



CONSUMER ATTORNEYS OF CALIFORNIA

Seeking Justice for All

Teen Alcohol Safety Act of 2010 Promoting Adult Responsibility

AB 2486

Author:
Assembly Member
Mike Feuer

SUMMARY: AB 2486 is designed to be one more important tool in the fight against underage drinking. Simply put, AB 2486 will prevent teen drinking tragedies and will bring California law into compliance with the majority of other states that have laws that protect their minors.

CURRENT LAW: Shockingly, under current law, there is complete “social host” immunity in the civil courts in instances where someone, in his home, provides alcohol to anyone, including a minor. Although the social host may be criminally prosecuted, the law is absolute that no one can bring a civil action. A social host is “one who invites others to his own home or property for a social gathering and, to the extent alcohol is served, it is done as an act of hospitality or social courtesy, with no motive for pecuniary gain.” (Regina E. Roman, *Civil Liability of Homeowners as Social Hosts*)

CA Civil Code Section 17174, passed in 1978, states: “No social host who furnishes alcoholic beverages to any person may be held legally accountable for damages suffered by that person or for injury to the person or property of, or death of, any third person, resulting from the consumption of those beverages.” This section means that no matter what the circumstances and even if an adult knowingly provides alcohol to a minor, there is absolutely no accountability in a civil case. We think that is wrong.

Under AB 2486, the social host is not automatically liable for the injuries or deaths to the minor or any third party. AB 2486 simply removes an absolute legal impediment for the family to proceed. The family of the injured or killed would still need to prove in court all of the elements of negligence: A duty of care existed, a breach of that duty, causation, and damages. Negligence, as a basis for social host liability, is not



automatic. Each element must be proven in order to give rise to social host liability. And, AB 2486, is extremely limited as it only applies to social hosts who knowingly provide alcohol to minors.

EXAMPLE: This sad case was brought to our attention by one of our members who had been contacted by the family of a young girl, Shelby Allen, a 17 year-old junior at Foothill High School in Palo Cedro, California, who died of acute alcohol poisoning. On the first night of Christmas break 2008, she attended a party at her friend’s house where the parents allegedly provided the alcohol and were present in the house. Shelby became violently ill and was semi-conscious when her friends left her propped up over the toilet. When she was discovered the next morning, she was dead. Please go to <http://www.shelbysrulesfoundation.com/index.html> for more about Shelby and what her parents are doing to educate young people about binge drinking. Did a social host “knowingly provide” the alcohol? We may never know as the current absolute immunity protects them from any civil suit inquiry that could shed light on the facts of what actually happened that night.

DETERRENCE. We think that if people knew they were not protected under the law and could be exposed to civil damages, conduct would change. We want to encourage people who have minor guests to NOT provide alcohol. It is against the law, and can have tragic consequences.

CO- SPONSORS

Mothers Against Drunk Driving
Consumer Attorneys of California

CONTACTS

Nancy Peverini
Nancyp@caoc.org