

# Underage Drinking Enforcement Training Center

## Monthly Resource Alert

### February 2009



11720 Beltsville Drive ■ Suite 900 ■ Calverton, MD 20705 ■ Toll Free 877-335-1287

Please visit our enhanced website at [www.udetc.org](http://www.udetc.org) for the latest information on underage drinking.

#### Latest Monitoring the Future Study Shows Declines in Alcohol Use Among Youth

The recently released 2008 Monitoring the Future study, funded by the National Institute on Drug Abuse (NIDA), shows that the use of alcohol among teens has decreased since it peaked in the 1990s. There was a 40 percent decrease in 8<sup>th</sup> graders reporting that they had consumed at least one drink in the 30 days prior to this survey compared to those who were surveyed during the peak levels in 1996.

The study indicates that the decline in use among 8<sup>th</sup> graders may well be linked to a decline in reported availability. The report stated that in 1996, 8<sup>th</sup> graders reported that 75 percent could find alcohol if they wanted to, but the 2008 numbers show just 64 percent could gain access to alcohol. The report further stated that declines are smaller for older students. The rate of 12<sup>th</sup> graders admitting to being drunk declined to 28 percent in 2008, which is only down one-fifth from its peak level in 1997. This report and more information including full study findings and analysis can be found at: <http://www.monitoringthefuture.org/data/08data.html#2008data-drugs>.

#### Link to Higher Binge-Drinking Rates found in Correlation to Retailer Proximity

According to researchers from the Pardee RAND Graduate School in Santa Monica, California, adolescents who live within walking distance of a liquor store or other alcohol outlet are more likely to engage in binge drinking or drunk driving. The *Los Angeles Times* reported recently that drinking rates were higher among 12- to 17-year-olds who live within a half-mile of an alcohol outlet and that minority neighborhoods tend to have a higher density of alcohol outlets than predominantly White communities.

This study was published in the *American Journal of Health* and can be found at this link:

<http://www.ajph.org/cgi/content/abstract/AJPH.2007.122077v1?maxtoshow=&HITS=10&hits=10&RESULTFORMAT=&fulltext=alcohol+outlet&searchid=1&FIRSTINDEX=0&sortspec=relevance&resourcetype=HWCIT>

#### Quick Fact

The use of alcohol in all prevalence periods measured among 10<sup>th</sup> graders decreased. For example, past year alcohol use by 10<sup>th</sup> graders declined from 56.3 percent in 2007 to 52.5 percent in 2008, according to the 2008 Monitoring the Future Study funded by NIDA.

#### "Illinois Supreme Court Answers the Question of whether a minor may be charged with delivery of alcoholic liquor to other minors"

In November 2008, the Illinois Supreme Court handed down its opinion in the case of *People v. Christopherson*, 2008-IL-1121.127. The Court reviewed the decision of the trial court and the findings of the Illinois Court of Appeals in reaching its opinion. This case offers the reader an excellent analysis of the law and the significance of legislative intent. The case offers the reader a grand example of how cases and issues navigate their way to the highest State courts nationwide.

To read more about this case, please click on the link below.  
[www.udetc.org/documents/ResourceAlerts/February09Case.pdf](http://www.udetc.org/documents/ResourceAlerts/February09Case.pdf)

#### February National Electronic Seminar School Substance Abuse Policy

Date: Thursday, February 19, 2009

Time: 3:00-4:15 p.m. EST

Speakers: Mary Hill, Consultant Hill & Associates  
Canyon Lake, Texas, Peter Lake, Professor, Stetson University  
College of Law, Gulfport, Florida and Barbara Dougherty,  
Director, Commission on Children and Families, Newport,  
Oregon

Underage drinking by high school and university students continues to be a significant problem. Preventing the use of alcohol on campuses is an important goal of administrators because of the many negative consequences resulting from alcohol use/abuse. When schools establish alcohol policies that clearly state expectations and penalties regarding alcohol use by students, they help reinforce the idea that underage drinking is not acceptable. This audio call will address the following questions:

*Why is a substance-abuse policy important?*

*What should a comprehensive substance-abuse policy include?*

*How should a policy be communicated?*

This audio call will help participants understand the importance of developing a strong policy and assist participants in reviewing, communicating, and enforcing a comprehensive policy.

