

ORDINANCE NO. 9565 (N.S.)

AN ORDINANCE ADDING CHAPTER 15, COMMENCING WITH SECTION 32.1501, TO THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES IMPOSING LIABILITY ON SOCIAL HOSTS WHO ALLOW MINORS TO OBTAIN, POSSESS, OR CONSUME ALCOHOLIC BEVERAGES AT PARTIES

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that minors often obtain, possess, or consume alcoholic beverages at parties held at private residences or private premises that are under the control of an adult who knows or should know of the illegal conduct but fails to stop the conduct. The Board of Supervisors further finds that underage drinking results in an increase in alcohol abuse by minors, physical altercations, violent crimes including rape and other sexual offenses, accidental injury, neighborhood vandalism, and excessive noise disturbance, all of which may require intervention by law enforcement. This ordinance imposes civil and criminal liability on adults who own or control the private residence or private premises and fail to properly supervise or stop minors from obtaining, possessing, or consuming alcoholic beverages. It further requires reimbursement for the costs associated with enforcement including reasonable attorneys' fees in the event of litigation.

Section 2. Chapter 15, commencing with Section 32.1501, is hereby added to the San Diego County Code of Regulatory Ordinances to read as follows:

**CHAPTER 15: SOCIAL HOST ORDINANCE CONCERNING  
CONSUMPTION OF ALCOHOLIC BEVERAGES BY MINORS**

**Sec. 32.1501. FINDINGS AND INTENT.**

The Board of Supervisors of the County of San Diego finds and declares that:

(a) Minors often obtain, possess, or consume alcoholic beverages at parties held at private residences or private premises that are under the control of an adult who knows or should know of such conduct but fails to stop it.

(b) Underage consumption of alcoholic beverages poses an immediate threat to the public health, safety and welfare in that it increases alcohol abuse by minors, physical altercations, violent crimes including rape and other sexual offenses, accidental injury, neighborhood vandalism, and excessive noise disturbance, all of which may require intervention by local law enforcement.

(c) When law enforcement responds to a disturbance involving underage consumption of alcoholic beverages at private parties, extensive resources are often used to manage the incident. Further, a large social gathering that requires law enforcement attention takes away valuable resources from other service calls in the community, thereby placing the community at increased risk. Law enforcement is not currently reimbursed for their expenses when called to a private party.

(d) The prohibitions found in this chapter are reasonable and expected to deter the consumption of alcoholic beverages by minors by holding responsible adults who know of, or should know of, the illegal conduct yet fail to stop it. In addition, the revenue received by the County after cost reimbursement will be directed toward alcohol abuse and prevention education programs in the community.

#### Section 32.1502. **DEFINITIONS.**

The terms used in this ordinance have the meaning provided by state law except as expressly provided herein.

(a) An "adult" is any person over the age of twenty-one (21) years.

(b) An "alcoholic beverage" includes any liquid or solid material intended to be ingested by a person which contains ethanol, also known as ethyl alcohol, drinking alcohol, or alcohol, including, but not limited to, alcoholic beverages as defined in section 23004 of the Business and Professions Code, intoxicating liquor, malt beverage, beer, wine, spirits, liqueur, whiskey, rum, vodka, cordials, gin, and brandy, and any mixture containing one or more alcoholic beverages. Alcoholic beverage includes a mixture of one or more alcoholic beverages whether found or ingested separately or as a mixture.

(c) "Enforcement services" represent the actual amount of time spent by law enforcement personnel in responding to, or in remaining at, a party, gathering, or event at which a minor obtains, possesses, or uses alcoholic beverages including, but not limited to, the salaries and benefits of such personnel; the actual cost of medical treatment incurred by such personnel; administrative costs attributable to the incident; the cost of repairing and/or replacing any damaged County property; and any other allowable costs related to the enforcement of this ordinance.

(d) A "family gathering" is a gathering where each minor present is supervised by his or her parent or legal guardian.

(e) A "legal guardian" is a person who is lawfully vested with the power and charged with the duty of taking care of a minor.

(f) A "minor" is any person under the age of twenty-one (21) years.

(g) A "parent" includes any person who is a natural parent, an adoptive parent, a foster parent, or a step-parent.

(h) A "party" is a gathering or event at which a group assembles for a social occasion or activity at a private residence or private premises.

(i) A "private residence" is the place where one actually lives or has his or her home.

(j) "Private premises" is privately-owned land, including any appurtenances or structures on the land.

(k) A "social host" is an adult who permits a party where one or more minors consume one or more alcoholic beverages on property owned or controlled by the adult.

#### Section 32.1503. **PROHIBITION.**

No adult who owns or controls a private residence or private premises shall allow a party to take place or continue at said residence or premises if a minor at the party obtains, possesses, or consumes any alcoholic beverage and the adult knows or reasonably should know that the minor has obtained, possesses, or is consuming alcoholic beverages at the party.

#### Section 32.1504. **PRIMA FACIE EVIDENCE.**

Whenever an adult having control of the residence or premises is present at that residence or premises at the time that the minor obtains, possesses, or consumes any alcoholic beverage, it shall be prima facie evidence that such adult had the knowledge or should have had the knowledge, that the minor obtained, possessed, or consumed an alcoholic beverage at the party.

#### Section 32.1505. **PROTECTED ACTIVITIES.**

This ordinance shall not apply to legally protected religious activities or gatherings of family members.

#### Section 32.1506 **SEPARATE VIOLATION FOR EACH INCIDENT.**

Each incident in violation of section 32.1503 shall constitute a separate offense.

Section 32.1507 **ENFORCEMENT AUTHORITY.**

The District Attorney and the Sheriff are authorized to administer and enforce the provisions of this chapter. The District Attorney and the Sheriff may exercise any enforcement powers provided by law.

Section 32.1508 **ENFORCEMENT REMEDIES.**

(a) Any person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to a minor is guilty of a misdemeanor.

(b) Any person who violates subdivision (a), above, by purchasing an alcoholic beverage for a minor and the minor thereafter consumes the alcohol and thereby proximately causes great bodily injury or death to himself, herself, or any other person, is guilty of a misdemeanor.

(c) Any person who violates subdivision (a) by furnishing an alcoholic beverage, or causing an alcoholic beverage to be furnished, to a minor shall be punished by a fine of one thousand dollars (\$1,000), no part of which shall be suspended, and the person shall be required to perform not less than 24 hours of community service during hours when the person is not employed and is not attending school.

(d) Any person who violates subdivision (b) shall be punished by imprisonment in a county jail for a minimum term of six months not to exceed one year, by a fine not exceeding one thousand dollars (\$1,000), or by both imprisonment and fine.

(e) Any act of willful misconduct of a minor that results in injury or death to another person or in injury to the property of another shall be imputed to the parent or guardian having custody and control of the minor for all purposes of civil damages, and the parent or guardian having custody and control shall be jointly and severally liable with the minor for any damages resulting from the willful misconduct.

(f) A social host who serves alcoholic beverages to a minor guest may be held liable for injuries sustained by third parties, including County law enforcement personnel, as a result of the minor guest's negligence.

(g) A social host shall be liable for the cost of providing enforcement services in response to a party in which minors have obtained, possessed, or consumed alcoholic beverages. Such costs include reasonable attorneys' fees in the event of litigation.

Section 3. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED, AND ADOPTED this 8<sup>th</sup> day of July, 2003.