

Legal issues impact significantly on afterball parties, and have been one of the factors that caused the most concern and controversy. This section aims to clarify these issues, and demonstrate how you can work effectively within the law.

Warning: The sale of liquor act as it relates to youth drinking and parties appears to be interpreted differently around the country. It is always a good idea to check the position of your local police is likely to take on these issues.

Sale of liquor act (1989)

This is the main Act affecting afterball parties. The sections of this act that need to be understood are:

Section 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.

To comply with this section no alcohol can be sold. Being sold or supplied also applies to alcohol being included in the ticket price.

Section 155 Sale or supply of liquor to minors

- (1) Every person commits an offence who, being the licensee or a manager of any licensed premises, sells or supplies any liquor, or allows any liquor to be sold or supplied, on or from the licensed premises to any person who is under the age of 18 years.
- (2) Every person commits an offence who, not being the licensee or a manager of any licensed premises, sells or supplies any liquor on or from the licensed premises to any person who is under the age of 18 years.

This section means that people working in licensed premises can't sell or supply alcohol to under-age people. This includes selling the alcohol to an older person, other than a parent or guardian, if they know that it's going to be passed on to someone under the age of 18.

Section 162: Purchasing of liquor by minors

Every person commits an offence and is liable to a fine not exceeding \$2000 who, being under the age of 18 years purchases any liquor on or from any licensed premises.

This means that nobody under the age of 18 can buy alcohol

Section 172: Making false representation of Licensees etc.

- (1) Every person commits an offence and is liable to a fine not exceeding \$2000 who falsely represent in writing to the licensee or a manager of any licensed premises, or to any employee of the licensee, that he or she is a person to whom liquor may be sold or supplied under the licence.
- (2) Every person commits an offence and is liable to a fine not exceeding \$1000 who falsely represent otherwise than in writing to the licensee or a manager of any licensed premises, or to any employee of the licensee, that he or she is a person to whom liquor may be sold or supplied under the licence.

This section outlines the fines for pretending a person is over 1. For presenting false documents such as someone else's ID, the fine is up to \$2000

Section 160: Purchasing liquor for minors

- (1) Every person commits an offence and is liable to a fine not exceeding \$2000 who purchases or acquires any liquor on or from a 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) of this section applies irrespective of any liability that may attach to the licensee or any manager or any other person in respect of the sale or supply of the liquor.
- (3) Subsection (1) of this section does not apply to a person who purchases or acquires any liquor with the intention of supplying it to;
 - (a) Any child of whom that person is a parent or guardian; or
 - (b) Any other person who is attending a private social gathering.

This is the most important section for the afterballs – it means that, generally, for those under 18, only a parent or legal guardian can buy or supply alcohol.

The only exception in legislation is for a ‘private social gathering’. Exactly what this means is not defined in the legislation so is open to different interpretations. As a general rule the people coming need a personal invitation i.e. if any student can come then it isn’t a private social gathering. Remember alcohol cannot be sold at the event or included in the ticket price.

It is important to note that anyone who sells alcohol can be prosecuted if it can be shown that they knew it was to be illegally supplied to someone under 18.

Section 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 \$10,000 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) of this section 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 liquor is consumed.
- (3) For the purpose of subsection (1) of this section, 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) of this section, 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.

This section is open for interpretation. If it can be proved that the primary purpose of an event is the consumption of alcohol, then the organizers of the event could be held liable.

In 2000 there was a prosecution under this section for a man who organized a party on his own property for his 16 year old. He pleaded guilty and was ultimately given diversion. There is very little case law in this area and we will never know whether or not he would have been convicted had it gone to court.

Summary

What's Not Ok

1. No one can sell alcohol without a licence whether or not it is included in a ticket price.
2. No one can sell alcohol to someone under 18
3. No one can buy alcohol if they are under 18
4. A person under 18 cannot drink alcohol in a public place
5. A person under 18 cannot go into a supervised area (most bars) unless they are with their parent or legal guardian

What's Ok

1. A parent or legal guardian can supply alcohol to their child(ren)
2. Alcohol can be supplied to someone under 18 at a **private** party, but it has to be just that – **private** (pre-sold tickets, admittance to school ball attendee's only and not publicly advertised)
3. A person under 18 can drink alcohol at a private social gathering.
4. A person under 18 can drink alcohol at a sports club (or any other licensed premises) if: the licence is not being used at the time; no alcohol is being sold; the premises does not have an age designation; the venue is being hired out for private function or if alcohol is purchased by a persons parent or legal guardian.