\*Visit [www.udetc.org/audioconfregistration.asp](http://www.udetc.org/audioconfregistration.asp) to register.\*

To print a hard copy of this month's Resource Alert, visit:  
[www.udetc.org/documents/ResourceAlerts/ResourceAlert0209.pdf](http://www.udetc.org/documents/ResourceAlerts/ResourceAlert0209.pdf)

*The views expressed in this publication do not necessarily represent the views of the Office of Juvenile Justice for Delinquency Prevention (OJJDP) or the Underage Drinking Enforcement Training Center (UDETC) and are solely the views of the author/source.*

**Illinois Supreme Court answers the question of whether a minor may be charged with delivery of alcoholic liquor to other minors**

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In November 2008, the Illinois Supreme Court handed down their opinion in the case of *People v. Christopherson*, 2008-IL-1121.127. At issue was whether minors may be charged with delivery of alcoholic liquor to a minor (235 ILCS 5/6-16(a) (iii)).

The Facts of the Case

The State charged defendant, Jenna M. Christopherson, with unlawful delivery of alcoholic liquor to a minor (235 ILCS 5/6-16(a)(iii) (West, 2006)). The information alleged that the defendant provided a 30-pack of Icehouse beer and two cases of Bud Light beer to Jamie L. Smith, a person younger than aged 21. Smith died in a one-car accident after drinking some of the beer allegedly provided by defendant.

Defendant Christopherson moved to dismiss the information, arguing that the statutory subpart under which she was charged was not intended to apply to minors. That provision, section 6-16(a)(iii) of the Liquor Control Act of 1934 (the Act) (235 ILCS 5/6-16(a)(iii) (West, 1996)), reads as follows:

"No person, after purchasing or otherwise obtaining alcoholic liquor, shall sell, give, or deliver such alcoholic liquor to another person under the age of 21 years, except in the performance of a religious ceremony or service." (235 ILCS 5/6-16(a) (iii) (West, 2006)).

The offense is a Class A misdemeanor, but it may be charged as a Class 4 felony if a death occurs as a result of the violation ((fn1) 235 ILCS 5/6-16(a) (West 2006)).

The defendant moved to dismiss the information, arguing that the legislature did not intend for section 6-16(a) (iii) to apply to minors. The defendant acknowledged that, as a human being, she would qualify as a "person" under the statute, but contended that the legislative history indicated that the provision was meant to apply only to adults. In support, however, the defendant did not cite legislative history from when section 6-16(a) (iii) was enacted, but to a single comment by a State representative when the statute was amended to include the felony sentencing provision. In response, the State argued that, because the statutory language was clear and unambiguous, it was not appropriate to consult the legislative history. Moreover, the State pointed out that the comment from the legislative debates cited by the defendant merely related to the enhanced penalty that was added in 2002 and said nothing about the intent of the legislature when it enacted the statute many years earlier. The circuit court agreed with the defendant and dismissed the charge. The court found the provision ambiguous and then stated that it believed that the evil the legislature was addressing in this section was adults providing alcohol to minors.

The State appealed, and the appellate court reversed the lower court's decision (377 Ill. App.3d 752). The appellate court concluded that the commonly understood meaning of "person" is "an individual human being," and that the reference in section 6-16(a)(iii) to "no person" would encompass juveniles (377 Ill. App. 3d at 754). Moreover, the legislation used age limitations elsewhere in section 6-16 when restricting the meaning of the word "person." Because the statute was unambiguous, the court explained that it was forbidden to consult the legislative history ((fn2) 377 Ill. App. 3d at 758).

