults who allow such drinking in their homes or other property under their control. Successful police enforcement depends on community support; it is essential for community coalitions to be vocal advocates for enforcing the new Social Host Law. When law enforcement issues a citation it may appear in local news reports. Some community groups or coalitions have called local alders or trustees to support police efforts to reduce locations where youth can drink illegally.

Consider using state supported efforts and April Alcohol Awareness Month campaigns to educate the community about this law. The message is simple: **it is illegal for anyone over age 18 to provide a location for underage drinking anywhere in Wisconsin.** This message helps reduce youth access to alcohol—the most effective way to prevent underage drinking.

### Resource

Please feel free to contact Julia if you have any questions about the Social Host Law and its implementation.

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<sup>i</sup> Wis. Stat. 125.07(a)1. No person may procure for, sell, dispense or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

<sup>ii</sup> *Cnty. of Fond Du Lac v. Mucbe*, 2016 WI App 84, 372 Wis. 2d 403, 888 N.W.2d 12.