

LEGAL EXPLANATION OF UNLAWFUL POSSESSION OR CONSUMPTION OF AN ALCOHOLIC BEVERAGE BY A MINOR

Many of you have been charged with Unlawful Possession or Consumption of an Alcoholic Beverage by a Minor, pursuant to Section 11-1-207 of the City of Pueblo Municipal Code.

The City of Pueblo Ordinance is almost identical to the Colorado Revised Statutes provisions. Both Prohibit people under the age of twenty-one (21) from possession or consuming alcohol (with very few exceptions).

Determining "consumption" is pretty straight forward! It means you drank it!

Someone saw you drink it, someone smelled it on your breath, someone saw you intoxicated, or someone saw other obvious signs of alcohol consumption (stumbling, slurred speech, B/S-watery eyes, etc.)

Determining "possession" is more complicated. Most people are charged with possession vs. consumption of alcohol.

Possession has several definitions:

A person has or holds any amount of an alcoholic beverage on their person: It means alcohol is in your hand, in your pocket, in your backpack that you are wearing, under the seat in the car you are driving etc. It means it is right there with you.

A person owns or has custody of an alcoholic beverage: It means the alcohol is yours or that you have the alcohol somewhere else (locker, trunk, of car, under your bed, etc.).

A person has an alcoholic beverage within their immediate presence and control.

This is the most controversial and most complex.

What does "immediate presence AND control" mean?

Immediate presence means that an alcoholic beverage was in the area immediately around you (“immediately around you” will depend upon the nature and location.)

Control means that you have the ability to complete the act of actual physical possession or consumption of an alcoholic beverage without interference from someone else that has control.

For example:

At a bar, the bar tender has control over who possesses or consumes alcohol and the bartender will interfere and stop you if you are under 21 years of age, and you try to possess or consume an alcoholic beverage.

At home, parents have control over who possesses or consumed alcohol and parents presumably will interfere and stop you if you are under 21 years old and try to possess or consume an alcoholic beverage.

On the other hand, if you are at a kegger, a party, a get together or otherwise in which alcohol is available and no one is checking I.D., no one is actively controlling the possession or consumption of alcohol, and the alcohol is available to anybody and/or everybody, then each individual has the ability to complete the act of actual physical possession or consumption of an alcoholic beverage without interference from someone else that has control.

It does not matter that you don't drink or have decided not to drink alcohol.

It does not matter that you were the designated driver.

It does not matter that you had just walked in the door.

If you are under 21 years old and alcohol was within your immediate presence (meaning that an alcoholic beverage was in the area immediately around you) and alcohol was within your control (meaning you had the ability to complete the act of actual physical possession or consumption of an alcoholic beverage without interference from someone else that has control, you unlawfully possessed or consumed (which ever is applicable) an alcoholic beverage by a minor, pursuant to Section 11-1-207 of the City of Pueblo Municipal Code.