

Don't Make Getting Arrested for Underage Drinking a Homecoming Tradition

By Thomas J. Carr, Esq.

Homecoming weekend is fast approaching for many schools around the state. By the end of this celebratory tradition there will be a new set of champions among rival football teams and a new lineup of underage students caught drinking or driving while intoxicated.

In 2010, 28 percent of minors aged between 12 and 20 years of age reported having consumed alcohol in the past month, according to the U.S. Department of Health and Human Services. The ranks of underage drinkers will undoubtedly grow over homecoming weekend, but students under 21 need to be aware of the consequences they could face if caught.

As the State Liquor Authority's Division of Alcoholic Beverage Control reminded parents in its report on Alcohol and Your Child

, here are some of the charges youths could face for offenses relating to the consumption, purchase or possession of alcohol, purchase of alcohol and fake IDs:

Alcoholic Beverage Control Law (ABC) § 65-B

Offense for one under age of twenty-one years to purchase or attempt to purchase an alcoholic beverage through fraudulent means.

First offense: Fine up to \$100 and/or up to 30 hours of community service, with the possible enrollment in an alcohol awareness program. Three-month license suspension if the driver's license was illegally purchase or attempt to illegally purchase alcohol.

Second offense: Fine between \$50 and/or \$350 and up to 30 hours of community service, with the possibility of enrollment in an alcohol awareness program. Six-month license suspension if the driver's license was illegally purchase or attempt to illegally purchase alcohol.

Third and subsequent offenses: Fine between \$50 and \$750 and/or up to 30 hours of community service, along with a required evaluation for alcoholism or alcohol abuse at the expense of the person. License Suspension of one year or until the driver turns 21 years old if the driver's license was illegally purchase or attempt to illegally purchase alcohol.

Alcoholic Beverage Control Law (ABC) § 65-C

Unlawful possession of an alcoholic beverage with the intent to consume by persons under the age of twenty-one years.

Can be summoned to court and face a fine up to \$50 and/or enrollment in an alcohol awareness program and/or up to 30 hours of community service.

Penal Law (PEN) § 170.10

Forgery in the second degree.

Class D Felony.

Penal Law (PEN) § 170.25

Criminal possession of a forged instrument in the second degree.

Class D felony.

Penal Law (PEN) § 190.23

False impersonation.

Class B misdemeanor.

Penal Law (PEN) § 190.25

Criminal impersonation in the second degree.

Class A misdemeanor.

Penal Law (PEN) § 260.20

Unlawfully dealing with a child in the first degree.

Class A misdemeanor

Students and alumni who are driving this homecoming weekend need to be especially careful if they are ferrying minor friends to or from the big game or after-party. If pulled over with a child and found to have been driving drunk with a child under 16 years old in the vehicle, even a first-time offender could be charged with aggravated DWI with a child. This new class E felony, established under Vehicle and Traffic Law (VTL) § 1192(2-a)(b), is punishable with up to four years imprisonment.

People charged for any alcohol-related offenses over the homecoming weekend should immediately contact a criminal defense

attorney who can scrutinize and challenge the evidence prosecutors try to use against them. An underage drinking attorney could also raise mitigating factors, such as age or lack of a prior record, to secure a more lenient sentence or to have charges dismissed.

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