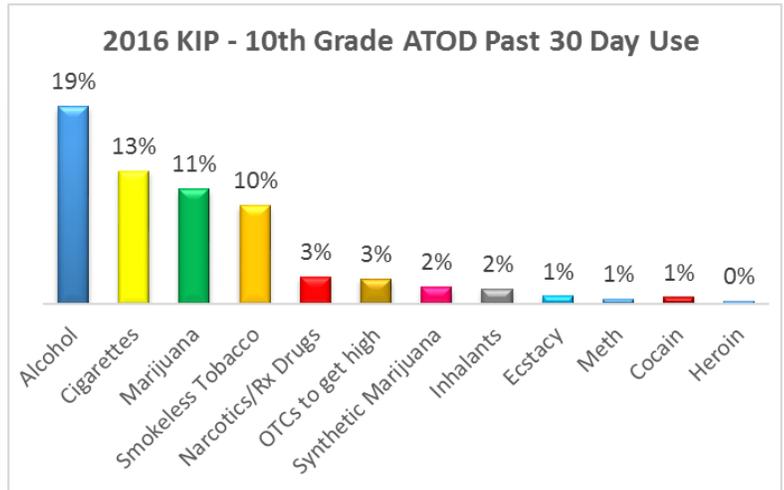


SOCIAL HOST 102 – Kentucky

Problem Assessment, Current Laws, Liability, Benefits, FAQs

I. **PROBLEM:** Alcohol remains the most widely abused substance among young people in Kentucky [KIP Survey, 2016](#)

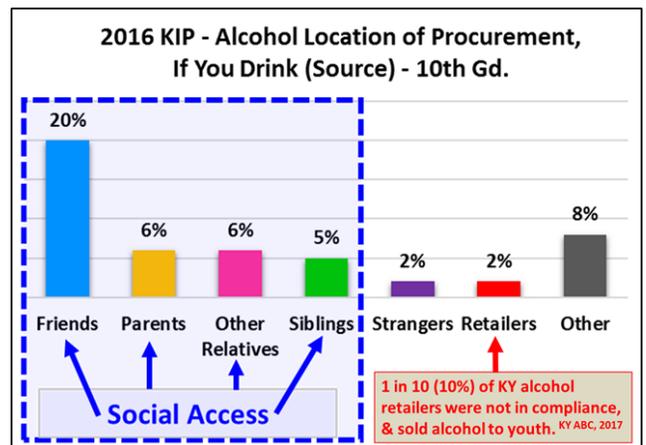


- 320 deaths in KY (23% of all KY overdose deaths) were attributed to alcohol overdoses in 2016 KY Medical Examiner, 2016
- 263 KY teenage drivers were involved in alcohol-related collisions in 2016, resulting 5 fatalities KY State Police, 2016
- 4% of KY high school students reported they drove after drinking alcohol, while 14% of KY middle schoolers said they rode with a driver who had been drinking KY YRBS, 2017

II. **SOURCE:** Studies consistently report the most frequent source of alcohol for underage youth is through social sources, including peers, parents, and other adults. Dent, Grube, & Biglan, 2005; Harrison, Fulkerson, & Park, 2000; Hearst, Fulkerson, Maldonado-Molina, Perry, & Komro, 2007; Smart, Adlaf, & Walsh, 1996; Wagenaar, Toomey, Murray, Short, Wolfson, & Jones-Webb, 1996

EASE OF ACCESS: 51.5% of KY 10th graders said alcohol is easy to get KIP Survey, 2016

- 1 in 10 (10%) of KY alcohol retailers were not in compliance and sold alcohol to youth. KY ABC, 2017



III. **WHERE IT OCCURS:** Most underage drinking occurs in private settings (home parties) CDC, 2009; SAMHSA, 2008

- Adolescents who obtained alcohol at a party from a parent, either their own or a friend's, reported consuming more drinks and were twice as likely to report past 30-day alcohol use and binge drinking. Foley, 2014
- Teen parties constitute one of the highest risk settings for youth alcohol problems. PIRE, 1999

IV. **CURRENT KENTUCKY LAWS & ORDINANCES:**

- Current laws prohibiting furnishing alcohol to minors target providing the SUPPLY of alcohol
- Social Host liability refers to providing the LOCATION, and may apply no matter who furnishes the alcohol

EXISTING KENTUCKY ALCOHOL LAWS

CONSUMPTION of alcohol by minors is **NOT** explicitly prohibited

POSSESSION of alcohol by minors is prohibited – **NO** exception
(1st Offense= \$250 Fine. 2nd Offense= \$500 Fine & up to 90-Days Jail)

