

Underage Drinking Enforcement Training Center

Monthly Resource Alert

July 2008



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

Please visit our enhanced website at www.udetc.org for the latest information on underage drinking.

10th Annual National Leadership Conference Reminder

The 2008 conference, "A Notable History: Forging the Future," will be held at the Gaylord Opryland Hotel and Convention Center in Nashville, Tennessee. Reservations can be made by calling the hotel at 1-866-972-6779; to receive the special discounted rate, mention the National Leadership Conference. Rooms are going fast, so please do not delay. To register for the conference, go to www.udetc.org. The fees are as follows: Regular: \$199 and Youth: \$50. Don't miss out on this momentous occasion; join us for this grand celebration!

Strict Underage Drinking Laws ARE Saving Lives

A study, funded by the Substance Abuse Policy Research Program of the Robert Wood Johnson Foundation, indicates that State laws making it illegal to possess or purchase alcohol younger than age 21 have led to an 11 percent drop in alcohol-related traffic accident deaths among youth, according to a recent *Washington Post* article. Since 1988 -- following the passage of a Federal law in 1984 that raised the minimum drinking age to 21 -- all States have enforced the two core laws that make it illegal for those younger than 21 to purchase and possess alcohol. Nonetheless, the study authors pointed out that underage drinking legislation and ID rules vary by State. The entire article can be found at <http://www.washingtonpost.com/wp-dyn/content/article/2008/07/01/AR2008070101264.html>

Success Stories: Illinois

The Illinois Dewitt County Youth in Action group has worked over the last 3 years with the Enforcing Underage Drinking Laws Rural Project and the County's Mothers Against Drunk Driving (MADD) coalition to implement a variety of strategies to educate their community on the dangers of underage drinking. This success story shares how significant environmental changes along with persistent youth leaders can create positive community change and reduce underage drinking.

Did you Know....?

Recently, a large alcohol distributor has decided to cease production of a popular alcoholic energy drink as part of a settlement with 11 States? This alcoholic energy drink was very popular with youth, and this decision is a real win in the effort to reduce underage alcohol consumption. For more details of this late-breaking development, see the following link: <http://www.msnbc.msn.com/id/25397773/>

July 2008 Resource Alert Legal Case

Case Descriptor

"The 4th District Reviews the Law on Constructive Possession of Alcohol in Wisconsin"

In March of 2008, the Court of Appeals of Wisconsin, District IV, rendered its opinion in the civil case of *Columbia County v. Arendt*, WICA 2007AP1523 - 030608 (2008). The appeal came from a judgment and order of the circuit court for Columbia County: Circuit Court, in Columbia, Wisconsin. Andrew Arendt appealed a conviction for possession of alcohol as an underage person, contrary to Wis. Stat. § 125.07(4) (b). Arendt contended that the county did not show clear and convincing evidence that Arendt possessed alcohol.

To learn more about this case and the important issues it raised in the licensee appeal, click on the following link:

www.udetc.org/documents/ResourceAlerts/July2008Case.pdf

July National Electronic Seminar

New Developments to Support the Minimum Legal Drinking Age Laws

Date: Thursday, July 17, 2008

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

Speakers: Jim Fell, PIRE; Janet Williams, American Medical Association; Nick Ellinger, MADD

Did you know that the minimum legal drinking age of 21 is not just one law in each State, but a series of 16 core and expanded laws to address youth access and alcohol use effectively? These laws are designed to control the sales of alcohol to youth, prevent possession and consumption of alcohol by youth, and reduce impaired driving by youth. In this seminar, we will share and discuss the recent key findings on the relationship between underage drinking laws and reductions in drinking drivers in fatal crashes and other important data. Visit www.udetc.org/audioconfregistration.asp to register.

To print a hard-copy of this month's Resource Alert visit:

www.udetc.org/documents/ResourceAlerts/ResourceAlert0708.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 of the author/source.

