

Jay Howell & Associates

A PROFESSIONAL ASSOCIATION

Attorneys at Law

644 Cesery Boulevard, Suite 300

Jacksonville, Florida 32211

(904) 680-1234 • Fax (904) 680-1238

www.jayhowell.com

PROVIDING ALCOHOL TO MINORS

By Jay Howell

In most states one can be held responsible for providing alcohol to an adult who subsequently injures or kills another. However, Florida law follows a different standard. Here, a person who sells or furnishes alcohol to an adult has no particular duty of care toward a third person who may be injured by the intoxicated individual. This rule is based on the principle that an adult who voluntarily consumes alcohol, rather than the person who furnished it, is held responsible for any resulting injuries.

However, this general rule is significantly limited by our Florida Statutes with regard to minors who consume alcohol. Any person who willfully and unlawfully sells or just furnishes alcoholic beverages to a person who is not of lawful drinking age (21) will be responsible for injuries or damages caused by the intoxication of the minor.

Our community recently witnessed a horrible tragedy involving a teenage driver who consumed alcoholic beverages at a party at a local residence and then, while driving on the interstate, killed a 7-year-old Pennsylvania child who was a passenger in a vehicle heading to Disney World. The drunk driver, 19 years old at the time of the sentencing, is now serving four years in the Florida State Prison. At the time of the incident and the ensuing criminal case for DUI-Manslaughter, questions were raised about the accountability of adults who may have been responsible for providing alcohol to the minor driver at the party.

Florida has a so called "open house party" statute. This law makes it a criminal offense for an adult having control of a residence to permit an open house party to take place in the residence if the adult knows that any alcoholic beverages or drugs are being possessed or consumed by minors at the party.

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Recently, a Florida appellate court concluded that our legislature intended to impose a duty of care on social hosts by enacting this law. The court stated that the law is designed to protect minors from harm that could result from the consumption of alcohol or drugs by those too immature to appreciate the potential consequences, and responsibility may be created when such a statute is violated.

The Florida legislature, during the recent 2002 session, amended this "open house party" law, expanding the potential of criminal and civil responsibility to include individuals 18, 19, 20, and 21 years of age. Previously the statutes had limited the responsibility to those adults older than 21.

This law has dramatic implications for those who knowingly provide alcohol to minors at their house. While some parents would argue that it is safer for their own teenagers and their friends to drink at home in a supervised atmosphere, anyone over 18 who engages in this practice may assume a significant risk of responsibility in our civil and criminal courts.

This new law is identified as House Bill 219 and goes into effect on July 1, 2002. Individuals interested in the full text of this new legislation can secure a copy at the following web site: <http://www.leg.state.fl.us/>; or by contacting their state Senator or Representative.