FURNISHING to a minor is prohibited except by a parent/guardian
(Furnishing= \$500 Fine & up to 1-Year Jail)
 (Endangering the Welfare of a Minor can apply to parents providing alcohol to their own child)

Dram Shop – commercial coverage only

NO KENTUCKY SOCIAL HOST LAW EXIST

31 other states have Social Host Laws
NIAAA APIS, 2017

- **Social Host** holds non-commercial individuals responsible for underage drinking parties and other gatherings on property they own, lease, or otherwise control

- **30 KY communities have enacted Social Host Ordinances** (*does not include Wilmore) KYPrevention.com, 2018

- | | | | |
|---------------------|----------------------------------|---------------------|--------------------|
| 1. Boone County | 9. Fayette County | 17. McCreary County | 25. Oldham County |
| 2. Boyle County | 10. Glasgow | 18. McLean County | 26. Shelby County |
| 3. Breckenridge Co. | 11. Hancock County | 19. Meade County | 27. Scott County |
| 4. Butler County | 12. Harrodsburg | 20. Mercer County | 28. Trimble County |
| 5. Campbell County | 13. Jessamine Co./Nicholasville* | 21. Monroe County | 29. Washington Co. |
| 6. Clark County | 14. Junction City | 22. Nelson County | 30. Wayne County |
| 7. Clinton County | 15. Knott County | 23. Newport | |
| 8. Daviess County | 16. Marion County | 24. Ohio County | |

V. CIVIL VERSUS CRIMINAL PENALTIES:

In many communities, Social Host Ordinances provide a combination of criminal and civil penalties, ranging from fines, jail time, administrative fees and response costs. MADD.org

Criminal acts:

- Acts of intentional harm enforced through criminal prosecution
- Punishable by fines, imprisonment or both
- More evidence is needed to find the accused at fault in criminal cases than to find the defendant at fault in civil cases
- To convict someone of a crime, the prosecution must show there is proof beyond a reasonable doubt that the person committed the crime and, in most cases that they intended to commit it

Civil liability:

- Injured parties seek monetary damages from host
- Settled through litigation brought against host by injured parties
- Civil cases must be proven on a balance of probabilities – if it is more likely than not that the defendant caused harm or loss, a court can uphold a civil claim

Recovery cost:

- An underage drinking party on private property is considered a civil public nuisance and threat to public welfare
- Whoever controls the property where the party or gathering was held is held civilly responsible for associated cost of police, fire or other emergency response services dispatched to the party; and police officer and court time necessary to settle the complaint

VI. SPECIFIC VERSUS GENERAL STATUTES:

- **"Specific" statutes explicitly address underage drinking parties**, by making reference to the words "party", "gathering", "open house", "hosting" and similar terms in the language of the provision with respect to property owned, leased, or otherwise controlled by the social host. Alcohol Policy Information System, 2018
- **"General" statutes prohibit individuals from allowing or permitting underage drinking on their properties** generally, without reference to parties, gatherings or some similar term. Alcohol Policy Information System, 2018

VII. PROPERTY TYPE:

Jurisdictions vary regarding the types of property covered by statutes that establish State-imposed liability for hosting underage drinking parties. Alcohol Policy Information System, 2018

- **Residence:** A residence owned, leased, or otherwise controlled by the social host
- **Outdoor:** Outdoor property owned, leased, or otherwise controlled by the social host
- **Other:** Other property, which may include a shed, garage, or other outbuilding owned, leased, or otherwise controlled by the social host, or else a hotel or motel room, campground, or other public site

VIII. SOCIAL HOST BENEFITS:

1. Serves as a deterrent to hosting
2. Gives another tool to law enforcement to hold responsible parties accountable without having to witness an adult providing to a minor
3. Recognizes that a disproportionate expenditure of the public safety resources are spent on party dispersal thereby delaying police response to regular and emergency calls
4. Recovers costs associated with use of law enforcement, fire, and other emergency response services
5. Sends a clear message that providing a venue for underage drinking is not acceptable

IX. FAQs:

Q: What if I just don't know what my kid is doing with his/her friends at my house?

A: Knowledge Standard: Social Host Ordinances have varying thresholds for hosts' knowledge or actions regarding an underage drinking party on property they control. The categories are ranked by the level of evidence required, from most demanding to least demanding: [Alcohol Policy Information System, 2018](#)

- **Overt Act** - the host must have actual knowledge of specific aspects of the party, and must commit an act that contributes to its occurrence.
- **Knowledge** - the host must have actual knowledge of specific aspects of the party; no action is required.
- **Recklessness** - the host may not have acted with actual knowledge of the party, but must act with intentional disregard for the probable consequences of his or her actions.
- **Criminal Negligence** - the host fails to perceive a substantial and unjustifiable risk that unlawful circumstances associated with the party exist.
- **Negligence** - the host knew or should have known of the event's occurrence ("constructive knowledge").
- **Prevention Action Negates Violation** – some ordinances specify if a host takes reasonable action to prevent underage drinking from occurring at a party it could constitute an affirmative defense.