FYI: There will **not** be an August National Electronic Seminar because of the National Leadership Conference in Nashville, Tennessee, on August 21-23, 2008, at the Gaylord Opryland Hotel and Convention Center. Look for the September issue with the latest information on the fight against underage drinking and Enforcing Underage Drinking Laws to include, the next National Electronic Seminar.



Success Stories

Enforcing the Underage Drinking Laws Program

NEWS FROM THE FIELD

www.udetc.org

July 2008

Illinois (Dewitt County) Youth Reduce Underage Drinking through Comprehensive Environmental Strategies

Youth are a central focus of efforts to reduce underage drinking in Dewitt County, a rural county of 16,000 in central Illinois. The Youth in Action group has worked over the last 3 years with the Dewitt County MADD coalition and the Enforcing Underage Drinking Laws (EUDL) Rural Project to implement a variety of environmental strategies that educate their community on the dangers of underage drinking. Eighteen high school YIA members met twice a month with the EUDL project coordinator and monthly with the coalition. The YIA group was formed in cooperation with the MADD coalition and was in existence at the onset of the EUDL grant.

The goal of the EUDL Rural Project was to decrease the availability of alcoholic beverages and the consumption of alcoholic beverages by underage youth in rural areas. From the onset of the project, youth played a vital role in all areas of the project. Youth worked collaboratively with local law enforcement on the planning and implementation of compliance checks (there were no compliance checks being implemented before the project), resulting in compliance checks being conducted at 100% of all on- and off-premise retail liquor license establishments. In the first year of the compliance checks, rates of compliance were 90%, and in the second year of the project, the rate increased to 99%. Because these compliance rates were unusually high and did not reflect their needs assessment data, the youth coalition suspected that the near-perfect rates might be due to retailers warning each other of the compliance check operation. A new protocol was implemented including the use of multiple enforcement officers and youth teams implementing compliance checks at multiple locations simultaneously. This tactic prevented retailers from warning each other of the compliance check operation. Consequently, compliance rates decreased to 83% in the third year, more accurately reflecting realistic rates of compliance. The change in compliance data painted a more realistic picture of underage drinking access in these rural communities. This result led three communities to support the youth/coalitions' recommendations for municipal policies to increase the

penalties for sale of alcohol to a minor and to require mandatory Server/Merchant Education Training for second offenders.

The youth designed and implemented a "Sticker Shock" project. They met with retailers and placed a sticker on packaged alcohol. The sticker read: "WARNING!!! It is illegal for anyone under the age of 21 to purchase or consume alcohol. PLEASE HELP US SAVE THE LIVES OF OUR FRIENDS!!!! Dewitt County Youth in Action Team". Youth achieved an 87% rate of retailers participating in the project.

Youth also worked as decoys on Shoulder Tap operations. In the first year a baseline compliance rate of 92% was established. Youth Coalition efforts to change community norms appear to have had some impact because in the second and third year of the project many more adults were surveyed (more than 175 each year), yet only three adults offered to purchase alcohol for minors, yielding a compliance rate of 98% each year!

Because of this collaborative work, two communities developed and adopted new local ordinances. In April 2008, Clinton and Wapella, adopted new policies requiring mandatory server/merchant education training for retail liquor license establishments that sell alcohol to a minor. The policies also include increased monetary penalties. The Liquor Commissioner/ Mayor in Clinton publicly pledged his support to enforce this new policy.

The Dewitt County Youth in Action group have exemplified the difference that passionate and persistent youth leaders can make in creating positive community change and reducing underage drinking.

Source and Contact information:
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July 2008 Resource Alert Legal Case

Issues on Appeal

1. Whether actual physical possession is required to sustain a conviction under Wis. Stat. § 125.07(4) (b)?
2. Whether there was sufficient evidence presented by the State to sustain the conviction?

