

SOCIAL HOSTS LAW

**Social Host Law of Suffolk County was adopted on December 3, 2007 by L.L. No. 25-2007
(Chapter 214, Art. III, of the 1985 Code and is now found in pertinent part in
Suffolk County Code §§ 294-6, 294-7, and 294-8)**

SUFFOLK COUNTY ADMINISTRATION CODE SECTION 294-6 through 294-10

DEFENSE ISSUES

CRIMINAL COURT INFORMATION **(Courtesy of Steven J. Kuehhas, Chief, East End Bureau)**

**William T. Ferris
September 12, 2014**

*Suffolk County, NY
Wednesday, September 10, 2014*

Chapter 294. ALCOHOLIC BEVERAGES

Article II. Social Hosts

§ 294-6. Legislative intent.

- A. This Legislature hereby finds and determines that, according to nationwide statistics, nearly 50% of teenagers have attended parties where the consumption of alcohol occurred and where parents were present.
- B. This Legislature also finds and determines that the American Medical Association has reported that one out of three teenagers said it was easy to obtain alcohol from their own consenting parents, and on average they obtained alcohol three times in any given six-month period.
- C. This Legislature further finds and determines that the Surgeon General has stated that young people who start drinking before the age of 15 are five times more likely to develop alcohol-related problems later in life.
- D. This Legislature finds that the underage consumption of alcohol, whether at a large party or small gathering, poses a risk to the residents of Suffolk County, as minors who drink are more likely to engage in disruptive, loud, or even violent behavior.
- E. Therefore, the purpose of this article is to deter the consumption of alcohol by minors by holding those over the age of 18 responsible when they permit the consumption of alcohol by minors at their residences.

§ 294-7. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ALCOHOL

Ethyl alcohol, hydrated oxide of ethyl or spirits of wine, from whatever source or by whatever means produced.

ALCOHOLIC BEVERAGE

Any liquor, wine, beer, spirits, cider or other liquid or solid, patented or not, composed of or containing alcohol or spirits, whether or not brewed, fermented or distilled, and capable of being consumed by a person, except that confectionery containing alcohol as provided by Subdivision 12 of § 200 of the New York State Agriculture and Markets Law shall not be regarded as an alcoholic beverage within the meaning of this section.

KNOWINGLY

Aware of the consumption of alcohol by a minor.

MINOR

Any person under the age of 21.

RESIDENCE

Any permanent or temporary domicile, including a home, apartment, condominium, cooperative unit, trailer home, recreational vehicle, mobile home, overnight accommodation at a hotel, motel, campsite or short-term rental property, or other dwelling unit of any kind, including yards and open areas adjacent thereto.

[Amended 12-7-2010 by L.L. No. 4-2011]

§ 294-8. Allowing consumption by minors at private residences prohibited; exceptions.

- A. It shall be unlawful for any person over the age of 18 who owns, rents, or otherwise controls a private residence to knowingly allow the consumption of alcohol or alcoholic beverages by any minor on such premises or to fail to take reasonable corrective action upon learning of the consumption of alcohol or alcoholic beverages by any minor on such premises. Reasonable corrective action shall include, but not be limited to:
- (1) Making a prompt demand that such minor either forfeit and refrain from further consumption of the alcoholic beverages or depart from the premises; and
 - (2) If such minor does not comply with such request, promptly reporting such underage consumption of alcohol either to the local law enforcement agency or to any other person having a greater degree of authority over the conduct of such minor.
- B. The provisions of Subsection A of this section shall not apply to:
- (1) The consumption of alcohol or alcoholic beverages by a minor whose parent or guardian is present and has expressly permitted such consumption; or
 - (2)

The use and consumption of alcohol or alcoholic beverages by a minor for religious purposes.

§ 294-9. Penalties for offenses.

[Amended 12-7-2010 by L.L. No. 2-2011]

A violation of § 294-8 of this article shall be punished as follows:

- A. First offense: Any person who violates § 294-8 of this article shall be guilty of a violation punishable by a fine not to exceed \$500, where such violation constitutes the person's first offense.
- B. Second and subsequent offenses: Any person who violates § 294-8 of this article shall be guilty of an unclassified misdemeanor punishable by a fine not to exceed \$1,000, a term of imprisonment not to exceed one year, or both.

§ 294-10. Effect on other laws.

The provisions of § 294-8 of this article shall not in any way affect the application of any other law, where appropriate, including but not limited to New York Penal Law § 260.10, Endangering the Welfare of a Minor, and § 260.20(2), Unlawfully Dealing with a Child.