The appellate court also rejected the defendant's argument that this was an appropriate situation in which to ignore the plain language of the statute. The defendant relied on cases such as *Griffin v. Oceanic Contractors, Inc.*, 458 U.S. 564, 73 L. Ed. 2d 973, 102 S.Ct. 3245 (1982), and *Church of the Holy Trinity v. United States*, 143 U.S. 457, 36 L.Ed. 226, 12 S.Ct. 511 (1892), for the proposition that situations may sometimes exist when it is necessary to apply an interpretation other than that seemingly dictated by a statute's plain language. The appellate court examined these cases and found them distinguishable (377 Ill. App. 3d at 756-57). The appellate court agreed with the defendant's argument that the law treats adults and minors differently in a variety of contexts but pointed out that, in the examples used by defendant, the legislature did so explicitly, 377 Ill. App. 3d at 759-60. Finally, the appellate court held that, contrary to the defendant's argument, it was not relevant that Illinois does not extend tort liability to adults who act as social hosts and furnish alcohol to minors. The appellate court found this issue wholly irrelevant to the issue before it, 377 Ill. App. 3d at 760. We allowed the defendant's petition for leave to appeal, 210 Ill. 2d R. 315.

### Analysis of the Case

The defendant argued that the appellate court erred in holding that section 6-16(a)(iii) may be applied to minors. Before addressing this issue, the court needed to clarify precisely what the defendant was arguing because her argument was more narrowly focused than in the appellate court. The defendant contended that, when section 6-16 is read in its entirety, it is clear that the entire section is directed only at those people who are authorized to possess liquor. Thus, section 6-16(a)(iii) cannot be applied to minors. The defendant contended that, if read in isolation, section 6-16(a)(iii) could be read as applying to both adults and minors, but when read in the context of the statute as a whole, it is clear that it applies to adults only. The State claims that the defendant conceded that section 6-16(a)(iii) is not ambiguous.

The defendant, however, clarified at oral argument that her position is that an ambiguity is created when subsection (a)(iii) is considered in the context of section 6-16 as a whole. However, despite contending that there is an ambiguity in the statute, the defendant has abandoned her argument that the legislative history supports her construction of the statute. The defendant further contended that, even when a subject appears to be within the plain language of a statute, it is sometimes necessary to ignore plain language to effectuate the legislature's true intent. Finally, the defendant argued that it was significant that she could be prosecuted for a different Class A misdemeanor-possession of alcohol by a minor. *See* 235 ILCS 5/6-20 (West 2004). The defendant

contended that this was further evidence that the legislature did not intend section 6-16(a)(iii) to apply to minors.(fn3)

Because this issue concerns the construction of a statute, it is a question of law, and our standard of review is *de novo* (*People v. Howard*, [228 Ill. 2d 428](#), 432 (2008)). The principles guiding our review are familiar. The primary objective in construing a statute is to give effect to the legislature's intent, presuming the legislature did not intend to create absurd, inconvenient, or unjust results (*In re Madison H.*, [215 Ill. 2d 364](#), 372 (2005)). Accordingly, courts should consider the statute in its entirety, keeping in mind the subject it addresses and the legislature's apparent objective in enacting it (*People v. Davis*, [199 Ill. 2d 130](#), 135 (2002)). The best indication of legislative intent is the statutory language, given its plain and ordinary meaning (*People v. Jones*, [223 Ill. 2d 569](#), 581 (2006)). When the statutory language is clear and unambiguous, it must be given effect without resort to other tools of interpretation (*Jones*, 223 Ill. 2d at 581).

We hold that the statutory language is clear and unambiguous and that we may not resort to statutory construction aides. Section 6-16(a)(iii) forbids any "person" from giving, selling, or delivering alcoholic liquor to a person younger than aged 21. As the appellate court properly held, the plain and ordinary meaning of the term "person" is "an individual human being." (See 377 Ill. App. 3d at 754, quoting *Webster's Third New International Dictionary* 1686 (1993)). We believe that the legislature's intent in this section was to prohibit any person of any age from providing alcoholic liquor to a minor. When considering the entirety of section 6-16, it is clear that the legislature's intent in this section is keeping alcoholic liquor out of the hands of minors and intoxicated persons. In addition to the general prohibition against providing alcohol to minors in subsection (a)(iii), section 6-16 also contains provisions forbidding those who hold liquor licenses from providing alcohol to minors (235 ILCS 5/6-16(a)(i) (West 2006)) and forbidding common carriers from delivering alcoholic liquor to persons younger than 21 (235 ILCS 5/6-16(a)(ii) (West 2006)). This section also prohibits the renting of hotel rooms with knowledge that the room will be used for consumption of alcohol by minors (235 ILCS 5/6-16(d) (West, 2006)). Section 6-16 contains further prohibitions against furnishing fraudulent identification to minors and using fraudulent identifications by minors to obtain alcohol (235 ILCS 5/6-16(a) (West 2006)). Additionally, section 6-16 prohibits parents or guardians from using their homes to allow violations of the Act (235 ILCS 5/6-16(a-1) (West, 2006)). Finally, section 6-16 prohibits any person from having alcoholic liquor on his person on school district property on days when children are present (235 ILCS 5/6-16(e) (West, 2006)). Section 6-16 represents a comprehensive attempt by the legislature to keep alcohol out of the hands of minors. Construing section 6-16(a)(iii) to apply to all persons effectuates this intent. The tragic facts of this case indicate that the potential harm when alcohol reaches the hands of minors is no different when the alcohol is provided by another minor rather than by an adult. Because we construe the statute in this manner, we find irrelevant the cases the defendant cites for the proposition that courts may sometimes depart from clear statutory language if necessary to effectuate the legislature's intent. No such departure is required here.

