

SENATE, No. 1428

STATE OF NEW JERSEY

INTRODUCED JULY 25, 1996

By Senators EWING and CAFIERO

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.

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

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 suspension period imposed by the court.

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

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

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

34 d. Nothing in this act shall apply to possession of alcoholic
35 beverages by any such person while actually engaged in the
36 performance of employment [pursuant to an employment permit issued
37 by the Director of the Division of Alcoholic Beverage Control, or for
38 a bona fide hotel or restaurant, in accordance with the provisions of
39 R.S.33:1-26] by a person who is licensed under Title 33 of the Revised
40 Statutes; however, this subsection shall not be construed to preclude
41 the imposition of a penalty under this section, R.S.33:1-81, or any
42 other section of law against a person who is convicted of unlawful
43 alcoholic beverage activity on or at premises licensed for the sale of
44 alcoholic beverages.

45 e. The provisions of section 3 of P.L.1991, c.169 (C.33:1-81.1a)
46 shall apply to a parent, guardian or other person with legal custody of

1 a person under 18 years of age who is found to be in violation of this
2 section.

3 (cf: P.L.1991, c.169, s.2)

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5 2. (New section) a. Any person under the legal age who, without
6 legal authority, knowingly possesses or knowingly consumes an
7 alcoholic beverage on private property shall be fined \$200 for a first
8 offense and \$350 for a subsequent offense; in addition, the person shall
9 be ordered by the court to perform community service for a period of
10 not more than 180 days. The community service so ordered shall be
11 of a form and on terms as the court shall deem appropriate for the
12 circumstances.

13 b. All fines imposed upon persons who violate the provisions of
14 this section shall be paid to the probation office of the county wherein
15 the community service shall be performed and shall be used exclusively
16 to defray the cost incurred by the probation office, agency, local
17 governmental unit, or individual assigned supervisory responsibility for
18 that violator's community service.

19 c. This section shall not apply to an underaged person who
20 consumes or possesses an alcoholic beverage in connection with a
21 religious observance, ceremony, or rite or to an underaged person who
22 consumes or possesses an alcoholic beverage in the presence of and
23 with the permission of a parent or guardian who has attained the legal
24 age to purchase and consume alcoholic beverages. For the purposes
25 of this paragraph, guardian means a person who has qualified as a
26 guardian of the underaged person pursuant to testamentary or court
27 appointment.

28 d. Nothing in this act shall apply to possession of alcoholic
29 beverages by any such person while actually engaged in the
30 performance of employment by a person who is licensed under Title
31 33 of the Revised Statutes; however, this subsection shall not be
32 construed to preclude the imposition of a penalty under this section,
33 R.S.33:1-81, or any other section of law against a person who is
34 convicted of unlawful alcoholic beverage activity on or at premises
35 licensed for the sale of alcoholic beverages.

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

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

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

16 If the person convicted under this section is not a New Jersey
17 resident, the court shall suspend or postpone, as appropriate, the
18 non-resident driving privilege of the person based on the age of the
19 person and submit to the division the required report. The court shall
20 not collect the license of a non-resident convicted under this section.
21 Upon receipt of a report by the court, the division shall notify the
22 appropriate officials in the licensing jurisdiction of the suspension or
23 postponement.

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

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

30 a. A crime;

31 b. A disorderly persons offense or petty disorderly persons offense;

32 [or]

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

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

36 But, the commission of (1) an act which constitutes a violation of
37 chapter 3, 4, 6 or 8 of Title 39 of the Revised Statutes by a juvenile of
38 any age; (2) an act relating to the ownership or operation of a
39 motorized bicycle which constitutes a violation of chapter 3 or 4 of
40 Title 39 of the Revised Statutes by a juvenile of any age; (3) an act
41 which constitutes a violation of article 3 or 6 of chapter 4 of Title 39
42 of the Revised Statutes pertaining to pedestrians and bicycles, by a
43 juvenile of any age; or (4) the commission of an act which constitutes
44 a violation of P.L.1981, c.318 (C.26:3D-1 et seq.), P.L.1981, c.319
45 (C.26:3D-7 et seq.), P.L.1981, c.320 (C.26:3D-15 et seq.), P.L.1985,
46 c.185 (C.26:3E-7 et seq.), P.L.1985, c.186 (C.26:3D-32 et seq.),

1 N.J.S.2C:33-13, P.L.1985, c.318 (C.26:3D-38 et seq.), P.L.1985,
2 c.381 (C.26:3D-46 et seq.), or of any amendment or supplement
3 thereof, by a juvenile of any age; or (5) an act which constitutes a
4 violation of chapter 7 of Title 12 of the Revised Statutes relating to
5 the regulation and registration of power vessels, by a juvenile of any
6 age or section 2 of P.L.1987, c.453 (C.12:7-61) shall not constitute
7 delinquency as defined in this act. The municipal court having
8 jurisdiction over a case involving a violation by a juvenile of a section
9 of Title 26 listed in this subsection, or N.J.S.2C:33-13, shall forward
10 a copy of the record of conviction in that case to the Family Part
11 intake service of the county where the municipal court is located.

12 If a municipal court orders detention or imposes a term of
13 imprisonment on a juvenile in connection with a violation of Title 39
14 of the Revised Statutes, chapter 7 of Title 12 of the Revised Statutes
15 or N.J.S.2C:33-13, that detention or term of imprisonment shall be
16 served at a suitable juvenile institution and not at a county jail or
17 county workhouse.

18 (cf: P.L.1991, c.96, s.1)

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20 4. This act shall take effect immediately.

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STATEMENT

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25 This bill prohibits the possession or consumption of alcoholic
26 beverages on private property by persons under 21 years of age.

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

45 The bill also amends section 1 of P.L.1979, c.264 (C.2C:33-15),
46 which prohibits the possession and consumption of alcoholic beverages

1 by underage persons in certain public places, to provide additional
2 sanctions. Currently, violators of this section are guilty of a disorderly
3 persons offense. A disorderly person's offense is punishable by a fine
4 of not more than \$1,000 (the section specifies, however, that in this
5 case the fine may not be less than \$500), imprisonment for a term of
6 not more than six months, or both.

7 Under this bill, a violator also would be required to perform up to
8 180 days of community service and his driving privileges would be
9 suspended or postponed for a period of six months, depending upon
10 his age at the time of the offense. Currently, the court may impose
11 such a suspension or postponement only if the offense took place in a
12 motor vehicle.

13 The bill includes an exemption for underage persons who are
14 employed by alcoholic beverage licensees. This provision makes it
15 permissible for underage persons who, for example, are working as
16 waiters, waitresses, busboys, or stock boys in restaurants or liquor
17 stores to legally possess the alcoholic beverage they are delivering to
18 a customer or placing on display for sale.

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

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