Background Information

The following facts were undisputed. On June 15, 2006, Andrew Arendt called the police to have his ex-girlfriend removed from his apartment. Columbia County Deputy Cory Otto arrived at Arendt's apartment and spoke with Arendt. When Otto entered Arendt's apartment, he saw a tapped barrel of beer on ice in the living room and verified that it was partially full. Arendt was under twenty-one years of age at the time of the incident. Arendt's name was on the lease to the apartment.

Otto issued a citation to Arendt for possession of alcohol as an underage person. The trial court found that Arendt was under the age of twenty-one and was the possessor of the residence in which "there was a partial barrel of beer in a tub with ice that was tapped." It concluded that Arendt was guilty of possession of alcohol as an underage person. Arendt appeals from his judgment of conviction.

The Court's Standard of Review

The Court restated the law as it applied to the case. Under Wis. Stat. § 125.07(4)(b), a person is guilty of underage possession of alcohol if he or she is under twenty-one years of age and **knowingly** (*emphasis added*) possesses alcoholic beverages while unaccompanied by his or her parent, guardian, or spouse of legal drinking age. The standard of proof for conviction of any person charged with violating this statute is clear, satisfactory, and convincing evidence. *See City of Madison v. Geier*, 27 Wis. 2d 687, 692, 135 N.W.2d 761 (1965). "The test for determining sufficiency of the evidence is whether a reasonable trier of fact could be convinced of the defendant's guilt to the required degree of certitude by the evidence which it had a right to believe and accept as true." *City of Milwaukee v. Wilson*, 96 Wis. 2d 11, 21, 291 N.W.2d 452 (1980). "We will reverse only if the evidence, viewed most favorably to the finding of guilt, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found the evidence of guilt to be clear, satisfactory, and convincing." *See State v. Poellinger*, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990).

The Court's Analysis

Arendt argued that the trial court erred in finding possession because it relied solely on alcohol being present in Arendt's residence. He further argued that the mere presence of

alcohol in his apartment is not enough to prove possession. His assertion was that the County needed to show his intent to exercise control over the alcohol.

The County argued that Arendt's name on the lease supports a finding of possession because it added an additional element of control that Arendt had over the premises and thus the objects within those premises. "While being a lessee alone is insufficient to support a finding of possession, being a lessee and knowing that alcohol was in the apartment is sufficient."

The Court disagreed with Arendt's assertion that the trial court based its decision on the common location of the alcohol and Arendt, to be found guilty of possessing a controlled substance, physical possession is not necessary. *State v. R.B.*, 108 Wis. 2d 494, 496, 322 N.W.2d 502 (Ct. App. 1982). "Possession may be imputed when a substance is found in a place immediately accessible to the accused and subject to his exclusive or joint dominion and control, provided that the accused has knowledge of the presence of the substance." *Schmidt v. State*, 77 Wis. 2d 370, 379, 253 N.W.2d 204 (1977) (discussing possession of illicit drugs).

"[T]he dominion and control necessary to permit conviction based on constructive rather than actual possession requires that the facts permit the inference of an intent to possess." *R.B.*, 108 Wis. 2d at 497. The dominion and control element is met when the defendant, as resident owner of his home, has control over the common area in which the contraband is found. *State v. Allbaugh*, 148 Wis. 2d 807, 815, 436 N.W.2d 898 (Ct. App. 1989) (citation omitted); *see also Schmidt*, 77 Wis. 2d at 379, 380-381 (using language implying that dominion and control over the area where the controlled substance was found satisfies the dominion and control element). When there is joint occupancy of premises, evidence that would support an inference of knowledge that alcohol was in the premises includes the defendant having access to the area where alcohol was found and the alcohol being in plain view. *See Allbaugh*, 148 Wis. 2d at 813.

"In this case, Arendt called the police to have his ex-girlfriend removed from his apartment. Otto arrived and found a tapped barrel of beer on ice in Arendt's living room. Based on these facts, a reasonable person could infer that Arendt was aware of the presence of alcohol in his apartment and that he had immediate access to it. In addition, Arendt had dominion and control over the living room, a common area in the apartment he leased."

