

89-001 Possession of Alcoholic Beverages by Minors - Disposition of Evidence

Los Angeles County Sheriff's Department
FIELD OPERATIONS DIRECTIVE
Field Operations Support Services



POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS -- DISPOSITION OF EVIDENCE

Business and Professions Code Section 25662 authorizes peace officers to seize unopened alcoholic beverage containers under certain conditions and to dispose of alcoholic beverages in opened containers when they are possessed by persons under 21 years of age. The purpose of this directive is to establish guidelines to ensure the proper application of the section.

The section states as follows:

25662 – Possession of beverage by minor; authorization of peace officers to seize beverages; disposition of seized beverages.

- Any person under the age of 21 years who has any alcoholic beverage in his or her possession on any street or in any public place or place open to the public is guilty of a misdemeanor. This section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of his or her parent or in pursuance of his or her employment.
- Unless otherwise provided by law, where a peace officer has lawfully entered the premises, the peace officer may seize any alcoholic beverage in plain view which is in the possession of, or provided to, a person under the age of 21 years at social gatherings, when those gatherings are open to the public, 10 or more persons under the age of 21 years are participating, persons under the age of 21 are consuming alcoholic beverages, and there is no supervision of the social gathering by a parent or guardian of one or more of the participants.
 - Where a peace officer has seized alcoholic beverages pursuant to this subdivision, the officer may destroy any alcoholic beverage contained in an opened container and in the possession of, or provided to, a person under the age of 21 years, and, with respect to alcoholic beverages in unopened containers, the officer shall impound those beverages for a period not to exceed seven working days pending a request for the release of those beverages by a person 21 years of age or older who is the lawful owner or resident of the property upon which the alcoholic beverages were seized. If no one requests release of the seized alcoholic beverages within the time limits prescribed herein, those beverages may be destroyed.

The section does not take into consideration the evidentiary value of the alcoholic beverages. Obviously, a sample of the beverage should be saved to aid in the successful prosecution of the case. Deputies are reminded of our Department's policy regarding alcoholic beverage evidence. Manual of Policy and Procedures Subsection 5-04/100.30 Packaging of Evidence states in part:

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Disposition of Evidence

- Alcoholic Beverages -- contents of opened containers found in a vehicle, etc., should be placed in a clear glass container. A minimum of two ounces should be collected for submission to Scientific Services Bureau. The balance of the liquid in the opened container may be destroyed, but the container itself shall be retained as evidence.

Regarding unopened alcoholic beverage containers in the possession of or being provided to persons under 21 years of age, such containers, including beer kegs, shall be impounded. The container(s) shall be held for a period not to exceed seven business days pending a request for the release of the container(s) by a person 21 years of age or older who is the lawful owner or resident of the property upon which the alcoholic beverages were seized.

NOTE: Any commercially owned containers, i.e., beer kegs, shall be released to the owner of the containers or his/her agent.

If the beverages are going to be released prior to the case going to the court, it is recommended that the containers be photographed. This will provide at least a photographic record of the evidence for presentation to the court.

If no one requests the release of the seized beverages within the prescribed time period, those containers may be destroyed at the station per 22662 B & P. However, it is strongly recommended that the beverages be retained for a reasonable length of time to allow for the case to be adjudicated. Ninety days is recommended. Upon the expiration of the 90-day period or court disposition, the beverages should be destroyed.
