

## AUCKLAND DISTRICT LICENSING AGENCY, AUCKLAND COUNCIL

### AND POLICE POSITION ON AFTER BALL EVENTS

*The agencies position on after ball events is that any event held for this purpose must ensure the event complies with the appropriate Acts and Regulations. Sale and/or Supply of alcohol must adhere to the sale of Liquor act, which requires a Special Licence for sale or supply. The sale and/or supply of alcohol to minors is illegal and will result in prosecution.*

#### *Supply of Alcohol without a Licence*

The law relating to the provision of alcohol is very clear. In order to provide alcohol at any function which is not a party held at a private residence, a Special Licence must be applied for pursuant to the Sale of Liquor Act. This licence permits the Sale and Supply of alcohol to those attending (over 18+).

#### *Supply of Alcohol to a Minor*

The Sale of Liquor Act states that alcohol may not be provided to any person under the age of 18 at any such event. The law states that it doesn't apply to a parent supplying alcohol to a child in their care or any person who is attending a private social function.

This was especially pertinent last year because one of the organising companies declined to apply for a licence. The reason for that was that a licence would have denied them the opportunity to supply alcohol to minors.

*The organisers attempted to use two tactics to circumvent the law.*

Firstly, they declared that the event was a 'private social gathering'. Police and the District Licencing Agency do not accept this under any circumstances. Any function for which tickets have been sold and the organisers and their agents shall be making a profit cannot be defined as such. Furthermore functions and events at which the organisers and their agents do not know the identities of the good proportion of attending guests would not be considered a private social gathering.

Secondly, organisers at some events have arranged for guests who are under 18 to have permission slips signed by parents to allow their children to be served. This, in the view of the organisers, creates an in 'loco parentis' relationship thereby they believe fulfilling that part of the statute. Again, Police and the District Licencing Agency do not accept this. The law is clear and the alcohol must be supplied by a parent or guardian who are in attendance.

An event that is organised by a combined group of students over 18 and parents and that has an appropriate alcohol management plan would in all likelihood be granted a special licence for such an event.

#### **Venues:**

The trend in the last few years is for these functions to be held in large unused warehouse and commercial factory premises. Auckland Council has a very narrow view on buildings being used for purposes other than that for which they are zoned. For example, a factory or warehouse that is zoned for use as commercial manufacturing or warehousing cannot be used for entertainment without applications being made for a change of designation.

Secondly, all venues used for entertainment purposes must comply with both fire regulations relating to emergency exits, extinguishers, alarms, sprinklers and detectors.

Thirdly, all venues must comply with Safety and Health regulations.

Venues have been kept secret for many of these events to avoid detection by Police, District Licencing Agency, Council and schools. Students are collected by bus from a location provided and are then transported to the event venue. At the conclusion of the event, the students are again collected and deposited at another pre-determined location.

Police have had anecdotal evidence of incidents of violence at these locations after drop offs from after ball functions. It is in our view a risk for parents not to know where their children are going especially if they are to be supplied alcohol.

Organisers of such events need to also be aware of situations that can occur prior to, or outside the confines of such an event (preloading, drinking in car parks) and have processes and policies in place to deal with such an eventuality, even if it just to call for assistance from the Ambulance or Police service. Because of the covert nature of these unlicensed events, they are usually very reluctant to take such action, and thereby place a higher risk on the safety of such attendees

***Violence:***

There has been one relatively high profile incident of violence at an After Ball function.

<http://www.stuff.co.nz/national/education/2480012/School-after-ball-erupts-in-violence>

However, there are more than likely anecdotes relating to violence at these events that are circulating. For instance, at an event last year, information was received that a ticket holder from another school was organising a fight with another ticket holder over some perceived slight. Alcohol, testosterone and youth are a potent and dangerous combination - especially when young men are in the company of young ladies.

***Event organisers:***

The agencies have provided several event organisers with information and guidance on how to operate large scale events for this age group in a legal manner. We encourage other event organisers to make contact with the agencies to ensure they are complying within the confines of the applicable Regulations and Acts.

***Information available on school ball / after ball event organisers websites:***

Please note that not all information is accurate supplied on these websites in relation to parties and after ball events is accurate. We encourage students, parents, committees and interested parties to check with the agency contacts for the Auckland region to ensure the information you have is correct.

**For more information contact**

Auckland District Licensing Agency  
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Licensing Inspector  
T: 027 2771352

Auckland Council  
Cat Marvin  
Business Analyst Licensing & Compliance  
T: 027 218 5932

NZ Police  
Sergeant Chris Lally  
Sergeant Licensing and Vetting NZ Police  
T: 09 526 7319

## PENALTIES UNDER THE SALE OF LIQUOR ACT

It is important to note that after ball events that have had tickets issued or sold are not private events and have to adhere to the provisions of the Sale of Liquor Act 1989 or organisers and attendees will be prosecuted. This does not just relate to after ball events / functions.

### *Supply of Alcohol*

A person who is less than 18 can only be supplied with alcohol by their parent or legal guardian. Legal guardian (as defined by the Guardianship Act) means exactly that.

It does not include other family members including grandparents, uncles and aunts or older brothers, sisters, spouses or partners. Neither does it include sports coaches or anyone else temporarily acting in the place of a parent.

It is illegal for anyone under the age of 18 years to purchase alcohol, and it is illegal for anyone other than a parent or guardian to supply alcohol to those under 18, unless it is in a private setting. After ball events where tickets have been issued or sold is not a private social gathering and organizers that supply alcohol can face prosecution.

### *Under 18 Offences and Penalties*

If you are under 18, the following offences and penalties apply.

