

## **ALCOHOL, TOBACCO AND OTHER DRUG LAWS THAT SEEK TO PROTECT CHILDREN AND YOUNG ADULTS (PART II)**

-by Lisa B. Hanson, Roseau County Attorney

Going all the way back to the 1700s, when this nation was in its formative years, discussion and debate have been vital in increasing public awareness and bringing about changes in the law. In recent weeks, there has been much discussion and debate in our county about laws pertaining to alcohol and underage persons. This article is intended to provide factual information about current laws, and stimulate discussion about whether those laws are necessary or adequate.

Many laws have been enacted in an effort to protect children and young adults from harm. Several of those laws deal with keeping alcohol, tobacco and other drugs out of their hands. People who break these laws face both criminal and civil liability. The first part of this article addressed criminal laws, while this part will address civil laws.

### **CIVIL LAWS**

Civil law involves lawsuits between private parties. The government is usually not involved in civil cases. An injured victim suing the person who caused the injury is an example of a civil case. The remedy sought in most civil cases is money damages. Two main types of civil liability may arise from illegally furnishing alcoholic beverages: Dram Shop Liability and Social Host Liability.

**Dram Shop Liability:** M.S. §§ 340A.801 to 340A.802 allows a spouse, parent, child, guardian, employer or other person who is injured, suffers property damage, has loss in means of support or suffers other pecuniary loss to bring an action against a person who illegally sells alcoholic beverages. This includes sales to persons under 21, sales to obviously intoxicated persons, after-hours sales, etc. The plaintiff may sue for all damages caused by an intoxicated person and all damages caused by the intoxication of any person (including personal injury and death). Dram Shop Liability most commonly applies to entities holding a license to sell alcohol, but may apply to others as well.

There is a “good faith” defense if the defendant reasonably relied on legally recognized proof of age (identification).

**Social Host Liability:** M.S. § 340A.90 allows a spouse, child, parent, guardian, employer or other person who is injured, suffers property damage, has loss in means of support or suffers other pecuniary loss to bring an action against persons who give alcoholic beverages to persons under 21. The plaintiff may sue for all damages caused by an intoxicated person and all damages caused by the intoxication of any person (including personal injury and death). Any person over the age of 21 who: has control over a premises and, being in a position to prevent underage consumption, knowingly and recklessly permitted the consumption, where the consumption caused intoxication; OR sold, bartered, furnished alcohol to, or bought it for, an underage person, causing that person’s intoxication, may be sued.

There is no “good faith” defense.

**License Suspension/Revocation and Civil Penalties:** M.S. § 340A.415 and Roseau County Ordinance 34 set forth penalties including license suspension of up to 60 days, license revocation, and a civil penalty of up to \$2,000 for each violation of an applicable alcohol statute or ordinance.

M.S. § 461.12(3) and Roseau County Ordinance 27 set forth penalties including a civil penalty up to \$250 and license suspension for a violation of an applicable tobacco statute or ordinance.

M.S. § 340A.501 makes every licensee responsible for the conduct in the licensed establishment and any sale of alcoholic beverages by any authorized employee. This means that license suspension or revocation and civil penalties can be imposed on the licensee even if the licensee did not personally commit a violation. A licensee may not be held criminally responsible for the acts of an employee.

### **COMPLIANCE CHECKS**

State and local law requires law enforcement to conduct regular compliance checks of all alcohol and tobacco licensees. This requirement can be found in M.S. § 461.12 Subd. 5 and Roseau County Ordinances 27 and 34.

### **AVOIDING LIABILITY**

**“Card Everyone” Policies:** Many licensees have found that the easiest way to avoid liability is to institute a “Card Everyone” policy. Licensees across the state now require all clerks and bartenders to card everyone purchasing alcohol or tobacco, regardless of how young or old they look. Licensees have found that this minor inconvenience can prevent major problems.

**Responsible Beverage Server Training:** This free training is sponsored locally by the Roseau County Prevention Coalition. The next trainings are set for: February 17 at 1 p.m. at Springsteel; and February 18 at 1 p.m. and 7 p.m. at the Roseau VFW.

**Train New Employees:** Immediately train new employees about laws that pertain to your business and any policies you have implemented to ensure compliance.

Those who do not work in licensed establishments can avoid liability by: not providing alcohol, tobacco or other drugs to underage persons; not allowing underage persons (other than your own children) to drink in your home; and not lending identification to underage persons.

### **MORE INFORMATION**

The full text of statutes cited in this article can be viewed at: [www.revisor.leg.state.mn.us/statutes/](http://www.revisor.leg.state.mn.us/statutes/). You may direct comments concerning existing or proposed state legislation to members of the house or senate, whose contact information can be found on the same site. You may direct comments concerning existing local legislation to your city council or county board.

The full text of Roseau County Ordinances cited in this article can be viewed at: <http://co.roseau.mn.us/ordinances.html>.

The full text of this article and information about keeping kids alcohol, tobacco, and drug free can be found on the Roseau County Prevention Coalition website at [www.rcpcoalition.com](http://www.rcpcoalition.com).

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