

SENATE, No. 692

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 24, 2000

Sponsored by:

Senator LEONARD T. CONNORS, JR.

District 9 (Atlantic, Burlington and Ocean)

SYNOPSIS

Prohibits possession or consumption of alcoholic beverages on private property by persons under legal drinking age.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT concerning possession and consumption of alcoholic
2 beverages by underaged persons, supplementing Title 33 of the
3 Revised Statutes and amending P.L.1979, c.264 and P.L.1982,
4 c.77.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. Section 1 of P.L.1979, c.264 (C.2C:33-15) is amended to read
10 as follows:

11 1. a. Any person under the legal age to purchase alcoholic
12 beverages who [~~knowingly possesses~~], without legal authority,
13 knowingly possesses or [~~who~~] knowingly consumes any alcoholic
14 beverage in any school, public conveyance, public place, or place of
15 public assembly, or motor vehicle, is guilty of a disorderly persons
16 offense, and shall be fined not less than [~~\$500.00~~] \$500.

17 b. [~~Whenever this offense is committed in a motor vehicle, the~~]
18 The court shall, in addition to the sentence authorized for [~~the~~] this
19 offense, suspend or postpone for six months the driving privilege of
20 the defendant. Upon the conviction of any person under this section,
21 the court shall forward a report to the Division of Motor Vehicles
22 stating the first and last day of the suspension or postponement period
23 imposed by the court pursuant to this section. If a person at the time
24 of the imposition of a sentence is less than 17 years of age, the period
25 of license postponement, including a suspension or postponement of
26 the privilege of operating a motorized bicycle, shall commence on the
27 day the sentence is imposed and shall run for a period of six months
28 after the person reaches the age of 17 years.

29 If a person at the time of the imposition of a sentence has a valid
30 driver's license issued by this State, the court shall immediately collect
31 the license and forward it to the division along with the report. If for
32 any reason the license cannot be collected, the court shall include in
33 the report the complete name, address, date of birth, eye color, and
34 sex of the person as well as the first and last date of the license
35 suspension period imposed by the court.

36 The court shall inform the person orally and in writing that if the
37 person is convicted of operating a motor vehicle during the period of
38 license suspension or postponement, the person shall be subject to the
39 penalties set forth in R.S.39:3-40. A person shall be required to
40 acknowledge receipt of the written notice in writing. Failure to
41 receive a written notice or failure to acknowledge in writing the
42 receipt of a written notice shall not be a defense to a subsequent
43 charge of a violation of R.S.39:3-40.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 If the person convicted under this section is not a New Jersey
2 resident, the court shall suspend or postpone, as appropriate, the
3 non-resident driving privilege of the person based on the age of the
4 person and submit to the division the required report. The court shall
5 not collect the license of a non-resident convicted under this section.
6 Upon receipt of a report by the court, the division shall notify the
7 appropriate officials in the licensing jurisdiction of the suspension or
8 postponement.

9 c. A person who violates the provisions of this section shall be
10 ordered by the court to perform community service for a period of not
11 more than 180 days. The community service so ordered shall be of a
12 form and on terms as the court shall deem appropriate for the
13 circumstances. All fines imposed upon persons who violate the
14 provisions of this section shall be paid to the probation office of the
15 county wherein the community service shall be performed and shall be
16 used exclusively to defray the cost incurred by the probation office,
17 agency, local governmental unit, or individual assigned supervisory
18 responsibility for that violator's community service. In addition [to the
19 general penalty prescribed for a disorderly persons offense], the court
20 may require any person who violates this act to participate in an
21 alcohol education or treatment program, authorized by the Department
22 of Health, for a period not to exceed the maximum period of
23 confinement prescribed by law for the offense for which the individual
24 has been convicted.

25 d. Nothing in this act shall apply to possession of alcoholic
26 beverages by any such person while actually engaged in the
27 performance of employment [pursuant to an employment permit issued
28 by the Director of the Division of Alcoholic Beverage Control, or for
29 a bona fide hotel or restaurant, in accordance with the provisions of
30 R.S.33:1-26] by a person who is licensed under Title 33 of the Revised
31 Statutes, or while actively engaged in the preparation of food while
32 enrolled in a culinary arts or hotel management program at a county
33 vocational school or post secondary educational institution; however,
34 this subsection shall not be construed to preclude the imposition of a
35 penalty under this section, R.S.33:1-81, or any other section of law
36 against a person who is convicted of unlawful alcoholic beverage
37 activity on or at premises licensed for the sale of alcoholic beverages.

38 e. The provisions of section 3 of P.L.1991, c.169 (C.33:1-81.1a)
39 shall apply to a parent, guardian or other person with legal custody of
40 a person under 18 years of age who is found to be in violation of this
41 section.