- **Infringement fees for consuming alcohol when a minor or in a public place**

**Offence:** Buying alcohol

**Penalty:** infringement fee of \$200 or a court fine of up to \$2000

**Offence:** being in a restricted or supervised area of a licensed premise (without a parent or legal guardian)

**Penalty:** Infringement fee of \$200 or a court fine of up to \$1000

**Offence:** drinking in a public place or in possession of alcohol in a public place (without a parent or legal guardian)

**Penalty:** infringement fee of \$200

- **Using someone else's ID**

**Offence:** if you use someone else's ID to buy alcohol, you are committing fraud which carries heavy penalties.

### *Supply of Alcohol Offences and penalties*

- **Buying alcohol for an underage person**

**Offence:** purchasing or acquiring alcohol on or from a licensed premise with the purpose of supplying it to someone under 18

**Penalty:** a fine of up to \$2000

- **151 Sales by unlicensed person**

Every person commits an offence and is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$40,000 who, not being the holder of a licence, sells, or exposes or keeps for sale, any liquor.

- **152 Allowing unlicensed premises to be used for sale of liquor**

Every person commits an offence and is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$40,000 who, being the occupier or 1 of the occupiers of any unlicensed premises, allows any other person to sell, or expose or keep for sale, any liquor on or from the premises.

- **153 Use of unlicensed premises as place of resort for consumption of liquor**
  - (1) Every person commits an offence and is liable to a fine not exceeding \$20,000 who, being the occupier or having or taking part in the care, management, or control of any unlicensed premises, allows those premises to be kept or used as a place of resort for the consumption of liquor.
  - (2) Subsection (1) does not apply to the consumption of liquor—
    - (a) by any person on any premises on which that person resides, whether that person is the occupier of the premises or not; or
    - (b) supplied to any person by way of gift by any person who resides on the premises on which the liquor is consumed.
  - (3) For the purposes of subsection (1), any person who acts as, or as if he or she were, an occupier or a person having any part in the care, management, or control of any premises shall be deemed to be an occupier of the premises, but without affecting the liability of any other person.
  - (4) For the purposes of subsection (1), premises may be deemed to be kept or used as a place of resort for the consumption of liquor even though they are open only for the use of particular persons or particular classes of persons, and not to all persons who wish to use them.
  
- **154 Persons found on unlicensed premises kept as place of resort for consumption of liquor**
  - (1) Every person commits an offence and is liable to a fine not exceeding \$2,000 who, not being a member of the police in the execution of his or her duty, is found on any unlicensed premises kept or used in breach of section 153.
  - (2) It is a defence to a charge under subsection (1) if the defendant satisfies the Court that he or she—
    - (a) was present on the premises for a lawful purpose; and
    - (b) neither took part nor intended to take part in any unlawful sale, supply, or consumption of liquor.
  
- **160 Purchasing liquor for minors**
  - (1) Every person commits an offence and is liable to a fine not exceeding \$2,000 who purchases or acquires any liquor on or from any licensed premises with the intention of supplying the liquor, or any of it, to any person who is under the age of 18 years.
  - (2) Subsection (1) applies irrespective of any liability that may attach to the licensee or any manager or other person in respect of the sale or supply of the liquor.
  - (3) Subsection (1) does not apply to a person who purchases or acquires any liquor with the intention of supplying it to—
    - (b) any child of whom that person is a parent or guardian;
or
    - (d) any other person who is attending a private social gathering.
  - (4) No person shall be guilty of an offence against subsection (1) by purchasing or acquiring any liquor for any other person who then supplies it to a third person who is under the age of 18 years, unless it is proved that the defendant knew or had reasonable grounds to believe that the liquor was intended for that other person.
  
- **162 Purchasing of liquor by minors**
  - (1) Every person commits an offence and is liable to a fine not exceeding \$2,000 who, being under the age of 18 years, purchases any liquor on or from any licensed premises.
  
- **165 Unauthorised sale or supply**
  - (1) Every person commits an offence and is liable to the penalty set out in subsection (2) who, being the licensee or a manager of any licensed premises, sells or supplies liquor to any person at any time when the licensee is not authorised by the licence or this Act to sell to that person.
  - (2) The penalty is,—
    - (a) in the case of a licensee,—
      - (i) a fine not exceeding \$20,000; or
      - (ii) the suspension of the licensee's licence for a period not exceeding 7 days; or
      - (iii) both;
    - (b) in the case of a manager, a fine not exceeding \$20,000.

- **166 Sale or supply of liquor to intoxicated person**
  - (1) Every person commits an offence and is liable to the penalty set out in subsection (4) who, being the licensee or a manager of any licensed premises, sells or supplies liquor to any other person who is already intoxicated.
  - (2) Every person commits an offence and is liable to the penalty set out in subsection (4) who, not being the licensee or a manager of any licensed premises, sells or supplies liquor to any other person who is already intoxicated.
  - (3) Subsection (2) applies irrespective of any liability that may attach to the licensee or any manager in respect of the same offence.
  - (4) The penalty is,—
    - (a) in the case of a licensee,—
      - (i) a fine not exceeding \$10,000; or
      - (ii) the suspension of the licensee's licence for a period not exceeding 7 days; or
      - (iii) both:
    - (b) in the case of a manager, a fine not exceeding \$10,000;
    - (c) in the case of a person (not being a licensee or manager), a fine not exceeding \$2,000.
  
- **167 Allowing person to become intoxicated**
  - (1) Every person commits an offence and is liable to the penalty set out in subsection (2) who, being the licensee or a manager of any licensed premises, allows any person to become intoxicated on the licensed premises.
  - (2) The penalty is,—
    - (a) in the case of a licensee,—
      - (i) a fine not exceeding \$10,000; or
      - (ii) the suspension of the licensee's licence for a period not exceeding 7 days; or
      - (iii) both:
    - (b) in the case of a manager, a fine not exceeding \$10,000.

**For more information contact**

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