

7952

2009-2010 Regular Sessions

I N A S S E M B L Y

April 29, 2009

Introduced by M. of A. LENTOL -- (at request of the Office of Alcoholism and Substance Abuse Services) -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to unlawfully permitting the consumption of alcoholic beverages by a person less than twenty-one years old

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The penal law is amended by adding a new section 260.23 to
2 read as follows:
3 S 260.23 UNLAWFULLY PERMITTING THE CONSUMPTION OF ALCOHOLIC BEVERAGES BY
4 A PERSON LESS THAN TWENTY-ONE YEARS OLD.
5 A PERSON IS GUILTY OF UNLAWFULLY PERMITTING THE CONSUMPTION OF ALCO-
6 HOLIC BEVERAGES BY A PERSON LESS THAN TWENTY-ONE YEARS OLD WHEN:
7 1. HE OR SHE IS OVER THE AGE OF EIGHTEEN AND OWNS, RENTS OR CONTROLS A
8 PRIVATE RESIDENCE AND KNOWINGLY PERMITS THE CONSUMPTION OF ALCOHOLIC
9 BEVERAGES BY A PERSON WHO IS LESS THAN TWENTY-ONE YEARS OLD WHO IS PRE-
10 ENT AT A PARTY, GATHERING OR EVENT AT SUCH PRIVATE RESIDENCE.
11 2. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE
12 THE FOLLOWING MEANINGS:
13 (A) "CONTROL" MEANS THE AUTHORITY AND AN ABILITY TO REGULATE, DIRECT
14 OR DOMINATE.
15 (B) "PARTY, GATHERING OR EVENT" SHALL MEAN THREE OR MORE PERSONS
16 ASSEMBLED FOR A SOCIAL OCCASION OR ACTIVITY.
17 (C) "PERMIT" SHALL MEAN FAILING TO TAKE REASONABLE CORRECTIVE OR
18 PREVENTIVE ACTION, INCLUDING, BUT NOT LIMITED TO: (I) MAKING A PROMPT
19 DEMAND THAT ANY PERSON WHO IS LESS THEN TWENTY-ONE YEARS OLD EITHER
20 FORFEIT AND REFRAIN FROM FURTHER CONSUMPTION OF ALCOHOLIC BEVERAGES OR
21 MAKING APPROPRIATE ARRANGEMENTS FOR THE SAFE DEPARTURE OF SUCH PERSON
22 FROM THE PREMISES, OR (II) IF SUCH PERSON WHO IS LESS THAN TWENTY-ONE
23 YEARS OLD FAILS TO COMPLY WITH SUCH DEMAND, PROMPTLY REPORTING SUCH

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 ILLEGAL CONSUMPTION OF ALCOHOL BY A PERSON LESS THAN TWENTY-ONE YEARS
2 OLD TO THE LOCAL LAW ENFORCEMENT AGENCY OR TO ANY OTHER PERSON HAVING
3 AUTHORITY OVER THE CONDUCT OF SUCH PERSON.

4 (D) "PRIVATE RESIDENCE" MEANS ANY HOME, APARTMENT, CONDOMINIUM, CO-OP-
5 ERATIVE UNIT OR OTHER DWELLING UNIT OF ANY KIND.

6 3. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE POSSESSION OR
7 CONSUMPTION OF AN ALCOHOLIC BEVERAGE BY PERSONS LAWFULLY PERMITTED TO DO
8 SO PURSUANT TO SECTION SIXTY-FIVE-C OF THE ALCOHOLIC BEVERAGE CONTROL
9 LAW, OR ANY OTHER APPLICABLE LAW.

10 4. THE PROVISIONS OF THIS SECTION SHALL NOT BE DEEMED TO PREEMPT ANY
11 LOCAL GOVERNMENT FROM ENACTING AND ENFORCING ANY LOCAL LAW OR ORDINANCE
12 WHICH IS MORE RESTRICTIVE THAN THE PROVISIONS OF THIS SECTION.

13 5. IN ADDITION TO ANY FINE OR IMPRISONMENT, PERSONS DETERMINED TO BE
14 IN VIOLATION OF THIS SECTION SHALL BE REQUIRED TO ATTEND AND COMPLETE AN
15 ALCOHOL AWARENESS PROGRAM APPROVED BY THE OFFICE OF ALCOHOLISM AND
16 SUBSTANCE ABUSE SERVICES.

17 UNLAWFULLY PERMITTING THE CONSUMPTION OF ALCOHOLIC BEVERAGES BY A
18 PERSON LESS THAN TWENTY-ONE YEARS OLD IS A VIOLATION.

19 S 2. This act shall take effect on the sixtieth day after it shall
20 have become a law.