42 (cf: P.L.1997, c.161, s.1)

43

44 2. (New section) a. Any person under the legal age to purchase
45 alcoholic beverages who, without legal authority, knowingly possesses
46 or knowingly consumes an alcoholic beverage on private property

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1 shall be fined \$200 for a first offense and \$350 for a subsequent
2 offense; in addition, the person shall be ordered by the court to
3 perform community service for a period of not more than 180 days.
4 The community service so ordered shall be of a form and on terms as
5 the court shall deem appropriate for the circumstances.

6 b. All fines imposed upon persons who violate the provisions of
7 this section shall be paid to the probation office of the county wherein
8 the community service shall be performed and shall be used exclusively
9 to defray the cost incurred by the probation office, agency, local
10 governmental unit, or individual assigned supervisory responsibility for
11 that violator's community service.

12 c. This section shall not apply to an underaged person who
13 consumes or possesses an alcoholic beverage in connection with a
14 religious observance, ceremony, or rite or to an underaged person who
15 consumes or possesses an alcoholic beverage in the presence of and
16 with the permission of a parent or guardian who has attained the legal
17 age to purchase and consume alcoholic beverages. For the purposes
18 of this paragraph, guardian means a person who has qualified as a
19 guardian of the underaged person pursuant to testamentary or court
20 appointment.

21 d. Nothing in this act shall apply to possession of alcoholic
22 beverages by any such person while actually engaged in the
23 performance of employment by a person who is licensed under Title
24 33 of the Revised Statutes; however, this subsection shall not be
25 construed to preclude the imposition of a penalty under this section,
26 R.S.33:1-81, or any other section of law against a person who is
27 convicted of unlawful alcoholic beverage activity on or at premises
28 licensed for the sale of alcoholic beverages.

29 e. The court shall, in addition to the sentence authorized for this
30 offense, suspend or postpone for six months the driving privilege of
31 the defendant. Upon the conviction of any person under this section,
32 the court shall forward a report to the Division of Motor Vehicles
33 stating the first and last day of the suspension or postponement period
34 imposed by the court pursuant to this section. If a person at the time
35 of the imposition of a sentence is less than 17 years of age, the period
36 of license postponement, including a suspension or postponement of
37 the privilege of operating a motorized bicycle, shall commence on the
38 day the sentence is imposed and shall run for a period of six months
39 after the person reaches the age of 17 years.

40 If a person at the time of the imposition of a sentence has a valid
41 driver's license issued by this State, the court shall immediately collect
42 the license and forward it to the division along with the report. If for
43 any reason the license cannot be collected, the court shall include in
44 the report the complete name, address, date of birth, eye color, and
45 sex of the person as well as the first and last date of the license
46 suspension period imposed by the court.

1 The court shall inform the person orally and in writing that if the
2 person is convicted of operating a motor vehicle during the period of
3 license suspension or postponement, the person shall be subject to the
4 penalties set forth in R.S.39:3-40. A person shall be required to
5 acknowledge receipt of the written notice in writing. Failure to
6 receive a written notice or failure to acknowledge in writing the
7 receipt of a written notice shall not be a defense to a subsequent
8 charge of a violation of R.S.39:3-40.

9 If the person convicted under this section is not a New Jersey
10 resident, the court shall suspend or postpone, as appropriate, the
11 non-resident driving privilege of the person based on the age of the
12 person and submit to the division the required report. The court shall
13 not collect the license of a non-resident convicted under this section.
14 Upon receipt of a report by the court, the division shall notify the
15 appropriate officials in the licensing jurisdiction of the suspension or
16 postponement.

17

18 3. Section 4 of P.L.1982, c.77 (C.2A:4A-23) is amended to read
19 as follows:

20 4. Definition of delinquency. As used in this act, "delinquency"
21 means the commission of an act by a juvenile which if committed by
22 an adult would constitute:

23 a. A crime;

24 b. A disorderly persons offense or petty disorderly persons offense;
25 [or]

26 c. A violation of any other penal statute, ordinance or regulation;
27 or

28 d. A violation of section 2 of P.L. , c. (C.) (now pending
29 before the Legislature as this bill).

