

adopted: 6/10/2005 GENERAL ORDER

SUBJECT: Underage Drinking Enforcement

Number: 2-34

EFFECTIVE DATE: 00/00/0000

REVIEW DATE: 00/00/0000

AMENDS/SUPERSEDES:

APPROVED: _____
Chief Law Enforcement Officer

I. POLICY:

It shall be the policy of this agency to thoroughly investigate underage drinking complaints. It shall also be the policy of this agency that offenders of underage drinking laws should be charged with the appropriate offense for which law enforcement officers have developed probable cause. However, at the same time, this agency recognizes that there are situations when it is more appropriate to take other action. In all situations, law enforcement officers are expected to properly document any action taken in their incident report.

II. PURPOSE:

To establish guidelines for the law enforcement officers of this agency on the enforcement of Maine's under age drinking laws.

III. DISCUSSION:

This agency recognizes that underage drinking contributes to a negative impact on the community and, therefore, this agency fully supports the comprehensive enforcement of Maine's underage drinking laws. Recent research indicates that alcohol is the leading drug of choice among Maine youth¹. Holding accountable underage drinkers and the adults who enable underage drinking helps generate opportunities for intervention and treatment, while also reducing the availability of alcohol to minors and increasing the deterrent effect of the laws. This in turn benefits the community through a reduction in other crimes and alcohol-related costs, as well as improved quality of life for both youth and the community in general.

¹ 2002 Maine Youth Drug and Alcohol Use Survey

Law enforcement officers should strive to become aware of those locations and situations in the community where it is likely alcohol will be available to minors. Therefore, this agency will utilize consistent proactive strategies to enforce underage drinking laws. This agency recognizes a major component of reducing youth access to alcohol in the community is to identify those individuals who furnish alcohol to minors and those individuals who furnish a place for minors to consume alcohol. Therefore, it is essential law enforcement officers make every effort to determine the source of the alcohol.

IV. DEFINITIONS

- A. Adult - Means a person 18 years of age or over. (15 MRSA § 3003 (2)).
- B. Alcohol - Means the substance known as ethyl alcohol, hydrated oxide of ethyl or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, sugar, potatoes or other substances, and includes all dilution and mixtures of these substances. (28-A MRSA § 2 (2)). For purposes of this policy, the word "alcohol" and "liquor" are interchangeable.
- C. Guardian - Means a person lawfully invested with the power, and charged with the duty, of taking care of the person and managing the property and rights of another person, who, because of age, is considered incapable of administering their own affairs. (15 MRSA § 3003 (8)).
- D. Juvenile - Means any person who has not attained the age of 18 years. (15 MRSA § 3003 (14)).
- E. Legal Custodian - Means a person who has legal custody of a juvenile. (15 MRSA § 3003 (18)).
- F. Minor - Means a person who has not reached the age of 21 years. (28-A MRSA § 2 (20)).
- G. Parent - Means either a natural parent or the adoptive parent of a juvenile. (15 MRSA § 3003 (18)).

V. PROCEDURE - Training

All law enforcement officers shall become familiar with this agency's policy and philosophy concerning the enforcement of the underage drinking, to include "Furnishing of Alcohol to a Minor" (28A MRSA § 2081 (1-A)) and Furnishing a Place for a Minor to Consume Alcohol (28A MRSA § 2081 (1-B)).

VI. PROCEDURE - Enforcement

A. Possession of Alcohol by a Minor (28-A M.R.S.A. § 2051)

When a law enforcement officer encounters a minor who is in possession of alcohol, as defined in 28-A M.R.S.A. § 2051, the law enforcement officer will take the following steps:

1. Seize the alcohol as evidence of a crime and secure the evidence, as set forth in this agency's evidence policy.
2. Identify the minor through the use of a valid form of identification with the purpose of establishing valid identification and date of birth.
3. Should the minor be intoxicated, ensure that the minor is not in need of medical assistance.
4. Determine if the possession of alcohol is within the minor's scope of employment. If in a private residence, determine if the minor's parent or legal guardian is present.
5. Conduct a thorough investigation and determine the source of the alcohol. This should include interviewing all known witnesses.
6. Should the minor be a juvenile, make a diligent effort to contact the juvenile's parent(s) or legal guardian(s).
7. If probable cause exists, seek charges against the offenders. Law enforcement officers who utilize their discretion and take other action shall document that decision in their incident report.
8. No minor may be charged with more than one offense under this section in any given instance in which the same set of facts are involved. (28-A MRSA § 2051 (F-1)(3)).

9. If a minor is charged with illegal possession of alcohol, the minor may not be charged with illegal transportation of alcohol. (28-A MRSA § 2051 (F-1) (4)).

