

SOCIAL HOST LIABILITY ACT

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This bill enacts the Social Host Liability Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes responsibility related to an underage drinking gathering;
- ▶ makes certain conduct subject to a citation and civil penalties, including recovery of response costs;
- ▶ allows for the reservation of legal options and imposition of ordinances; and
- ▶ provides for appeals.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-6-1601, Utah Code Annotated 1953

78B-6-1602, Utah Code Annotated 1953

78B-6-1603, Utah Code Annotated 1953

78B-6-1604, Utah Code Annotated 1953

78B-6-1605, Utah Code Annotated 1953

78B-6-1606, Utah Code Annotated 1953

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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78B-6-1601** is enacted to read:

Part 16. Social Host Liability Act

78B-6-1601. Title.

This part is known as the "Social Host Liability Act."

Section 2. Section **78B-6-1602** is enacted to read:

78B-6-1602. Definitions.

As used in this part:

(1) "Alcoholic beverage" is as defined in Section 32A-1-105.

(2) "Emergency response provider" means an individual providing services on behalf

of:

(a) a law enforcement agency;

(b) a fire suppression agency; or

(c) another agency or a political subdivision of the state.

(3) "Law enforcement officer" is as defined in Section 53-13-103.

(4) "Local entity" means the political subdivision for which an emergency response provider provides emergency services.

(5) "Minor" means an individual under the age of 18 years old.

(6) (a) Subject to Subsection (6)(b), "response costs" means the actual costs directly associated with an emergency response provider responding to, remaining at, or otherwise dealing with an underage drinking gathering, including:

(i) the costs of medical treatment to or for an emergency response provider injured because of an activity described in this Subsection (6)(a); and

(ii) the cost of repairing damage to equipment or property of a local entity that is attributable to an activity described in this Subsection (6)(a).

(b) "Response costs" does not include:

(i) the salary and benefits of an emergency response provider for the amount of time

58 spent responding to, remaining at, or otherwise dealing with an underage drinking gathering;
59 or

60 (ii) the administrative costs attributable to an activity described in Subsection
61 (6)(b)(i).

62 (7) "Underage drinking gathering" means a gathering of two or more individuals:

63 (a) at which an individual knowingly serves, aids in the service of, or allows the
64 service of an alcoholic beverage to an underage person; and

65 (b) to which an emergency response provider is required to respond, except for a
66 response related solely to providing medical care at the location of the gathering.

67 (8) "Underage person" means an individual under the age of 21 years old.

68 Section 3. Section **78B-6-1603** is enacted to read:

69 **78B-6-1603. Citation -- Civil penalty.**

70 (1) An individual may not knowingly conduct, aid, or allow an underage drinking
71 gathering.

72 (2) A law enforcement officer may issue a written citation to an individual who
73 violates Subsection (1).

74 (3) An individual issued a citation under this section is subject to a civil penalty equal
75 to the sum of:

76 (a) (i) a fine of \$250 for a first citation; or

77 (ii) double the fine imposed for an immediately preceding citation for each subsequent
78 citation; and

79 (b) the response costs of the underage drinking gathering, not to exceed \$1,000.

80 (4) Two or more individuals who violate Subsection (1) for the same underage
81 drinking gathering are jointly and severally liable under this section for response costs
82 attributable to the underage drinking gathering.

83 (5) An individual who violates Subsection (1) is liable under this part regardless of
84 whether the individual is present at an underage drinking gathering.

85 (6) If a minor is issued a citation under this section, the minor's parent or legal

86 guardian may not be held liable for an amount of civil penalty imposed on the minor as a
87 result of the minor's citation.

88 Section 4. Section **78B-6-1604** is enacted to read:

89 **78B-6-1604. Collection of civil penalty.**

90 (1) A local entity shall mail a notice of the civil penalty amount for which an
91 individual is liable by first-class or certified mail within 14 days of the day after which a
92 citation is issued under Section 78B-6-1603. The notice shall contain the following
93 information:

94 (a) the name of the one or more individuals being held liable for the payment of the
95 civil penalty;

96 (b) the address of the location where the underage drinking gathering occurs;

97 (c) the date and time of the response;

98 (d) the name of an emergency service provider who responds to the underage drinking
99 gathering; and

100 (e) an itemized list of the response costs for which the one or more individuals are
101 liable.

102 (2) (a) An individual liable under Section 78B-6-1603 shall remit payment of a civil
103 penalty to the local entity that provides the notice required by Subsection (1) within 90 days of
104 the date on which the notice is sent.

105 (b) Notwithstanding Subsection (2)(a), a local entity may:

106 (i) reduce the amount of a civil penalty; or

107 (ii) negotiate a payment schedule for a civil penalty.

108 (3) (a) A civil penalty imposed under this section may be appealed as provided in
109 Section 78B-6-1606.

110 (b) Notwithstanding Subsection (4), the payment of a civil payment is stayed upon an
111 appeal made pursuant to Section 78B-6-1606.

112 (4) (a) The amount of a civil penalty owed under this part is considered a debt owed to
113 the local entity by the individual held liable under this part for an underage drinking gathering.

114 (b) After the notice required by Subsection (1), an individual owing a civil penalty is
115 liable in a civil action brought in the name of the local entity for recovery of:

- 116 (i) the civil penalty; and
- 117 (ii) reasonable attorney fees.

118 Section 5. Section **78B-6-1605** is enacted to read:

119 **78B-6-1605. Reservation of legal options -- Ordinances.**

120 (1) (a) This part may not be construed as a waiver by a local entity of a right to seek
121 reimbursement for actual costs of response services through another legal remedy or
122 procedure.

123 (b) The procedure provided for in this part is in addition to any other civil or criminal
124 statute.

125 (c) This part does not limit the authority of a law enforcement officer or private citizen
126 to make an arrest for a criminal offense arising out of conduct regulated by this part.

127 (2) A local entity may impose by ordinance a stricter provision related to the conduct
128 of an underage drinking gathering, including the imposition of a different civil penalty
129 amount, except that the ordinance shall provide that a civil penalty for an underage drinking
130 gathering may only be imposed by a local entity for which an emergency response provider
131 provides services at the underage drinking gathering.

132 Section 6. Section **78B-6-1606** is enacted to read:

133 **78B-6-1606. Appeals.**

134 An individual upon whom is imposed a civil penalty under this part may appeal the
135 imposition of the civil penalty pursuant to the procedures used by the local entity for appealing
136 a traffic citation or a violation of an ordinance.