



Photo by Mike Taheri

New Topics in Criminal Law

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 civil liability. If a minor (under 21) is provided alcohol by anyone (adult or minor), and that minor is injured or killed, a claim may be made for monetary damages against the individual who provided the alcohol. This law also applies to a young person who, for example, buys alcohol for his or her classmates or to give out at a “house party.”

Under New York Penal Law section 260.20, *Unlawfully Dealing with a Child in the First Degree*, 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....” The possible sentence includes up to 1 year in jail and/or up to 3 years probation.

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

In cases of accident or injury, providing alcohol to minors also may carry serious civil consequences. General Obligations Law § 11-100 permits claims against social hosts or anyone who provides or makes available alcohol to a minor who subsequently hurts a third party due to his or her impairment or intoxication. The “provider” may be sued for money damages for full compensation of the injuries sustained. This may run into hundreds of thousands of dollars.

Finally, a passenger riding in a vehicle driven by an intoxicated driver may not recover for personal injuries, no matter how severe, if:

1. He or she contributed to the driver’s intoxication by even only buying the driver one drink (joint contribution).
2. By knowingly riding in a vehicle with a driver whose abilities he knew were impaired due to alcohol or drugs (assumption of risk).

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The portions of this article regarding civil consequences were prepared by J. Michael Hayes, Esq., 69 Delaware Ave., Ste 1111, Buffalo, NY 14202, telephone number: (716) 852-1111, and are used with his kind permission.

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