30 But, the commission of (1) an act which constitutes a violation of
31 chapter 3, 4, 6 or 8 of Title 39 of the Revised Statutes by a juvenile of
32 any age; (2) an act relating to the ownership or operation of a
33 motorized bicycle which constitutes a violation of chapter 3 or 4 of
34 Title 39 of the Revised Statutes by a juvenile of any age; (3) an act
35 which constitutes a violation of article 3 or 6 of chapter 4 of Title 39
36 of the Revised Statutes pertaining to pedestrians and bicycles, by a
37 juvenile of any age; (4) the commission of an act which constitutes a
38 violation of P.L.1981, c.318 (C.26:3D-1 et seq.), P.L.1981, c.319
39 (C.26:3D-7 et seq.), P.L.1981, c.320 (C.26:3D-15 et seq.), P.L.1985,
40 c.185 (C.26:3E-7 et seq.), P.L.1985, c.186 (C.26:3D-32 et seq.),
41 N.J.S.2C:33-13, P.L.1985, c.318 (C.26:3D-38 et seq.), P.L.1985,
42 c.381 (C.26:3D-46 et seq.), or of any amendment or supplement
43 thereof, by a juvenile of any age;(5) an act which constitutes a
44 violation of chapter 7 of Title 12 of the Revised Statutes relating to
45 the regulation and registration of power vessels, by a juvenile of any
46 age or section 2 of P.L.1987, c.453 (C.12:7-61); or (6) an act which

1 constitutes a violation of a municipal ordinance enacted pursuant to
2 section 2 of P.L.1992, c.132 (C.40:48-2.52) pertaining to curfew
3 ordinances shall not constitute delinquency as defined in this act. The
4 municipal court having jurisdiction over a case involving a violation by
5 a juvenile of a section of Title 26 listed in this subsection, Title 40
6 listed in this subsection or N.J.S.2C:33-13, shall forward a copy of the
7 record of conviction in that case to the Family Part intake service of
8 the county where the municipal court is located. If a municipal court
9 orders detention or imposes a term of imprisonment on a juvenile in
10 connection with a violation of Title 39 of the Revised Statutes, chapter
11 7 of Title 12 of the Revised Statutes, Title 40 of the Revised Statutes
12 or N.J.S.2C:33-13, that detention or term of imprisonment shall be
13 served at a suitable juvenile institution and not at a county jail or
14 county workhouse.

15 (cf: P.L.1997, c.383, s.1)

16

17 4. This act shall take effect immediately.

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STATEMENT

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22 This bill prohibits the possession or consumption of alcoholic
23 beverages on private property by persons under the legal age to
24 purchase alcoholic beverages.

25 The bill supplements Title 33 of the Revised Statutes (alcoholic
26 beverages) to provide that an underage person is prohibited from
27 possessing or consuming an alcoholic beverage on private property,
28 unless that possession or consumption is in connection with a religious
29 observance, ceremony or rite, or the underage person possesses or
30 consumes that beverage in the presence of and with the permission of
31 a parent or guardian who is of legal age. Violators would be subject
32 to a \$200 fine for a first offense and a \$350 fine for any subsequent
33 offense. In addition to the fine, the violator would be required to
34 perform up to 180 days of community service. Finally, the violator's
35 driving privileges are to be either suspended or postponed for six
36 months. The suspension is imposed in those cases where the violator
37 has a New Jersey driver's license; the postponement applies to
38 violators under the age of 17, pushing back the age at which they are
39 eligible for a New Jersey driver's license from 17 to 17 years and six
40 months.

41 The bill also amends section 1 of P.L.1979, c.264 (C.2C:33-15),
42 which prohibits the possession and consumption of alcoholic beverages
43 by underage persons in certain public places, to provide additional
44 sanctions. Under this bill, a violator would be required to perform up
45 to 180 days of community service and his driving privileges would be
46 suspended or postponed for a period of six months, depending upon

1 his age at the time of the offense. Currently, the court may impose
2 such a suspension or postponement only if the offense took place in a
3 motor vehicle.

4 The bill includes an exemption for underage persons who are
5 employed by alcoholic beverage licensees. This provision makes it
6 permissible for underage persons who, for example, are working as
7 waiters, waitresses, busboys, or stock boys in restaurants or liquor
8 stores to legally possess the alcoholic beverage they are delivering to
9 a customer or placing on display for sale.

10 Finally, the bill amends N.J.S.2A:4A:23 to include the illegal
11 possession or consumption of an alcoholic beverage by a underage
12 person on private property as an action which constitutes an act of
13 "delinquency" under the "New Jersey Code of Juvenile Justice,"
14 P.L.1982, c.77 (C.2A:4A-20 et seq.).

15 It is the committee's understanding that the actions of law
16 enforcement officers in enforcing the provisions of this act would be
17 governed by the Fourth Amendment of the United States Constitution,
18 made applicable to the states through the Fourteenth Amendment,
19 which prohibits unreasonable searches and seizures by government
20 agents. This law prohibits law enforcement officers from searching or
21 making arrests in private dwellings without a search warrant based
22 upon probable cause absent extraordinary circumstances.