

## CHAPTER 52 – ALCOHOLIC BEVERAGE

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### *Article I – General Provisions*

#### **52.01 Authorization and Purpose.**

This Chapter is created pursuant to the authority granted under § 125.10(2), Wis. Stats., which provides authority for a county to regulate conduct associated with the consumption of alcoholic beverages by underage persons. The purpose of this Chapter is to regulate and prohibit consumption and possession of alcoholic beverages by underage persons, or the sale of alcoholic beverages to such persons, for the general health, safety and welfare of the public as a whole. This Chapter shall not apply within any municipality that has enacted or enacts an ordinance under the authority of § 125.10(2), Wis. Stats.

#### **52.02 Definitions.**

**A. Alcoholic Beverage** means fermented malt beverages and intoxicating liquor, in liquid, vapor, powder or any other form.

**B. Fermented Malt Beverage** has the meaning given under § 125.02(6), Wis. Stats.

**C. Intoxicating Liquor** has the meaning given under § 125.02(8), Wis. Stats.

**D. Legal Drinking Age** means twenty-one (21) years of age.

**E. Licensee** means any person holding a written authorization to sell alcoholic beverages issued by a municipal government under Chapter 125, Wis. Stats.

**F. Permittee** means any person holding a permit issued by the Department of Revenue under Chapter 125, Wis. Stats.

**G. Person** means a natural person, sole proprietorship, partnership, limited liability entity, corporation or association.

**H. Premises** means the area described in a license or permit.

**I. Sell, Sale, Sold or Selling** means any transfer of alcoholic beverages with consideration or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcoholic beverages, or any shift, device, scheme or transaction for obtaining alcoholic beverages, including the solicitation of orders for, or the sale for future delivery of, alcoholic beverages.

**J. Underage Person** means a person who has not attained the legal drinking age.

**K. Wholesaler** means a person, other than a brewer, manufacturer or rectifier, who sells alcoholic beverages to a licensed retailer or to another person who holds a permit or license to sell alcoholic beverages at wholesale.

### **52.03 Prohibited Conduct.**

**A.** It shall be unlawful and a violation of this Chapter for any person to procure for, sell, dispense or give away any alcoholic beverage to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

**B.** It shall be unlawful and a violation of this Chapter for any licensee or permittee to sell, vend, deal or traffic in alcoholic beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

**C.** It shall be unlawful and a violation of this Chapter for any adult person to knowingly permit or fail to take action to prevent the illegal consumption of alcoholic beverages by an underage person on premises owned by the adult or under the adult's control. This subdivision does not apply to alcoholic beverages used exclusively as part of a religious ceremony.

**D.** It shall be unlawful and a violation of this Chapter for any adult to intentionally encourage or contribute to a violation of Sections 52.04, 52.05 or 52.06.

### **52.04 Underage Persons; Prohibitions.**

It shall be unlawful and a violation of this Chapter for any underage person to do any of the following:

**A.** Procure or attempt to procure alcoholic beverages from a licensee or permittee.

**B.** Possess or consume alcoholic beverages on licensed premises, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.

**C.** Enter, knowingly attempt to enter or to be on any licensed premises in violation of § 125.07(3)(a), Wis. Stats.

**D.** Falsely represent his or her age for the purpose of receiving alcoholic beverages from a licensee or permittee.

#### **52.05 Underage Persons; Exceptions.**

**A.** Except as provided in Subsection (B) below, any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes alcoholic beverages is guilty of a violation.

**B.** An underage person may possess alcoholic beverages in the course of employment during his or her working hours if employed by any of the following:

1. A brewer.
2. A fermented malt beverages wholesaler.
3. A permittee other than a Class “B” or “Class B” permittee, as defined under Chapter 125, Wis. Stats.
4. A facility for the production of alcohol fuel.
5. A retail licensee or permittee under the conditions specified in §§ 125.32(2), or 125.68(2), Wis. Stats., or for delivery of unopened containers to the home or vehicle of a customer.

#### **52.06 Underage Persons; Proof of Age.**

It shall be unlawful and a violation of this Chapter for any underage person to do any of the following:

**A.** Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information.

**B.** Makes, alters or duplicates an official identification card purporting to show that he or she has attained the legal drinking age.

**C.** Presents false information to an issuing officer in applying for an official identification card.

**D.** Intentionally carries an official identification card or other documentation showing that the person has attained the legal drinking age, with knowledge that the official identification card or documentation is false.