DEFENSE ISSUES

I. Facial insufficiency of accusatory instrument

***People V Anderson*, 25 Misc 3d 1207 (Dist Ct; Nassau County; 2009) (Engel)**

Hearsay statements

Uncorroborated statement of defendant's age (19)

Private residence

Proof Defendant knowingly allowed consumption of alcohol on residential premises

***People v Reale*, 26 Misc 3d 1208 (Dist Ct; Nassau County; 2010) (Kluewer)**

Proof Defendant exercised control over premises

Proof minor under age of 21

***People v Velasquez*, 28 Misc 3d 1217 (Dist Ct; Nassau County; 2010) (Engel)**

Proof Defendant ownership, lease or control of residence

***People v Lam*, 31 Misc 3d 101 (Sup Ct; App Term, 2nd Dept; 2011)**

Sufficiency of allegation that homeowner was 18 years of age

***People v Gelb*, 37 Misc 3d 1222 (Dist Ct; Suffolk County; 2012) (Ford)**

Insufficient allegation to support events happened at defendant's residence

II. Knowingly aware of the consumption of alcohol by a minor

A person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of such nature or that such circumstance exists.

P.L. Section 15.05 (2)

Alotta v Diaz, 2014 NY Slip Op 31256(a) (Sup Ct; Suffok County; 2014 (Molla)

Knowingly aware of consumption of alcohol by a minor

III. Plea of guilty to P.L. Section 260.20 (4) or Social Host Law impact on a civil case

Montgomery v Orr, 130 Misc 3d 807 (Sup Ct; Onelda County; 1986)

Conviction of Social Host Law settles certain factual issues in civil case

IV. State Central Register

Social Services Law Section 422

Statewide central register of child abuse and treatment

LOCAL CRIMINAL COURT
TOWN OF SOUTHAMPTON

DAT. Arraignment 9/17/12, SH

CC# 12-21200

VIOLATION INFORMATION

STATE OF NEW YORK
COUNTY OF SUFFOLK
DEFENDANT(S)
TOWN OF SOUTHAMPTON

SS: Nicholas J. Bonner dob:08/02/1994

Name(Complainant)PO Giardina 220/5, of The Southampton Town Police Department.

Being duly sworn, says that on or about Friday, 09/07/2012, at about 11:43 pm, at 5 Evergreen Ct, in the Hamlet of East Quogue, Town of Southampton, County of Suffolk, State of New York, the defendant, Nicholas Bonner dob:08/02/1994, of 5 Evergreen Ct East Quogue NY, 11942, wrongfully, intentionally, knowingly, committed the offense of: Allowing Consumption of Alcohol by Minor(s) at Private Residence, in violation of Section 214-14(A) of the LAWS of SUFFOLK COUNTY, State of New York; a violation.

IN THAT:

It shall be unlawful for any person over the age of 18 who owns, rents, or otherwise controls a private residence to knowingly allow the consumption of alcohol or alcoholic beverages by any minor on such premises or to fail to take reasonable corrective action upon learning of the consumption of alcohol or alcoholic beverages by any minor on such premises. Reasonable corrective action shall include, but not be limited to:

- (1) Making a prompt demand that such minor either forfeit and refrain from further consumption of the alcoholic beverages or depart from the premises; and
- (2) If such minor does not comply with such request, promptly reporting such underage consumption of alcohol either to the local law enforcement agency or to any other person having a greater degree of authority over the conduct of such minor.

TO WIT:

The defendant, at 5 Evergreen Ct, in the Hamlet of East Quogue, Town of Southampton, County of Suffolk, State of New York, on or about 09/07/2012 did knowingly allow the consumption of alcoholic beverages by minors at his residence and/or failed to take reasonable corrective action upon learning of the consumption of alcohol or alcoholic beverages by minors on such premises; in that, the defendant Nicholas Bonner dob:08/02/1994 did host a party at his residence while having numerous people present who were under 21 years of age who were consuming alcohol.

This complaint is based upon personal knowledge, the source being your deponent, dated 09/07/2012.

SWORN TO BEFORE ME THIS 13th DAY OF September, 2012


SIGNATURE OF OFFICIAL ADMINISTERING OATH

SERGEANT
TITLE

Town of Southampton


COMPLAINANT

LOCAL CRIMINAL COURT
TOWN OF SOUTHAMPTON

CC# 12-21200

VIOLATION INFORMATION

STATE OF NEW YORK
COUNTY OF SUFFOLK
TOWN OF SOUTHAMPTON

SS: Nicholas J. Bonner dob: 08/02/1994 } DEFENDANT(S)

Name(Complainant) PO Giardina 220/5, of The Southampton Town Police Department.

