

**Wisconsin's Social Host Law Summary:
Sanctioning Adults who Allow Underage Drinking on Property They Control**

By Julia Sherman and Sarah Davis, JD, December 2017 B28u 6.01 Legal underage drinking

- On property the adult owns and occupies *OR*
- On property "occupied by the adult and under the adult's

person who is 16 years old or younger. The social host law may apply to a person who is 17 years old.

drinking age. Case law sets a narrow standard for what it means to be
“ .” To accompany, the parent (or guardian or spouse) must be in the
same room as the underage person and directly supervising that person during the
drinking and during the time that the alcohol is being digested and metabolized.

Even when laws and ordinances are identical, the interpretation may vary between jurisdictions. Some jurisdictions may provide guidance to their law enforcement agencies on how to interpret specific laws and potential violations to meet the circumstances of the community. Interpretations can change over time as situations faced by law enforcement change. And municipal judges have discretion over how to interpret both the law and the facts of the situation if the matter comes to trial.

For example, how municipalities determine whether an adult “*failed to take action to prevent*” underage drinking could differ. Some communities may decide that failing to secure alcohol already on the property is failing to prevent underage drinking, while other municipalities may adopt a different standard. The phrase “*knowingly permit*” is also open to interpretation.

In some parts of Wisconsin, the terms “*occupy*” and “*control*” could suggest the adult must be in the structure where underage drinking occurs, while in rural portions of the state, outbuildings, barns, or even docks could be considered under the adult’s control. The police and local prosecutors may consider these issues when they apply.

Most Wisconsin municipalities have adopted Wisconsin State Statutes, Chapter 125 (the portion of state law regulating alcohol) into their local ordinances, a step permitted so that offenses can be prosecuted as ordinance violations in municipal court. This step has no impact on the legality or illegality of any act—when the state government makes something illegal, it is illegal throughout the state. What changes is whether the violation is charged as a state violation in Circuit (County) Court or as an ordinance violation that can be decided in the local municipal court.

Many—but not all—municipalities adopted Chapter 125 in a way that assures that changes made at the state level are automatically adopted by the municipality. Some municipalities instead adopt each change in state-level alcohol policy only through subsequent ordinances. The municipal clerk knows if this step is necessary in your municipality. In those cities, villages and towns, failure to adopt the new language *does not* make it legal to provide a location for underage drinking; it simply requires any citation to be written as a violation of

state law until the change is adopted locally.

Community coalitions working with local police and schools can support enforcement of