

Testimony before the Joint Committee on Judiciary  
In re: RB 5211 An Act Concerning Underage Drinking

Public Hearing  
Friday February 24, 2006  
1:30 pm Room 2C, Legislative Office Building  
Hartford, Connecticut

Senator MacDonald, Representative Lawlor, ranking and other members of the Judiciary Committee, thank you for the opportunity to speak to you today.

My name is Craig Turner and I am the Vice Chairman of the Connecticut Coalition to Stop Underage Drinking. I am here today to speak in favor of RB5211; An Act To Reduce Underage Drinking. This bill has a singular focus: to reduce underage drinking and its related harms. Current Connecticut statutes prohibit the possession of alcohol by minors on public property. However, there exists a "loophole". Current statutes allow youngsters to possess and consume alcohol on private property. As a result, Connecticut State statutes allow a person to hold an underage drinking party in their house or on their property. If adopted, RB5211 would close the existing "loophole". This high-risk behavior of underage drinking would become illegal.

Why is passage of this bill important to Connecticut?

- All available research suggests that parties are high-risk settings for binge drinking and associated alcohol problems. Very young drinkers are often introduced to heavy drinking behaviors at these events.
- Law enforcement officials report that, in many cases, underage drinking parties occur on private property, but the adult responsible for the property is not present or cannot be shown to have furnished the alcohol.
- Underage drinkers experience a wide range of alcohol-related health, social, criminal justice, and academic problems.
- Young drinkers report a range of negative effects from alcohol, all of which can lead to troubled interactions with others. These effects include overconfidence and recklessness, lack of awareness, aggression and loss of control.
- Youth who drink are more likely to carry a handgun.
- Alcohol use contributes to property damage, rape and other violent crimes
- Youth alcohol abuse is four times more likely to turn into adult alcohol dependency than adult onset drinking is.
- Underage drinkers' brains are more susceptible to damage because they have not fully developed. This leads alcohol abuse to cause long-term damage to memory.

**Research on CT youth supports these concerns.**

- 61% of Connecticut youth report they drink at "house parties"
- 77% of high school students report they get their alcohol at home, with or without parental permission.
- In 2002, 40% of all youth deaths were alcohol related
- Alcohol is the drug most commonly associated with homicide and violent crime;
- Half of all CT youths that attempt suicide do so under the influence of alcohol.

- Over 50% of teen pregnancies occur with one or both children under the influence of alcohol.
- Alcohol poisoning is one of the more serious problems that occur at house parties
- 90% of parents surveyed agreed that adults who provide alcohol to minors in any fashion should be arrested and fined
- 85% of parents surveyed support arresting and fining parents who host “house parties”

While these facts may strike a convincing chord, previous discussions related to closing this alcohol use loophole has met with opposition. This opposition has formed on two fronts

1. Law enforcement protocol when responding to or investigating potential violations and,
2. The concern over the enforcement of such a law resulting in a disproportionate number of minority youth being involved with the criminal justice system.

In response to these issues, I offer the following remarks.

**1. In regards to Law Enforcement Protocol when responding to or investigating potential violations**

Many states already have enacted similar laws pertaining to house parties and possession of alcohol by minors on private property. As a result, protocols have been established that address law enforcement practices when investigating such circumstances. As a portion of my testimony, I have included portions of the guidelines from the State of Maine Chiefs of Police Association Advisory. This advisory demonstrates that clear, concrete and specific protocols can be developed

**2. In regards to the concern that enforcement of such a law will cause a disproportionate number of minority youth to be in contact with the juvenile justice system.**

This concern has been raised as a potential outcome of this legislation. In response to this concern, the CT Coalition to Stop Underage Drinking researched juvenile arrest data in several states. The study began by selecting the appropriate states to which Connecticut was comparable. The demographics were found in The Office of Juvenile Justice and Delinquency Prevention, which provides a census broken down by race for each state. The data reflected the years from 1999 to 2003. From this, the percentage of all the state’s minority population were calculated and compared to that of Connecticut. Those states that fell within a margin of +/- 4% were selected for comparison. As this was a study on the effects that the law would have on Connecticut’s minority population, similar demographics from other states would have to be used as a fair measure.

Those states that have both house party laws and similar percentages of minority youth as Connecticut included Washington, Pennsylvania, Massachusetts, Ohio and Arizona. The comparative analyses showed that there was no evidence of House Party Laws resulting in a disproportionate number of minority youth being in contact with the justice system. In fact, most studies looking at minorities in the justice system have suggested that disproportionate minority contact with the law is a function of the existing culture of the jurisdiction, not the law.

As an aside, it is worth noting that out of the fifty states, nineteen states provide no exceptions to the minimum drinking age of twenty-one. Further, Connecticut is one of only eight states that allows possession of alcohol by minors on private property without the presence of a parent or adult guardian.

Inclosing, I ask that you vote in favor of RB 5211 and, by doing so, support responsible parents and champion the cause of safe and healthy children.

Thank you for your time

Respectfully Submitted,

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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 youth<sup>1</sup>. 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.

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<sup>1</sup> 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 MRSA § 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.