Moreover, we do not find that the context of section 6-16 as a whole creates an ambiguity in subsection (a)(iii). The defendant argued that because subsection (a)(i), which is directed at licensees (such as taverns, restaurants, and liquor stores), and subsection (a)(ii), which is directed at common carriers who transport alcoholic beverages, apply to those who are legally entitled to possess alcohol, then "person" in subsection (a)(iii) should be construed as referring to persons who are lawfully entitled to possess alcohol.

We disagree. If anything, a consideration of the entire statute makes it even clearer that the legislature intended section 6-16(a)(iii) to apply to minors. First, the defendant's suggestion that section 6-16 is directed only at those persons who are entitled to possess alcoholic liquor themselves is simply not true. One portion of section 6-16 is specifically directed at minors. Section 6-16(a) makes it a Class A misdemeanor for persons "under the Age of 21 years" to use false or fraudulent identification to obtain or to attempt to obtain alcoholic beverages (235 ILCS 5/6-16(a) (West, 2006)). Thus, it is clear that section 6-16 regulates the conduct of both minors and adults. Further, the legislature uses age limitations throughout section 6-16 whenever it means to limit the meaning of the term "person." Section 6-16 is replete with such phrases as "at least 21 years of age," "under the age of 21 years," "under 21 years of age," "over the age of 21 years," and "less than 21 years of age" (See 235 ILCS 5/6-16 (West, 2006)). The fact that no such limitation appears after the term "no person" in section 6-16(a)(iii) is further evidence that the legislature did not intend to exclude minors from its reach. Thus, far from creating an ambiguity, considering section 6-16(a)(iii) in the context of the entire statute confirms the lack of ambiguity.

Finally, the defendant noted that her conduct falls within another statute. Section 6-20 of the Liquor Control Act makes it a Class A misdemeanor for a person younger than 21 to possess alcoholic liquor (235 ILCS 5/6-20 (West, 2006)). The defendant made two points regarding this fact: (1) the State can still prosecute the defendant for a Class A misdemeanor even if it accepts her argument in this case, and (2) the existence of another statute that would penalize her conduct equally provides further evidence that the General Assembly did not intend section 6-16(a)(iii) to apply to persons younger than 21, since they cannot lawfully possess alcohol themselves.

It is difficult to follow the logic of the defendant's argument. First, there is nothing remarkable about the fact that the legislature would punish the distribution of an item that it also forbids possessing. As the State points out, three examples are controlled substances (see 720 ILCS 570/401, 402 (West, 2006)), explosives (720 ILCS 5/24-1(a)(7)(iii) (West, 2006)), and child pornography (720 ILCS 5/11-20.1 (West, 2006)). Second, the penalty provisions are not the same. The defendant is correct that she was charged with only a Class A misdemeanor, but she could have been charged with a Class 4 felony because a person died as a result of the alleged unlawful delivery (235 ILCS 5/6-16(a) (West, 2006)). The possessory offense does not have the enhanced felony provision (See 235 ILCS 5/6-20 (West, 2006)). Moreover, a violation of section 6-16(a)(iii) carries mandatory fines of not less than \$500 for a first offense and not less than \$2,000 for any subsequent offense (235 ILCS 5/6-16(a) (West, 2006)). By contrast, section 6-20 does

