

## IV. Offenses Involving the Use of Alcohol by Minors

### 1. Introduction

SAs, whether in college or in high school, run the risk of being arrested when their “risky behavior” combines alcohol use with people under the age of 21. Even without considering drinking and driving, most criminal conduct involving SAs is connected to either the use of alcohol or drugs. You may not know, however, that this conduct can result in a jail sentence, a term of probation and a fine. Again, as in the other sections, New York law is used to demonstrate the type of illegal conduct that can get you in trouble. Other states have similar legislation that makes the same type of conduct illegal.

### 2. Prohibited Conduct

#### ***A. Providing alcohol to a person under the age of 21***

Over the past several years, there has been increased awareness and concern about minors using alcohol. As a result, law enforcement now regularly prosecutes this behavior. One of the reasons for increased prosecutions relates to liability. If a person is a minor and was provided alcohol by an adult, that minor, if injured or killed, may have a claim for monetary damages against the adult who provided the liquor. This law also applies to the SA who, for example, buys alcohol for his or her teammates or to give out at a “house party.”

In New York it is a misdemeanor if a person “... gives, sells or causes to be given or sold any alcoholic beverage ... to a person who is less than twenty-one years of age....<sup>1</sup>

This law even applies to situations where, for example, an SA who is 19 years old buys alcohol for his or her teammates who also are under the age of 21 and gives it to them to drink in their dorm room. The SAs who consume alcohol may face a charge for the unlawful possession of alcohol, which is a violation, not a crime. The SA who made the purchase however, could be charged with a misdemeanor, which is a more serious offense.

#### ***B. Endangering the Welfare of a Minor***

Anytime you are in contact with a minor and alcohol is present, you risk being arrested. Even if you did not provide the alcohol, if your conduct is likely to result in harm to a child (which is defined as a person under the age of 17) then there is the possibility that criminal charges can be filed.

In New York, for example, it is a class A misdemeanor when a person “...knowingly acts in

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1. See New York State Penal Law 260.20 for the entire law.

a manner likely to be injurious to the physical, mental or moral welfare of a child less than 17 years old ....”<sup>2</sup> This law does not require that the child actually be injured. Instead, the law merely requires that injury to the child is “likely.”

As can be seen, this law uses very broad language and can cover a tremendous number of situations. For example, if you are driving a friend home who is under the age of 17 and are arrested for DWI, you could also be charged with the misdemeanor of Endangering the Welfare of a Minor. This charge would be in addition to the DWI charge. It does not require that the underage passenger consumed alcohol.

### ***C. Using a fake I.D. or another person’s license***

It is illegal to alter or create a document to give the appearance that you are old enough to buy alcohol or enter an establishment that does not serve minors. In New York State it is a felony punishable by up to seven years in jail to falsely make, alter or knowingly possess a document issued by a public or government agency for the purpose of deceiving someone.<sup>3</sup> This would include, for example, possessing an altered driver license issued by the Department of Motor Vehicles for the purpose of appearing older. Even altering a document that was not issued by a public or government agency for the purpose of deceiving someone is a misdemeanor punishable by up to one year in jail.<sup>4</sup>

It is also a misdemeanor punishable by up to one year in jail if you present yourself as being someone else for the purpose of obtaining a benefit, such as using someone else’s license to get into a bar.<sup>5</sup>

Based on these laws, there is no way to avoid committing a crime if you present any form of identification indicating that you are 21 years old or older when you are not. Even if you are found by law enforcement to be in possession of an altered identification without being caught using it, there is a good possibility that you will be charged with a crime based on the presumption that you altered it for the purpose of deceiving someone. Actual use of the altered identification is not required for a conviction.

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2. See New York State Penal Law 260.10 for the entire law.

3. New York State Penal Laws 170.10 and 170.25.

4. New York State Penal Law 170.05.

5. New York State Penal Law 190.25(1).