

ORDINANCE 2021-06

AN ORDINANCE OF THE BOROUGH OF BAY HEAD, COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING THE MUNICIPAL CODE OF THE BOROUGH OF BAY HEAD, SO AS TO AMEND CHAPTER 66, ENTITLED "ALCOHOLIC BEVERAGES".

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Bay Head, County of Ocean, and State of New Jersey, as follows:

SECTION 1. The Municipal Code of the Borough of Bay Head is hereby amended and supplemented so as to amend Chapter 66 entitled "Alcoholic Beverages", in order to amend Article III entitled "Possession by Underage Adults and Minors" in its entirety so that it shall read as follows:

**§ 66-10 Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**CANNABIS ITEM**

Any item available for lawful consumption pursuant to the NJ Cannabis regulatory enforcement assistance and marketplace modernization act.

**GUARDIAN**

A person who has qualified as a guardian of the underage person pursuant to a testamentary or court appointment.

**RELATIVE**

The underage person's grandparent, aunt or uncle, sibling or any other person related by blood or affinity.

**§ 66-11 Consumption of alcoholic beverages or cannabis items by underage person on private property prohibited.**

It is unlawful for any person under the legal age to, without legal authority, knowingly possess or knowingly consume an alcoholic beverage or a cannabis item, other than by smoking, vaping or aerosolizing, on private property.

**§ 66-12 Violations and penalties.**

**A.** Any person found guilty of violating the terms of this section involving alcoholic

beverage activity shall, in the case of an adult under the legal age to purchase an alcoholic beverage, be subject to a fine of \$250 for a first offense and a fine of \$350 for any subsequent offense.

**B.** For a violation involving cannabis activity, in the case of an adult under the legal age to purchase cannabis items, shall be punished as follows:

1. If the cannabis item possessed is an amount which may be lawfully possessed by a person of the legal age to purchase cannabis items:

- a. For a first offense: a civil penalty of \$100
- b. For a second offense: a civil penalty of \$200.
- c. For a third or subsequent offense: a fine of \$350.

2. If the cannabis item possessed is an amount that exceeds what may be lawfully possessed by a person of the legal age to purchase cannabis items:

- a. For a first offense: a fine of \$250
- b. For a second or subsequent offense: a fine of \$350.

### § 66-13 Exceptions.

A. This section shall not prohibit an underage person from consuming or possessing an alcoholic beverage in connection with a religious observance, ceremony or rite or consuming or possessing an alcoholic beverage in the presence of and with the permission of a parent, guardian or relative who has attained the legal age to purchase and consume alcoholic beverages.

B. This section shall not prohibit the possession of alcoholic beverages by any underage person while actually engaged in the performance of employment by a person who was licensed under Title 33 of the revised statutes or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program at a county vocational school or post-secondary educational institution; however, this article shall not be construed to preclude the imposition of a penalty under this section, N.J.S.A. 33:1-81, or any other section of law against a person who is convicted of unlawful alcoholic beverage activity on or at premises licensed for the sale of alcoholic beverages.

### § 66-14 Underage possession or consumption; exemption from prosecution.

A. An underage person and one or two other persons, if applicable, shall be immune from prosecution under this chapter prohibiting any person under the legal age who, without legal authority, knowingly possesses or knowingly consumes an alcoholic beverage or cannabis item on private property if:

- (1) One of the underage persons called 911 and reported that another underage person was in need of medical assistance due to alcohol consumption or the consumption of a cannabis item;
- (2) The underage person who called 911 and, if applicable, one or two other persons acting in concert with the underage person who called 911 provided each of their names to the 911 operator;
- (3) The underage person was the first person to make the 911 report; and
- (4) The underage person and, if applicable, one or two other persons acting in concert with the underage person who made the 911 call remained on the scene with the person under the legal age in need of medical assistance until assistance arrived and cooperated with medical assistance and law enforcement personnel on the scene.

B. The underage person who received medical assistance as provided in Subsection A of this section shall also be immune from prosecution under this chapter prohibiting the possession or consumption of an alcoholic beverage on private property.

**SECTION 2.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 3.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. This ordinance shall take effect after second reading and publication as required by law.

ATTEST:

APPROVED:

Patricia M. Applegate

William W. Curtis

Patricia M. Applegate, Municipal Clerk

William W. Curtis, Mayor

Introduced on First Reading: April 5, 2021

Introduced on Second Reading: May 3, 2021

Approved on Second Reading: May 3, 2021

ATTEST:

APPROVED:

Patricia M. Applegate

William W. Curtis

Patricia M. Applegate, Municipal Clerk

William W. Curtis, Mayor