We conclude that there was sufficient evidence to support a finding that Arendt possessed alcohol. Accordingly, we affirm.

Judgment and order affirmed.

Enforcing Underage Drinking Laws Program

AUDIO CONFERENCE

TOPIC

New Developments to Support the Minimum Legal Drinking Age Laws

Did you know that the minimum legal drinking age of 21 is not just one law in each State, but a series of core and expanded laws? These laws are designed to control the sales of alcohol to youth, prevent possession and consumption of alcohol by youth, and reduce impaired driving by youth. In this call we will share and discuss the recent key findings on the relationship between underage drinking laws and reductions in drinking drivers in fatal crashes and other important data.



DATE

Thursday, July 17, 2008

TIME

3:00–4:15 p.m. EDT

WEB ENHANCED



Internet users will be able to log on to our conference web page to view presentation slides and interact with other participants.

PRESENTERS

Presenter 1:

Jim Fell, Pacific Institute for Research and Evaluation, Fell@pire.org

Presenter 2:

Janet Williams, American Medical Association, Janet.Williams@ama-assn.org

Presenter 3:

Nick Ellinger, MADD, Nick.ellinger@madd.org

REGISTER

Please register by using one of our automated options:

- **To register on our website**, please visit www.udetc.org and complete the online registration form, or
- **To register by phone**, please call our toll-free number, 1-877-335-1287, extension 230, and follow the prompts.

Telephone dial-in instructions and accompanying materials for the audio conference will be mailed one (1) week before the call.



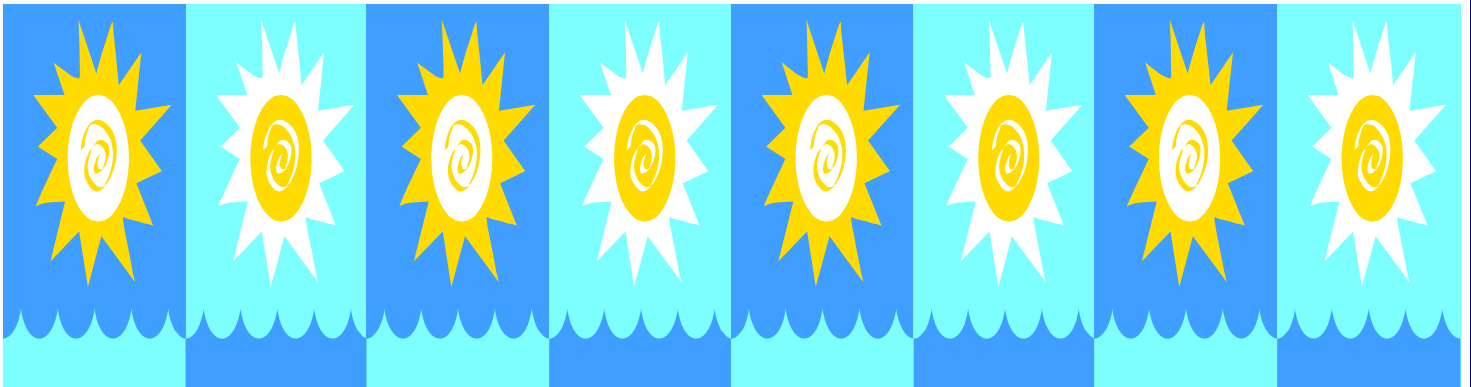
National Electronic Seminars Enforcing Underage Drinking Laws Program

The OJJDP Audio-TELECONFERENCE Series

July 17, 2008 3:00 – 4:15 p.m. Eastern Time

New Developments to Support the Minimum Legal Drinking Age Laws

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August 2008

National Leadership Conference



For more information go to:
<http://www.udetc.org>

For audio-conference registration information, please visit www.udetc.org

All programs provide opportunities for presentation, discussion, and sharing information. Telephone dial-in instructions and accompanying materials will be mailed to registrants two weeks before the audio conference.

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