

My Son Was Arrested For Underage Possession Of Alcohol. Now What?

August 17, 2012 | by Matheu Nunn

Dear Ask the Attorney:

My 18 year old son was a passenger in a car with 3 other boys when it was pulled over for speeding. In the back seat was a case of beer and a half a pint of vodka. The three other boys are all underage as well. My son and the other boys were arrested for underage possession of alcohol. None of them were arrested for DUI.

What is this going to mean for my son's future? He's going off to college in the fall and I'm very concerned.

Mother's Worst Nightmare

Our guest blogger is Matheu D. Nunn, Esq., an associate with the firm of Einhorn, Barbarito, Frost & Botwinick, PC. He works in both the Matrimonial Department and the Criminal Law Department. He is also the current Morris Township Prosecutor.

Dear Mother:

It sounds to me like your son was caught up in an oft-occurring issue with soon-to-be college kids – underage drinking or possession of alcohol. Of course, as you know, the legal age to possess or consume alcohol is 21; your son is not “of age” and so, this is a potentially serious issue. Why, you ask?

If he was charged with a violation of N.J.S.A. 2C:33-15 “Possession, consumption of alcoholic beverages by persons under legal age” he could be found guilty of a disorderly persons offense. A disorderly persons offense is not a “crime” it is an “offense”, but it may be a distinction without merit to

you because both will remain on his record now that he is an “adult” (18 and over). Moreover, the penalties for a violation of that statute are severe (fine of not less than \$500 and a loss of license for six months). In some other municipalities, like Morris Township, for example, , there are local ordinances that may also be charged in addition to N.J.S.A. 2C:33-15. An ordinance is a local municipality’s law, the punishment for which is normally just a fine with no possibility for jail; it is neither a “crime” nor “offense” and may not affect his permanent record.

Bottom line here is that although a couple of years ago the reaction to kids with alcohol in a car may have been “oh it’s just kids being kids,” being charged with N.J.S.A. 2C:33-15 is serious business. He needs an attorney, immediately. A good attorney will be able to determine whether your son had any knowledge that the alcohol was in the car, whether he actually or constructively possessed it, and, whether, the local municipality has a local ordinance that the more serious charge can be pleaded to.

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