

## Chapter 130

### SOCIAL HOSTS

- § 130-1. Purpose and intent.
- § 130-2. Definitions.
- § 130-3. Unlawful possession of alcohol with intent to consume by person under legal drinking age.
- § 130-4. Prohibition against consumption of alcohol by person under legal drinking age at residence.
- § 130-5. Penalties for offenses.

**[HISTORY:<sup>1</sup> Adopted by the Board of Trustees of the Village of Kensington 3-25-2009 by L.L. No. 1-2009. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Peace and good order — See Ch. 108.

#### § 130-1. Purpose and intent.

This chapter is intended to deter the consumption of alcoholic beverages by persons under the legal drinking age by prohibiting possession of alcoholic beverages with intent to consume and by holding responsible those who permit the consumption of alcoholic beverages by such persons under the legal drinking age in their residence in violation of the provisions of this chapter.

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1. Editor's Note: Former Ch. 130, Secondhand Dealers, adopted 2-16-1983 by L.L. No. 1-1983, as amended, was repealed 4-30-2003 by L.L. No. 8-2003.

**§ 130-2. Definitions.**

As used in this chapter, unless the context clearly indicates otherwise, the following words shall have the following meanings:

**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 confectionary containing alcohol as provided by Subdivision 12 of § 200 of the Agriculture and Markets Law shall not be regarded as an alcoholic beverage within the meaning of this chapter.

**LEGAL DRINKING AGE** — The legal drinking age set by the State of New York as the permissible age for the consumption of alcohol.

**RESIDENCE** — Any home, apartment, condominium, cooperative unit or dwelling unit of any kind, including yards and open areas adjacent thereto.

**§ 130-3. Unlawful possession of alcohol with intent to consume by person under legal drinking age.**

- A. It shall be unlawful for any person under the legal drinking age to possess any alcoholic beverage with the intent to consume such alcoholic beverage.
- B. The provisions of Subsection A of this section shall not apply to the consumption of alcoholic beverages by a person under the legal drinking age whose parent or guardian is present and has expressly permitted such consumption.
- C. Seizure of alcoholic beverage.

- (1) If a police officer as defined in Subdivision 34 of § 1.20 of the Criminal Procedure Law observes a person under the legal drinking age in possession of an alcoholic beverage with the intent to consume such alcoholic beverage in violation of this chapter, said officer may seize the alcoholic beverage and deliver it to the custody of his or her department.
- (2) The official to whom any alcoholic beverage seized under Subsection C(1) has been delivered shall, no earlier than three days following the return date for initial appearance on the summons, dispose of or destroy the alcoholic beverage seized or cause it to be disposed of or destroyed.

**§ 130-4. Prohibition against consumption of alcohol by person under legal drinking age at residence.**

- A. It shall be unlawful for any person who owns, rents or otherwise is in control of a private residence to allow the consumption of alcoholic beverages by any person under the legal drinking age at such residence or to fail to take reasonable corrective action, as defined below, upon learning that the consumption of alcoholic beverages by any person under the legal drinking age at such residence is or may be taking place. Reasonable corrective action pursuant to this subsection is action intended to stop the consumption of alcoholic beverages by a person under the legal drinking age at a residence and shall include, but not be limited to:
- (1) Making a prompt demand that such person under the legal drinking age refrain from further consumption of the alcoholic beverages; or
  - (2) Making a prompt demand that such person under the legal drinking age depart from the residence; or

- (3) Promptly report the consumption of alcoholic beverages by such person under the legal drinking age to the local law enforcement agency; or
- (4) Promptly report the consumption of alcoholic beverages by the person under the legal drinking age to any other person having a greater degree of authority over his or her conduct, such as a parent or guardian.

B. The provisions § 130-5A and this section shall not apply to the consumption of alcoholic beverages by a person under the legal drinking age whose parent or guardian is present and has expressly permitted such consumption.

#### **§ 130-5. Penalties for offenses.**

A. A violation of § 130-3A of this chapter constitutes a violation. Each first violation, and each subsequent violation, may be punished as follows:

- (1) Any person who violates § 130-3A of this chapter is guilty of a violation, and the court may order payment of a fine not exceeding \$250 and/or an appropriate amount of community service not to exceed 30 hours. In addition, the court may order completion of an alcohol awareness program established pursuant to § 19.25 of the Mental Hygiene Law.

B. A violation of § 130-4A of this chapter constitutes a violation. Each first violation, and each subsequent violation, may be punished as follows:

- (1) First violation. Any person who violates this subsection may be ordered to pay a fine of not less than \$250 and not more than \$500, where such violation constitutes the person's first violation of this subsection within a period of 12 months.

- (2) Second violation. Any person who violates this subsection may be ordered to pay a fine not less than \$500 and not more than \$750, where such violation constitutes the person's second violation of this subsection within a period of 12 months.
- (3) Third and subsequent violations. Any person who violates this subsection may be ordered to pay a fine not less than \$750 and not more than \$1,000, where such violation constitutes the person's third or subsequent violation of this subsection within a period of 12 months.