**52.07 Possession of Alcoholic Beverages on School Grounds Prohibited.**

**A. Motor Vehicle** means a motor vehicle owned, rented or consigned to a school.

**B. School** means a public, parochial or private school which provides an educational program for one (1) or more grades between grades 1 (one) and 12 (twelve) and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.

**C. School Administrator** means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

**D. School Premises** means premises owned, rented or under the control of a school.

**E.** Except as provided by Subsection (F) below no person may possess or consume alcoholic beverages:

1. On school premises.
2. In a motor vehicle, if a pupil attending the school is in the motor vehicle.
3. While participating in a school-sponsored activity.

**F.** Alcoholic beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator, consistent with applicable laws, ordinances and school board policies.

**52.08 Prosecution of Violations.**

The County District Attorney shall prosecute all actions concerning violation of this Chapter.

**52.09 Penalties.**

Penalties for this Chapter are set forth in Chapter 100 of the Code.

**52.10 Statutory Penalties and Sentencing Alternatives Not Affected.**

The penalties set forth in this Chapter and Chapter 100 are not intended to and shall not be construed as in any manner restricting, modifying or abridging a court's discretion in utilizing the penalties, sentencing alternatives and supplements set forth in Chapters 125 and 778 and § 938.344, Wis. Stats.

*Article II – Social Host*

**52.11 Purpose.**

The County discourages underage possession and consumption of alcoholic beverages and intends to hold persons civilly responsible who host events or gatherings, even if done within the confines of a private residence, where persons under twenty-one (21) years of age possess or consume alcoholic beverages regardless of whether the person hosting the event or gathering supplied the alcoholic beverage. The County finds:

**A.** Events and gatherings held on private or public property where alcoholic beverages are possessed or consumed by persons under the age of twenty-one (21) are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.

**B.** Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.

**C.** Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

**D.** Often, events or gatherings involving underage possession and consumption occur without the knowledge of parents. However, there are times when the parent(s) or other adult is/are aware, condone or are present during the activity and in some circumstances, provide the alcoholic beverages.

**E.** A deterrent effect will be created by holding a person, adult or child, responsible for hosting an event or gathering where underage possession or consumption occurs.

**52.12 Definitions.**

For purposes of this Article, the following terms have the following meanings:

**A. Alcohol** means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

**B. Alcoholic Beverage** means alcohol, spirits, liquor, wine, beer and every liquid, solid or vapor containing alcohol, spirits, wine or beer, and which contains one-half of one percent (.5%) or more of alcohol by volume.

**C. Event or Gathering** means any group of three (3) or more persons who have assembled or gathered together for a social occasion or other activity.

**D. Host or Allow** means to aid, conduct, entertain, organize, supervise, control or permit a gathering or event.

**E. Responsible Adult** means one of the following:

1. Parent means any person having legal custody of a juvenile.
  - i. As natural, adoptive parent or step-parent;
  - ii. As a legal guardian; or
  - iii. As a person to whom legal custody has been given by order of the Court.
2. An adult, eighteen (18) years of age or older associated with the event or gathering, either by hosting or allowing the gathering or event, or by providing alcohol for the gathering or event.

**F. Residence, Premises or Public or Private Property** means any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, or a hall or meeting room, park or any other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented or used with or without permission or compensation.

**G. Underage Person** means any individual under twenty-one (21) years of age.

**H. Present** means being at hand or in attendance.

**I. In Control** means the power to direct, manage, oversee and/or restrict the affairs, business or assets of a person or entity.

### **52.13 Prohibited Acts.**

**A.** It is unlawful for any person(s) to: host or allow an event or gathering at any residence, premises or on any other private or public property where alcohol or alcoholic beverages are present when the person knows that an underage person will or does (i) consume any alcohol or alcoholic beverage; or (ii) possess any alcohol or alcoholic beverage with the intent to consume it; and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

**B.** A person is responsible for violating Subsection (A) above, if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.

**C.** A person who hosts an event or gathering does not have to be present at the event or gathering to be responsible.

### **52.14 Exceptions.**

**A.** This Article does not apply to conduct solely between an underage person and his or her parents while the parent is present and in control of the underage person.

**B.** This Article does not apply to legally-protected religious observances.

C. This Article does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

**52.15 Penalties.**

Penalties for this Article are set forth in Chapter 100.

11/21/2014