



- Concerts
- Nightlife
- Arts, theater
- Places to visit
- Things to do

HOME PAGE
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- NEWS
- Animals
 - Business
 - Crime
 - Education
 - Energy
 - Environment
 - Health
 - Obituaries
 - Politics
 - Public safety
 - Religion
 - Roads and travel
 - War on terror
 - Sports

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 NH's floods
 Sex offenders

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 One-time
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Towns, Cities Can't Afford To Wink at Teen Drinking

BYLINE: CHRISTOPHER CONDON Union Leader Correspondent
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AUBURN - The scenes have not changed for teenage revelers - the house party when a friend's parents are away, graduation blasts sometimes thrown by the "cool" parents or just a summertime campfire set deep in the woods.

Older generations know the pictures well and know, too, that alcohol is almost invariably involved, often to dangerous extremes.

But something has changed drastically. Because of a 1986 court case that broadened the scope of liability for law enforcement agencies, when the police show at a party they mean business.

"There was a time when you could give the kids a break," Auburn Chief of Police Edward Picard said. "If no one was impaired, you'd have them dump the alcohol and break up the party."

Today, the mere knowledge of minors drinking forces police officers to arrest any minor found drinking and anyone who's drunk, tow every vehicle in sight and notify the parents of minors.

In Auburn, police made 42 arrests in two nights when they raided weekend parties last month.

Rochester police made 30 arrests at one party last weekend. Three Rochester officers were injured in the scuffles and chases that resulted.

"The thing the kids have to realize is that we're not going out there to harass them. We don't think these are bad kids and don't pretend we didn't do the same thing when we were kids. But we have to protect the town from civil liability," Picard said.

The case that brought the change was Weldy v. Kingston, a lawsuit resulting from an automobile accident that claimed the life of Nancy Weldy, then 16, and injured two other youths.

Weldy was a passenger in a car that Kingston Police stopped in September, 1982. The officers found beer in the car and judged that all the youths had been drinking. After confiscating the alcohol, the officers permitted the youths to leave.

Later that same night, after the group obtained more alcohol, the driver, who was drunk, lost control of the vehicle, causing the fatal accident.

The New Hampshire Supreme Court eventually upheld a Superior Court decision holding the town of Kingston legally responsible for the accident because the police officers failed to uphold their statutory duty of care.

The decision hinges on what an officer can "reasonably anticipate" will be the eventual consequences of the youths' actions, namely, an accident.

"The officer should have known (the youths) would acquire beer again, and the officer couldn't reasonably expect them to follow his orders," said Auburn Police Commissioner Earle Wingate, an attorney. Thus, Wingate said, the officers had a reason to expect the driver would drink again that night, become intoxicated and cause an accident.

Wingate went on to explain the extension of the Weldy decision, usually applied to pure drinking and driving cases, to teenage parties.

"If they're at a party in Auburn, they didn't walk there. It's whenever alcohol and minors are involved, if the police know what's going on they have no option," Wingate said emphatically.

But without any options, police face a challenge - how do you round up as many as 200 kids in the dark in the middle of the woods.

The melee last weekend in Rochester is an example of what can result.

"It's caused problems for us," said Rochester Sgt. David Dubois of the Weldy

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decision. "Sometime it's easier to look the other way, but that's not always the best thing."

"You have to be able to enlist enough manpower to handle the situation," Picard said.

That means calling off-duty officers and clerical staffers to put in over-time, as well as enlisting the support of surrounding towns and state police, efforts that can be costly to tight-budgeted police departments.

"Yeah, Weldy is an inconvenience. But the parents of the (Weldy) kid that got killed were more than inconvenienced," said Wingate, perhaps getting to the heart of the issue.

Beyond the motivation brought by financial risk to towns, beyond the hassles involved, saving lives is the aim of the ruling, and police departments know it.

"I don't think this will ever stop the partying," Dubois said. "But if one life is saved it's worth it." "I'd rather ask a parent to pick up their kid at the police station than come down to the morgue and identify their son or daughter," Picard said. "I've had to do that in the past, and if this decision prevents me from having to do that in the future, I'm all for it."

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