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Topic for the Month:

Parental Liability

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Mom and Dad - You Pay for the Negligent and Intentional Acts of Your Child : If you're a parent, this *LawClips* article is a MUST read ! Under the parental liability statute, a parent with legal or physical custody of a child, is liable for damages to property caused by the minor child (i.e. cost of repairing or replacing property or removing markings or drawings on property). Parents are also liable for any personal injury caused by the willful, malicious or wanton act of the child. The maximum recovery is limited to \$ 5,000. If an act or threat of a minor child endangers the property, health or safety of persons at a school, the school can recover damages up to \$ 20,000 from the parents. The goal of the parental liability law is to impose a certain degree of financial responsibility on parents, for the acts of their children.



Mom and Dad - You Pay if Your Child Causes a Car Accident: A person under the age of 18 is required to have his/her application for a driver's license verified by a parent, stepparent or adult sponsor. The parents or adult sponsor are liable for ANY negligent or willful misconduct of the child when operating a motor vehicle. The adult sponsor who signed the application is liable. The parents or adult sponsor are jointly and severally liable for all damages caused by the willful or negligent conduct of the minor driver.

Mom and Dad - You May Pay if You Provide Alcohol to a Person Under the Legal Drinking Age? The legal drinking age in Wisconsin is 21. For many parents, a constant struggle begins when their child turns 18. At 18, the child is old enough to vote, fight in a war, but not old enough to drink alcohol. Some parents believe that they should be allowed to provide their child with alcohol, if they desire. Wisconsin currently allows parents to provide alcohol to their own children. If you are a parent who has a young adult between the ages of 18 to 21, **BEWARE**. A recent Wisconsin Supreme Court decision may send chills up your spine.

What happens when a parent provides alcohol to a child under the legal drinking age, who then gives some of the alcohol to a friend, who is also under the legal drinking age? In November, 2003, the Wisconsin Supreme Court addressed this issue in *Anderson v. American Family Mut. Ins. Co.*, 2003 WI 148. The Anderson decision has wide-spread implications to YOU as a parent.

Here is What Happened: A parent furnished a bottle of vodka to her 19 year old son, leaving it on the kitchen table, with a note saying, "You owe me 12 dollars." The son took the bottle and went with some friends up north to a cottage. The son and his friends consumed the vodka. One of the friends eventually died from acute alcohol intoxication, having consumed enough alcohol to put his blood alcohol concentration at between .357 percent and .402 percent.

What's the question? Can the parent who provided the alcohol to her son be liable to the parents of the underage boy who died from acute alcohol intoxication?

The Supreme Court first addressed a statute, which affords immunity to a person who provides alcohol to another. That statute states: "A person is immune from civil liability arising out of the act of procuring alcohol beverages for or selling, dispensing or giving away alcohol beverages to another person." [Wis. Stat. § 125.035\(2\)](#). However, immunity can be lost when alcohol is provided to any underage person not accompanied by his or her parent. [Wis. Stat. § 125.07\(1\)\(a\)](#). This is exactly what occurred in the *Anderson* case.

What did the Court decide? The Supreme Court concluded that "... an underage drinker who is injured or dies as a result of the consumption of alcohol, that was illegally provided to a companion underage drinker, is an injured third party for purposes of the exception to immunity under [Wis. Stat. § 125.035\(4\)\(b\)](#). As in all cases, the facts are extremely important. For example, for liability to apply it must be established that the consumption of alcohol was a substantial factor in causing the death. Alternatively, if the friend who died, had contributed money towards the purchase of the vodka, the outcome of the case may be different.



Why is This Decision Important to You? If you choose to provide alcohol to your underage child and your child provides the alcohol to a friend who is under 21, you could be liable for any resulting injuries. Your best bet is not to furnish alcohol to your underage child in the first instance. Under no circumstances should you allow alcohol provided to your underage child to be given or sold to another person.

If you have any questions about parental liability, please feel free to call any of our attorneys. Our firm has **EXPERT ADVISERS**, ready, willing and able to serve you. Call us at: 920-336-5766 (toll-free: 866-525-5200).