Being duly sworn, says that on or about Friday, 09/07/2012, at about 11:43 pm, at 5 Evergreen Ct, in the Hamlet of East Quogue, Town of Southampton, County of Suffolk, State of New York, the defendant, Nicholas Bonner dob: 08/02/1994, of 5 Evergreen Ct East Quogue NY, 11942, wrongfully, intentionally, knowingly, committed the offense of: **UNLAWFUL POSSESSION OF AN ALCOHOLIC BEVERAGE WITH THE INTENT TO CONSUME BY PERSONS UNDER THE AGE OF TWENTY-ONE YEARS**, in violation of section 65-C of the Alcoholic Beverage Control Law of the State of New York; a violation.

IN THAT:

A person is guilty of Unlawful Possession of an Alcoholic Beverage with the Intent to Consume by Persons Under the Age of Twenty-One Years when a person under the age of twenty-one years possesses any alcoholic beverage, as defined in this chapter, with the intent to consume such beverage.

TO WIT:

The defendant, at 5 Evergreen Ct, in the Hamlet of East Quogue, Town of Southampton, County of Suffolk, State of New York, on or about 09/07/2012 the defendant did host a party in which he had been consuming alcoholic beverages while being under 21 years of age.

This complaint is based upon personal knowledge, the source being your deponent, dated 09/07/2012.

SWORN TO BEFORE ME THIS 13th DAY OF September, 2012


SIGNATURE OF OFFICIAL ADMINISTERING OATH


COMPLAINANT

SERGEANT
TITLE

Town of Southampton

LOCAL CRIMINAL COURT
TOWN OF SOUTHAMPTON

CC# 11-12987
Appearance Ticket#18378

VIOLATION INFORMATION

STATE OF NEW YORK
COUNTY OF SUFFOLK
TOWN OF SOUTHAMPTON

SS: ROTHENBERG, CHARLES E. 8/21/90) DEFENDANT(S)

PO Patrick M. Aube' #173/2, of 110 Old Riverhead Rd Hampton Bays NY 11946.

Being duly sworn, says that on or about Saturday, June 18, 2011, at about 4:14am, at 28 Club Lane, in the Hamlet of Remsenburg, Town of Southampton, County of Suffolk, State of New York, the defendant, ROTHENBERG, CHARLES E. 8/21/90, of 24 Rustic Gate Lane Dix Hills NY 11746, , knowingly, committed the offense of: Allowing Alcohol Consumption by Person(s) Under the Age of Twenty One at a Residence, in violation of Section 214-14(A) of the LAWS of SUFFOLK COUNTY, State of New York; a violation.

IN THAT:

It shall be unlawful for any person over the age of 18 who owns, rents, or otherwise controls a private residence to knowingly allow the consumption of alcohol or alcoholic beverages by any minor on such premises or to fail to take reasonable corrective action upon learning of the consumption of alcohol or alcoholic beverages by any minor on such premises. Reasonable corrective action shall include, but not be limited to:


- (1) Making a prompt demand that such minor either forfeit and refrain from further consumption of the alcoholic beverages or depart from the premises; and
- (2) If such minor does not comply with such request, promptly reporting such underage consumption of alcohol either to the local law enforcement agency or to any other person having a greater degree of authority over the conduct of such minor.

TO WIT:

The defendant, at 28 Club Lane, in the Hamlet of Remsenburg, Town of Southampton, County of Suffolk, State of New York, on or about June 18, 2011 did knowingly allow the consumption of alcoholic beverages by minors at his residence and/or failed to take reasonable corrective action upon learning of the consumption of alcohol or alcoholic beverages by minors on such premises; in that, the defendant while performing security did fail to take reasonable corrective action while youths engaged in drinking alcoholic beverages and one of the youths age 17; required immediate medical attention due to alcohol poisoning.

This complaint is based upon personal knowledge and information and belief, the source being the oral admission of the defendant "I'm just helping my friend out by doing security" and your deponents investigation.

SWORN TO BEFORE ME THIS 20 DAY OF June, 2011


SIGNATURE OF OFFICIAL ADMINISTERING OATH
SERGEANT Bennett, Todd
TITLE

Town of Southampton


COMPLAINANT