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Underage drinking parties open door to liability

by Lucinda Masterton

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Lexington, KY - What can be done about underage drinking? The idea of playing host to gatherings that involve underage drinking as a means of controlling them has become more common, although often with devastating results. "Kids are going to drink anyway," some parents argue, "and I would rather know where my kids are, so I have them invite their friends over here and they party in the backyard. Of course, I make them throw their car keys into a basket, so I know they are safe."

But exactly how safe are the kids, or the condoning adults?

Before parents open their homes to underage drinking parties, it's important to consider the potential consequences, including the host's potential criminal liability, the host's potential civil liability, and most importantly, the danger to the kids.

Potential criminal liability

Parents who are hosting underage drinking parties are not helping their kids. They are breaking the law.

It is hard to imagine that any adults do not know that it is illegal to provide alcoholic beverages to kids, considering that there are signs in every liquor store. But apparently people are ignoring the very real possibility of prosecution for allowing drinking parties in their homes.

In Kentucky, a person is "guilty of unlawful transaction with a minor ... if he knowingly sells, gives, purchases or procures any alcoholic or malt beverage in any form to or for a minor". KRS 530.070(1).

Also, "No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages." KRS 244.085(3).

According to Lee Turpin, director of litigation for the Fayette County Attorney's office, hosts need to understand that they can be criminally charged under these statutes. The charges are Class A misdemeanors; if convicted the hosts face penalties of up to 12 months in jail and a \$500 fine for each occurrence. For the first offense, they probably would wind up with probation, but, depending on the circumstances, there could be some jail time. Turpin said, "There is no standard offer for that offense, but it would not be just a fine." She also cautioned that the Cabinet for Health and Family Services could be involved; in the most extreme case, the children might be removed from the parents' care.

According to a recent CNN article entitled "Teen drinking leads to crackdown on 'cool' parents," teen binge drinking is reaching epidemic proportions. There is a nationwide movement to enact "social hosting" laws, which would allow for hefty fines for people whose homes are venues for underage drinking parties; many of these laws hold the homeowners liable regardless of whether they knew about the parties. The MADD Web site lists the states and communities which have enacted these laws, and the list is growing.

Potential civil liability

Don't people remember what it was like to be a teenager? It is simply not enough to take away the car keys. What about the kids who pass out? What if they drown in their vomit? What if they succumb to alcohol

poisoning, and no one sees them in time to get them to a hospital? And what about the kids who are so determined to drive that they find the extra set of keys, drive off, and cause a wreck? Or kill someone?

Do these people really want to be sued?

Currently, there is no social host liability in Kentucky, but a majority of states have social host liability in some form, and a recent Kentucky federal case forecasted that it is just a matter of time before we have it here. In *Vosnick v. RRJC, Inc.*, a 2002 case, Judge Hood predicted that “Kentucky would recognize a cause of action against social hosts ... for serving alcohol to minors...”

But that is what homeowners’ insurance is for, right? Not so fast.

According to a recent case from West Virginia, *American Modern Home Insurance Company v. Corra*, Corra gave a beer to one of his daughter’s underage friends, who was later the driver in a fatal car accident. The families of the people who were killed sued Corra, but Corra’s homeowner’s insurance company claimed that it did not have to defend or indemnify Corra. The West Virginia Supreme Court of Appeals agreed, saying that the policy language “does not provide coverage where the injury or damage is allegedly caused by the homeowner’s conduct in knowingly permitting an underage adult to consume alcoholic beverages on the homeowner’s property.”

According to Mark Reed, a Lexington State Farm agent, this is an “insurance company’s nightmare.”

“The chances of something going wrong are not that far fetched,” he said. “If there is some problem, there are going to be lawsuits, and the party hosts are going to be dragged into that. Any time you get alcohol and injuries involved, there will be parents with vengeance on their minds. You’ve got a dead kid, a paralyzed kid. They would go after the party host’s house and everything they could possibly get; it is not a matter of money anymore.”

Before people think about hosting an underage drinking party, they should read their homeowner’s policy carefully. They just might find that hosting an underage drinking party is not worth risking their home.

Danger to the kids

Finally, and most importantly, we should be thinking about the kids.

Some people believe that drinking parties are a rite of passage. Other parents condone drinking, relieved that their kids are not abusing the array of other drugs available to them, but those attitudes ignore the real picture. Alcohol abuse is as harmful as any of the scarier choices kids can make; it is not safe for kids to be at drinking parties.

According to the Campaign to Reduce Underage Drinking, “People who begin drinking before the age of 15 are four times more likely to develop alcohol dependence than those who wait until age 21.”

And, according to the MADD Web site, “There is a strong correlation between youth alcohol use and violence, risky sexual behavior, poor school performance, and even suicide.”

So parents need to protect their kids. Parenting is not a popularity contest to see who is the “coolest” parent. It really is all right to say no.

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