B. Illegal Transportation of Alcohol by a Minor (28-A M.R.S.A. § 2052):

When law enforcement officers encounter minors illegally transporting liquor, as defined in 28-A M.R.S.A. § 2052, the law enforcement officer will take the following steps:

1. Seize the alcohol as evidence of a crime and secure the evidence as set forth in the agency's evidence policy.
2. Identify the minor through the use of a valid form of identification with the purpose of establishing valid identification and date of birth.
3. Establish the minor's knowledge of the presence of the alcohol.
4. Determine if the alcohol is being transported as a result of the minor's employment or at the request of the minor's parent(s) or legal guardian(s).
5. Conduct a thorough investigation and determine the source of the alcohol. This should include interviewing all known witnesses.
6. Should the minor be intoxicated, ensure that the minor is not in need of medical assistance.
7. Should the minor be a juvenile, make a diligent effort to contact the juvenile's parent(s) or legal guardian(s).
8. If probable cause exists, seek charges against the offenders. Law enforcement officers who utilize their discretion and take other action shall document that decision in their incident report.
9. A minor may not be found in violation of any offense under 28-A MRSA § 2052 if alcohol is found outside the passenger's or drivers section of a motor vehicle under the minor's control, unless the minor has actual knowledge of the presence of the alcohol. The trunk or locked glove compartment of any vehicle may not be construed to be within the passenger's or driver's section of the motor vehicle. (28-A MRSA § 2052 (2)).

10. If a minor is charged with illegal transportation of alcohol, the minor may not be charged with illegal possession of alcohol for the same incident. A minor who possesses or consumes liquor in a motor vehicle under the terms of illegal transportation of alcohol, must be charged with illegal transportation rather than illegal possession of alcohol. (28-A M.R.S.A. § 2052 (4)).

C. Investigation of Underage Drinking Parties:

Underage drinking parties are defined as situations where a group of minors have gathered and where many of those present are consuming alcohol. This agency may become aware of these parties through citizen initiated complaints or proactive law enforcement patrols. Citizens may make the agency aware of a planned underage drinking party in advance, an underage drinking party in progress or one that occurred in the recent past.

1. Should this agency become aware of a planned underage drinking party, the investigating law enforcement officer should obtain the following information from the informant:
 - a. Source of the informant's information.
 - b. Time, date and location of the planned party.
 - c. Person(s) responsible for the party.
 - d. Person(s) responsible for the property where the party is to be held.
2. The investigating law enforcement officer will notify their supervisor of the impending party. The supervisor will make a strong effort to ensure the following:
 - a. A law enforcement officer is assigned to conduct a thorough investigation.
 - b. The person(s) responsible for the property is notified of the information and is made aware of the Maine Liquor Liability Act and provisions of 28-A M.R.S.A. § 2081.
 - c. Every effort is made to locate and seize the alcohol that is intended for the party.

- d. There is a law enforcement presence at the time and general location of the impending party.

D. Underage Drinking Party in Progress:

In the event this agency receives a complaint on a drinking party in progress, the responding law enforcement officers will make every effort to ensure the welfare and safety of the offending juveniles or minors. A supervisor will be notified of the incident and respond to evaluate, if additional law enforcement officers may be needed to safely disperse the party. The responding law enforcement officers will do the following:

- a. Establish who is the sponsor of the party.
- b. Identify the person(s) responsible for the property where the party is being held.
- c. Should the individual be a juvenile, make a diligent effort to contact the juvenile's parent(s) or legal guardian(s).
- d. Follow procedures outlined in this policy for any minors located at the party.
- e. Investigate the party to determine where minors have obtained the alcohol and determine if probable cause exists to support a violation of "Furnishing a Place for Minors to Consume Alcohol."
- f. If probable cause is established, charge the appropriate individuals for either "Furnishing Alcohol to a Minor" or "Furnishing a Place for Minors to Consume Alcohol."
- g. Should an investigation provide probable cause that a minor purchased alcohol from a licensed establishment, refer the case to the Maine Liquor Licensing Division at 624-7220.
- h. Should this agency become aware after the fact of an incident where underage drinking occurred, this agency will conduct a thorough investigation, especially in regards to the source of the alcohol.
- i. In those cases where this agency becomes aware of an underage drinking party in another jurisdiction, this agency will contact the law enforcement agency responsible for that jurisdiction and provide that agency with the information.

MAINE CHIEFS OF POLICE ASSOCIATION - ADVISORY

This Maine Chiefs of Police Association model policy is a generic policy provided to assist your agency in the development of your own policies. All policies mandated by statute contained herein meet the standards as prescribed by the Board of Trustees of the Maine Criminal Justice Academy. The Chief Law Enforcement Officer is highly encouraged to use and/or modify this model policy in whatever way it would best accomplish the individual mission of the agency.

DISCLAIMER

This model policy should not be construed as a creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this policy will only form the basis for administrative sanctions by the individual Law Enforcement Agency and/or the Board of Trustees of the Maine Criminal Justice Academy. This policy does not hold the Maine Chiefs of Police Association, its employees or its members liable for any third party claims and is not intended for use in any civil actions.