

SOCIAL HOST LIABILITY ACT

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts the Social Host Liability Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for severability;
- ▶ 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
- ▶ 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



- 28 **78B-6-1604**, Utah Code Annotated 1953
- 29 **78B-6-1605**, Utah Code Annotated 1953
- 30 **78B-6-1606**, Utah Code Annotated 1953
- 31 **78B-6-1607**, Utah Code Annotated 1953
- 32 **78B-6-1608**, Utah Code Annotated 1953



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

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

36 **Part 16. Social Host Liability Act**

37 **78B-6-1601. Title.**

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

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

40 **78B-6-1602. Definitions.**

41 As used in this part:

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

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

44 of:

45 (a) a law enforcement agency;

46 (b) a fire suppression agency; or

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

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

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

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

52 (6) (a) "Other private property" means:

53 (i) a dwelling unit including:

54 (A) a hotel; or

55 (B) a motel room; or

56 (ii) a hall or meeting room.

57 (b) A dwelling unit, hall, or meeting room is "other private property" regardless of
58 whether the dwelling unit, hall, or meeting room:

- 59 (i) is occupied on a temporary or permanent basis;
60 (ii) (A) is occupied as a dwelling; or
61 (B) is used for a social function; and
62 (iii) with or without compensation, is owned, leased, rented, or used.
63 (7) "Private property" means:
64 (a) a residence; or
65 (b) other private property.
66 (8) (a) "Residence" means a dwelling, whether owned or rented, and so much of the
67 land surrounding the dwelling as is reasonably necessary for use of the dwelling as a home.
68 (b) "Residence" may consist of:
69 (i) a part of a multidwelling or multipurpose building; and
70 (ii) a part of the land on which it is built.
71 (c) "Residence" includes:
72 (i) a mobile home; or
73 (ii) a houseboat.
74 (9) (a) Subject to Subsection (9)(b), "response costs" means the actual costs directly
75 associated with an emergency response provider responding to, remaining at, or otherwise
76 dealing with an underage drinking gathering, including:
77 (i) the costs of medical treatment to or for an emergency response provider injured
78 because of an activity described in this Subsection (9)(a); and
79 (ii) the cost of repairing damage to equipment or property of a local entity that is
80 attributable to an activity described in this Subsection (9)(a).
81 (b) "Response costs" does not include:
82 (i) the salary and benefits of an emergency response provider for the amount of time
83 spent responding to, remaining at, or otherwise dealing with an underage drinking gathering; or
84 (ii) the administrative costs attributable to an activity described in Subsection (9)(b)(i).
85 (10) (a) "Responsible person" means an individual who:
86 (i) (A) resides in a residence at which an underage drinking gathering occurs;
87 (B) has a legal duty for the welfare of a minor who resides at the residence; and
88 (C) (I) invites a minor onto the residence; or
89 (II) organizes, supervises, officiates, conducts, or controls the underage drinking

90 gathering; or

91 (ii) invites a minor onto other private property if the individual knows or reasonably
92 should have known that at the time the minor is invited to be on the private property there is an
93 underage drinking gathering.

94 (b) "Responsible person" includes if the conditions of Subsection (10)(a) are met:

95 (i) an owner of private property; or

96 (ii) a tenant or lessee of private property.

97 (11) "Underage drinking gathering" means a gathering of two or more persons:

98 (a) on private property;

99 (b) at which service to or consumption of an alcoholic beverage by an underage person
100 occurs; and

101 (c) to which an emergency response provider is required to respond, except for a
102 response related solely to providing medical care at the private property.

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

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

105 **78B-6-1603. Severability.**

106 If a provision of this part or its application to a person or circumstance is held invalid,
107 the invalidity does not affect the other provisions or applications of this part. The provisions of
108 this part are severable.

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

110 **78B-6-1604. Responsibility for an underage drinking gathering.**

111 A responsible person is liable under this part regardless of whether the responsible
112 person is present at an underage drinking gathering.

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

114 **78B-6-1605. Citation -- Civil penalty.**

115 (1) A law enforcement officer may issue a written citation to a responsible person who
116 knowingly conducts, aids, allows, permits, or condones an underage drinking gathering on
117 private property.

118 (2) A person issued a citation under this section is subject to a civil penalty equal to the
119 sum of:

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

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

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

124 (3) One or more responsible persons for an underage drinking gathering are jointly and
125 severally liable under this section for a civil penalty attributable to the underage drinking
126 gathering.

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

128 **78B-6-1606. Collection of civil penalty.**

129 (1) A local entity shall mail a notice of the civil penalty amount for which a responsible
130 person is liable by first-class or certified mail within 14 days of the day after which a citation is
131 issued under Section 78B-6-1605. The notice shall contain the following information:

132 (a) the name of the one or more responsible persons being held liable for the payment
133 of the civil penalty;

134 (b) the address of the private property where the underage drinking gathering occurs;

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

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

138 (e) an itemized list of the response costs for which the one or more responsible persons
139 are liable.

140 (2) (a) A responsible person shall remit payment of a civil penalty to the local entity
141 that provides the notice required by Subsection (1) within 90 days of the date on which the
142 notice is sent.

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

144 (i) reduce the amount of a civil penalty; and

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

146 (3) (a) A civil penalty imposed under this section may be appealed as provided in
147 Section 78B-6-1608.

148 (b) Notwithstanding Subsection (4), the payment of a civil payment is stayed upon an
149 appeal made pursuant to Section 78B-6-1608.

150 (4) (a) The amount of a civil penalty owed under this part is considered a debt owed to
151 the local entity by the responsible person held liable under this part for an underage drinking

152 gathering and, if a minor, by the minor's parents or guardians.

153 (b) After the notice required by Subsection (1), a person owing a civil penalty is liable
154 in a civil action brought in the name of the local entity for recovery of:

155 (i) the civil penalty; and

156 (ii) reasonable attorney fees.

157 Section 7. Section **78B-6-1607** is enacted to read:

158 **78B-6-1607. Reservation of legal options.**

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

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

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

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

170 Section 8. Section **78B-6-1608** is enacted to read:

171 **78B-6-1608. Appeals.**

172 A person upon whom is imposed a civil penalty under this part may appeal the
173 imposition of the civil penalty pursuant to the procedures used by the local entity for appealing
174 a traffic citation or a violation of an ordinance.

Legislative Review Note
as of 2-3-09 1:37 PM

Office of Legislative Research and General Counsel

H.B. 313 - Social Host Liability Act

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill will impact local justice courts, however the amount is unquantifiable at this time.