Q: What if a person 18-20 years old hosts a party?

A: Some ordinances allow individuals under-21, acting as a social host with no parents or guardians present, to be held accountable.

Q: Is there evidence showing the effectiveness of Social Host Ordinances?

A: Social host liability may deter adults from hosting underage drinking parties, purchasing alcohol for or providing alcohol to minors, and over-serving. [Studies on Effectiveness of Social Host Liability Laws compiled by Attorney Stacy Saetta, 2008](#)

- In one national study from 1984-1995, **social host liability laws' presence was associated with decreases in adult alcohol-related traffic fatalities**, but was unrelated to such deaths among minors. Whetten-Goldstein, et al., 2000
- In a second study, using self reported drinking data from 1980s to 1995, the implementation of **social host liability laws were associated with decreases in reported heavy drinking and in decreases in drinking and driving by lighter drinkers**. They had no effect on drinking and driving by heavier drinkers. Stout, et al., 2000

Q: Can't parents teach their teens how to drink responsibly by giving them small amounts, under supervision, before they reach 21?

A: Multiple studies in the U.S. and other countries suggest **allowing teens to drink at home**, either with parents or supervised by parents, **increases the odds that a teen will binge drink outside of the home.** McMorris et al 2011. J Stud Alcohol Drugs, 72(3), 418-28

Q: Isn't it safer for parents to just take away the keys and allow youth to drink at home?

A: There is no way to guarantee a safe environment when alcohol is involved. Taking the keys does not take away the risks.

- Youth who begin drinking before the age of 15 are four times more likely to become an alcoholic as an adult than those who begin at 21.^{NIAAA}
- According to the KIP Survey, the most frequent consequence reported by KY youth as result of their drinking and/or drug use was memory loss. 11.6% of 10th graders reported blacking out compared to 2.5% who reported their drinking and/or drug use caused them to be involved in a car wreck. ^{KIP Survey, 2016}

Q: Are Social Host Ordinances redundant? Don't we already have laws on the books to address this?

A: Social Host Ordinances hold adults responsible for underage drinking events on property they own, lease or otherwise control. A law enforcement officer does not need to witness the adult handing alcohol to a minor to issue a citation. **There are several relevant state statutes, but they have limitations.**

- **Unlawful Transaction with a Minor in the Third Degree (KRS 530.070)**—a person who “knowingly sells, gives, purchases, or procures any alcoholic or malt beverage in any form to or for a minor” can be charged under this statute, which is a Class A Misdemeanor. Parents or guardians of that minor are specifically exempted from this statute—so, someone can be charged with unlawful transaction if they give alcohol to someone else’s child, but not for giving it to their own child.

WEAKNESS – you have to prove that a “transaction” took place. If someone buys alcohol, puts it in the basement fridge, walks away and washes their hands of the matter, it is difficult to charge them with unlawful transaction so long as they can deny knowledge that minors would consume it.

- **Minors Not to Possess or Purchase Liquor (KRS 244.085)**—this statute holds minors responsible for possessing or purchasing alcohol. It also states: “**No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages**”—for adults, failure to abide by this statute is a Violation, punishable by a fine only, and there is no exception for the parents of the minor.

WEAKNESS -- It is necessary to prove someone “aided or assisted” the minor in purchasing alcohol or having it delivered or served to him. The issue is not just someone can deny knowing that a minor was drinking. Even if they knew it was happening and did nothing, you must also establish their failure to act meaning they “aided or assisted” the minor in having alcohol served to them.

- **Endangering the Welfare of a Minor (KRS 530.060)**—Kentucky’s law states only a “parent, guardian or other person legally charged with the care or custody of a minor” can be charged.

Q: Can Social Host Ordinances relate to controlled substances other than alcohol?

A: Most Kentucky Social Host Ordinances prohibit persons in possession or control of property (social hosts) from allowing any minor under the age of 21 to remain on such property while in possession of, using or consuming alcoholic beverages.

Some Kentucky Social Host Ordinances also impose liability on social hosts who allow minors to obtain, possess, or consume controlled substances and/or alcohol during the course of parties and other gatherings.

“For teens, alcohol is an illegal and dangerous drug. Don't be a party to underage drinking.”

Learn more at www.kyprevention.com/projects/social-host/