



Center for the Study of Law and Enforcement Policy

A Center of the Pacific Institute for Research and Evaluation

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Social Host Laws in a Nutshell

- What is a Social Host (“SH”) Law? Social host laws hold non-commercial individuals, including parents, landowners, and tenants, responsible for underage drinking events on property they own, lease, or otherwise control. Whereas laws prohibiting furnishing alcoholic beverages to underage persons target providing the alcoholic beverages to underage persons, social host laws target providing *the location* where underage drinking takes place.
- State Criminal SH Laws. Governments can have different types of laws against social hosts. In some states, the social host is held *criminally* liable for committing a misdemeanor, meaning the host could be punished with a monetary fine and up to one year in jail. (See NIAAA Alcohol Policy Information System at <http://alcoholpolicy.com/>.) The alcohol industry is a frequent sponsor of criminal social host laws. California has no state criminal law on social host. Nevertheless, pursuant to California statute, a parent or legal guardian who knowingly permits his or her child, or a person in the company of the child, or both, who are under the age of 18 years, to consume an alcoholic beverage or use a controlled substance at the home of the parent or legal guardian is guilty of a misdemeanor if all of the following occur:
 - (1) As the result of the consumption of an alcoholic beverage or use of a controlled substance at the home of the parent or legal guardian, the child or other underage person has a blood-alcohol concentration of 0.05 percent or greater, as measured by a chemical test, or is under the influence of a controlled substance.
 - (2) The parent knowingly permits that child or other underage person, after leaving the parent's or legal guardian's home, to drive a vehicle.
 - (3) That child or underage person is found to have caused a traffic collision while driving the vehicle.

(Cal. Bus. & Prof. Code, § 25658.2.)



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- State Civil SH Laws. In some states, there is civil liability, which means a social host may be found liable in a private lawsuit brought by someone injured by a guest allowed to drink on the host's private property. Civil liability is something that is a creature of a state statute or state court decisions.
 - In California, there is no state civil statute concerning liability for the providing of a location for an underage drinking event in a lawsuit between private parties.
 - Pursuant to California statute, "social hosts" who "furnish" alcoholic beverages to any person are immune from lawsuits for damages or injury suffered by that person or any third party, resulting from the consumption of those beverages. (Cal. Civ. Code, § 1714, subd. (c); Cal. Bus. & Prof. Code, § 25602, subd. (b).)
- Three Types of Local Municipal Ordinances. At the local level, cities and counties have at least three options. Some municipalities treat social host liability as a misdemeanor, as some states do, carrying possible jail time as a penalty. Others treated social host liability as a criminal matter but the penalty is at most a monetary fine, not jail time.
- Response Costs Recovery ("RCR") Ordinances: Underage Drinking Party as a Public Nuisance. With the third and newest type of local social host law, called **response costs recovery ordinances**, parents, landowners, tenants, and social hosts face no criminal penalties—no criminal monetary fines or jail time—at all. Instead, in the currently few municipalities that have them, these laws declare an underage drinking party on private property a **public nuisance**, which threatens the public health, safety and general welfare. RCR ordinances hold these persons **civilly responsible** for the costs of police, fire, or other emergency response services associated with responding multiple times to the location of an underage drinking party.
- Who is a "Responsible Person" Held Liable Under a SH Law? Parents who allow underage drinking parties at their residences and their children are held liable, as are "persons in control of the premises," including absentee landlords and tenants.
- Why Use a Civil Public Nuisance Remedy Over Criminal Proceedings? Prosecuting parents and property owners as criminals in every case may not be an effective deterrent to most problems of underage drinking parties and their consequences.



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- Civil Proceedings Have Lower Standard of Proof.
 - In criminal cases, the high standard of proof “beyond a reasonable doubt” and complex evidentiary issues that often require the prosecution to prove knowledge of the parties and/or activities on the property, make criminal proceedings a poor arena in which to build a case against a violator. Laws that make jail time a possible penalty, as opposed to laws that impose only monetary fines, face stiff legal and constitutional challenges in the courts. (E.g., City of San Diego misdemeanor ordinance.)
 - In civil cases, the “preponderance of the evidence” standard (greater weight of the evidence in favor of one side or the other) is easier to meet.
- Civil Remedy Would Not Require Proof of “Knowledge”.
 - The model social host law applies the legal doctrine of “strict liability.” With “strict liability,” knowledge of the party or of the occurrence of underage drinking at the party is not required in order to impose response costs against the host or property owner. On the other hand, “knowledge” is usually a component of criminal proceedings where the possible penalty includes jail time.
- A Bill for Response Costs Captures the Property Owner’s Attention. Requiring parents, landlords, and social hosts to pay for response costs resulting from an out of control party (e.g., the salaries of responding police, fire, or other emergency personnel, and the costs associated with the responders’ medical treatment and repairs to city property) may seize the attention of those persons who are in the best position to stop underage drinking parties on private property.
- Precedent in Tobacco Prevention Work. This movement away from criminal penalties towards civil liability has precedent in the law on tobacco controls. For example, in some states, some municipal clean indoor air ordinances declare it a nuisance to permit smoking in a public place. If an establishment is declared a nuisance, the local government or a citizen may bring a “padlock action” against the establishment. If a court finds sufficient evidence of a nuisance, it may order the nuisance to be abated, and it may have the authority to order the establishment to close for a period of one year.



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- Key Components of the RCR Ordinance. (See Checklist.)
- How Can a SH Law be Used to Address Methamphetamine Use? With regard to methamphetamine use, the model social host law could be amended by broadening definition of a “loud or unruly gathering” to include controlled substance use at these gatherings.
 - In addition, a municipality or state might consider enacting a comprehensive law authorizing temporary, preliminary, and permanent injunctive relief and other remedies to abate “drug nuisances,” in order to control not just the problem of controlled substance use at parties, but also the problem of “drug trafficking” on private and commercial property. (See National Alliance for Model Drug Laws at <http://www.natlalliance.org/>.)
- Compliance with SH Law as a Lease Obligation.
 - Lease provisions that provide: “Tenant agrees not to commit, or suffer to be committed, any waste on the leased premises, nor shall it maintain, commit, or permit the maintenance or commission of any nuisance, including a loud or unruly gathering, on the leased premises in violation of Section ____ of the City/County of ____ Municipal Code (see attached copy) or use the leased premises for any other unlawful purpose.”



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