

Justice and Community Safety Directorate

Supply of alcohol to minors (secondary supply)

Updated: Thu, 18 Aug 2016 16:48:05 +1000

Printed: Mon, 21 Aug 2017 22:11:53 +1000

Revision: 1

Before 19 August 2016, the *Liquor Act 2010* prohibited the supply of liquor to children and young people on licensed/permitted premises, or in public places, but not the supply of liquor on private premises. In 2013-14, the ACT reviewed the Liquor Act and identified this as a gap in the laws around secondary supply.

Consumption of alcohol by children and young people is a cause for community concern due to the range of health and social harms that arise, both in the short-term and long-term. In particular, research has shown that alcohol may adversely affect brain development and lead to alcohol-related problems in later life. Alcohol consumption also contributes to the three leading causes of death among adolescents - unintentional injuries, homicide and suicide.

On this basis, the National Health & Medical Research Council national guidelines state that children under the age of 15 should not drink at all as they are at the greatest risk of harm from drinking, and that for young people aged 15 to 17 years, the safest option is to delay the initiation of drinking as long as possible.

To assist in strengthening the role of parents in making decisions in relation to their children and managing their alcohol consumption, the ACT has introduced new offences in relation to secondary supply of alcohol to people under 18 years.

The new secondary supply offences

New offences relating to supplying alcohol to people under 18 years of age in private places will come into effect on 19 August 2016.

Changes to the *Liquor Act 2010* will mean that it is an offence for a person to supply liquor to a minor in a private place (such a home) unless:

- the person supplying the liquor is the parent or guardian of the minor or has the permission of the parent or guardian of the minor AND
- the supply is consistent with the responsible supervision of the minor.

This means that an offence would be committed in the following scenarios:

- the parent or guardian of a minor provides the minor with alcohol, in a manner that is not consistent with responsible supervision of the minor;
- a person who has permission from the parent or guardian of a minor provides the minor with alcohol, in a manner that is not consistent with responsible supervision of the minor; and
- a person who is not the parent or guardian of a minor provides the minor with alcohol and does not have permission from the minor's parent or guardian. In this case it will be irrelevant whether the supply of alcohol was consistent with responsible supervision of the minor.

What does “permission” mean if I am not the parent or guardian of the minor who I wish to supply alcohol to? How would evidence of permission or consent be proven or disproved?

If an offence under the new provision was prosecuted, it would be for the courts to determine if there was sufficient evidence to establish whether or not “permission” could be shown to have been given.

However, generally, for an adult to demonstrate they had parental or guardian consent for the consumption of alcohol by a minor, it would be important to be able to produce evidence of the consent which is clear as to the giving of consent and about the scope of the consent given. This could be written (for example an email) or other evidence that prior to the supply of the alcohol, that consent had been given.

How do I judge whether supply is consistent with the responsible supervision of the minor?

The legislation provides some guidance by explaining that the following factors are relevant to whether the supply of alcohol to a minor is consistent with the responsible supervision of the minor:

- the age of the minor;
- whether the minor is consuming food with the liquor;
- the level of supervision the supplier has of the minor;
- the kind of liquor supplied to the minor;
- the quantity of, and the time in which, the liquor is supplied to the minor.

The legislation also clarifies that the supply of alcohol to a minor who is intoxicated is NOT consistent with the responsible supervision of minor.

What is the maximum penalty under the new offence?

The maximum penalty under the legislation is \$3000.

What if I'm hosting a party for my child at home and underage guests bring their own alcohol?

The legislation setting out the secondary supply offence does not specify whether “supply” in this context

includes the situation where an adult host allows minors at a private place to consume alcohol that the minor has obtained from some other source. It is likely that it would depend on the specific circumstances of the situation and ultimately, it would be a matter for the courts to determine whether the behaviour constituted an offence under the legislation.

It is however important to be aware that there may also be other legal implications for an adult who allows a minor to consume alcohol at a private place, regardless of how or where the minor obtained the alcohol. Under the common law, a host has a duty of care to take reasonable steps to prevent foreseeable harm to all guests. This means that if anything goes wrong and the host has not taken care to prevent problems, civil legal action may be able to be taken against the host.

Is it illegal to supply liquor to a minor in a licensed or public place?

It is an offence to supply alcohol to a minor in a licensed venue or a public place. The maximum penalty is \$3000.

This information is intended only as a guide and doesn't constitute legal advice. Individuals who require further information about any possible civil or criminal liability that may arise from allowing minors to drink at a private place should seek legal advice relevant to their individual circumstances.