not have a fine provision (See 235 ILCS 5/6-20 (West, 2006)). Third, as the State points out, it is not always true that a person who commits the delivery offense also commits the possession offense. Section 6-20 contains an exception for consumption of alcohol by a minor, under parental supervision and approval, in the privacy of the home (235 ILCS 5/6-20 (West, 2006)). This exception does not appear in section 6-16(a)(iii) (See 235 ILCS 5/6-16(a)(iii) (West, 2006)). In other words, a person younger than aged 21 can lawfully consume alcohol in the home under parental supervision but would violate section 6-16(a)(iii) by providing that alcohol to underage friends. The existence of section 6-20 does not provide any support for the defendant's argument.

### Summary

Section 6-16(a)(iii) unambiguously prohibits the delivery of alcohol to minors by all persons. Therefore, the appellate court correctly reversed the judgment of the circuit court, which improperly dismissed the charge against the defendant because she was younger than 21, and remanded the cause for further proceedings.

*Affirmed.*

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### Footnotes:

FN1. Here, although the record indicates that a death occurred as a result of the alleged violation, the State charged the offense as a Class A misdemeanor.

FN2. After so concluding, the appellate court went on to consider the legislative history that defendant relied on and determined that it did not support the defendant's argument that section 6-16(a)(iii) was not intended to apply to juveniles. The court explained, however, that it was not, in fact, considering the legislative history. It was merely setting forth what it would have concluded if it had considered the legislative history.

FN3. The State spent a significant portion of its brief arguing about the absurd results doctrine and explaining why applying section 6-16(a)(iii) to minors would not lead to absurd results. The defendant explained at oral argument, however, that she was not relying on the absurd-results doctrine, and after reviewing the defendant's brief, we agree with her that the State was responding to an argument that she did not make. The confusion might have arisen because of a quotation the defendant used from *Church of the Holy Trinity*, where the Supreme Court stated that "frequently words of general meaning are used in a statute, words broad enough to include an act in question, and yet a consideration of the whole legislation, *or* of the circumstances surrounding its enactment, *or* of the absurd results which follow from giving such broad meaning to the words, makes it unreasonable to believe that the legislator intended to include the particular act." [Emphases added.] (*Church of the Holy Trinity*, 143 U.S. at 459, 36 L. Ed. at 228, 12 S. Ct. at 512). It is clear from reading defendant's brief that she was relying only on the "consideration of the whole language" clause from the above quotation, not the "absurd results" clause.



# Enforcing Underage Drinking Laws Program

## AUDIO CONFERENCE

### TOPIC

### School Substance Abuse Policy

Underage drinking by high school and university students continues to be a significant problem. Preventing the use of alcohol on campuses is an important goal of administrators because of the many negative consequences resulting from alcohol use/abuse. When schools establish alcohol policies that clearly state expectations and penalties regarding alcohol use by students, they help reinforce the idea that underage drinking is not acceptable. This audio call will address the following questions:

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*How should a policy be communicated?*

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### DATE

Thursday, February 19, 2009

### TIME

3:00 – 4:15 p.m. Eastern Time

### PRESENTER

**Peter Lake**  
Stetson University  
Gulfport, FL  
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**Barbara Dougherty**  
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# National Electronic Seminars Enforcing Underage Drinking Laws Program

The OJJDP Audio-TELECONFERENCE Series

## 2009 National Electronic Seminars Calendar

**February 19, 2009 3:00 – 4:15 p.m. Eastern Time**

### ***School Substance Abuse Policy***

Underage drinking by high school and university students continues to be a significant problem. Preventing the use of alcohol on campuses is an important goal of administrators because of the many negative consequences resulting from alcohol use/abuse. When schools establish alcohol policies that clearly state expectations and penalties regarding alcohol use by students, they help reinforce the fact that underage drinking is not acceptable. This audio call will address the following questions:

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**April 23, 2009 3:00 – 4:15 p.m. Eastern Time**

### ***Brain Research***

**May 28, 2009 3:00 – 4:15 p.m. Eastern Time**

### ***MLDA Community***



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