

News



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ATTORNEY GENERAL

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Attached is a report by Attorney General James R. Zazzali recommending that the drinking age be raised from 19 to 21.

Attorney General-designate Irwin I. Kimmelman has indicated that he supports such an increase, subject to those reservations contained in the report. He emphasized that the decision is ultimately one for the Legislature.

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Attachment

REPORT

RAISING THE DRINKING AGE

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January 15 , 1982

INTRODUCTION

In the summer of 1981, the Attorney General established a special committee to study and report on the drinking age question. That committee consisted of the Directors of the Division of Criminal Justice, Motor Vehicles, State Police, and Alcoholic Beverage Control. It was believed that these four Divisions represent the best blend of perspectives and disciplines, reasonably assuring that the final report would be both responsive and responsible.

We are now prepared to issue this report and to state a position on the drinking age. We do so at this time because we have found that although the social policies which surround the legal drinking age are highly complex and require a great deal of research and thought, they are so significant that they must be addressed without further delay.

We recommend that action be taken to raise the minimum drinking age in this State to 21. We do so, however, with the reservations stated in the discussion below. Furthermore, if raising the drinking age is the only step we take toward controlling alcohol abuse among young people, the significant benefits we see may still disappoint us. We have found that alcohol consumption among young people is interrelated with a number of serious social problems including drug use. In turn, substance use, whether it involves alcohol or drugs, is related closely to other major problems such as juvenile crime. Only now are we as a society beginning to recognize the confused and inadequate system of controls which exist to deter substance use. Therefore, as this report will demonstrate, although we feel that highway safety benefits will arise from raising the drinking age, such action

will be an important beginning but only a small step toward addressing a number of major social problems which can no longer be ignored.

Discussion

On January 1, 1973, New Jersey lowered its minimum legal drinking age from 21 to 18 years consistent with a nationwide trend which saw similar action in 22 other states from 1971-1973. Recently, much attention has been directed toward the desirability of reversing that action, as well as the trend in our state and several others. The major argument for considering such a reversal has been the increase in alcohol-related motor vehicle crash involvement among the 18-20 year old age group in those states which lowered the minimum drinking age. Although the importance of this facet of the problem is undeniable, the involvement of 18-20 year olds in alcohol-related motor vehicle collisions is but one aspect of the complex problem arising from society's efforts to regulate the use of intoxicants. The recreational use of alcohol, drugs, or both, by those of virtually all ages in our society, is an indisputable fact. What we should be concerned with is an understanding of all issues surrounding the use of those substances by young adults, and society's efforts to regulate that use. To do so is the only prudent approach in determining that course of action which will best serve those interests, and reflect those values, sought to be affected by any change in the minimum drinking age.

The extent to which adolescents and young adults use both drugs and alcohol, and those problems which arise from that use, are well documented. In Drug and Alcohol Use among New Jersey High School Students, recently released by the Division of Criminal Justice, we find that more than nine in every ten high school

students report use of alcohol at some time in their lives. Use of alcohol is not an occasional phenomenon for, as the report shows, over 70% of the students reporting used alcohol in a one-month period, with more than one-fifth of these students being classified as regular drinkers (use on ten or more occasions within thirty days). Furthermore, in addition to the use of alcohol, approximately two-thirds of the students report use of an illicit drug at some time in their lives, with over 40% reporting drug use other than marijuana on at least one occasion. What we see then is that drug and alcohol use by this age group is not a phenomenon restricted to a minority of students who deviate from generally accepted behavioral norms. Rather, we find that substance use is all-pervasive, generally acceptable normative conduct; only one in twenty students has never used alcohol or drugs, and only one in ten was substance-free during the one-year period.

It is certainly no surprise then, given what we know about the use of alcohol and drugs by young, inexperienced drivers, that they will combine that use with the operation of a motor vehicle. This results in an obvious potential danger not only for the young driver, but also for anyone else who might be involved in the all too predictable consequences. Drivers aged 18-20 years have comprised just over 7% of all drivers over the past six years. During that period of time they have also been involved in 14% of all reportable accidents, 14% of all injury-producing accidents, and over 15% of all motor vehicle fatalities. For the same six-year period, drivers aged 18-20 have been in-

volved (as drivers or victims) in over 18% of all alcohol-related motor vehicle fatalities.

This very quick view of available indicators makes quite evident at least two major components of this very complex problem. We can be certain of the wide prevalence and great frequency with which young people in our society use substances which intoxicate. It is also clear that young drivers are involved in motor vehicle collisions, collisions which result in injury and death, and alcohol-related fatalities to a degree far in excess of their proportional representation among all drivers.

Among other consequences about which we have little or no available data, but which might be considered just as serious from a different perspective, is the fact that several thousand alcoholic young adults finish, or otherwise leave, high school each year. We cannot gauge the extent of lasting physical, psychological or emotional harm which results, at least in part, from such substance use at a time when one is most likely to develop alcohol or drug dependence.

The action necessary to solve or alleviate this complex set of problems is very difficult to determine; we do, however, know that these are problems which have not been adequately addressed.

Being certain that the status quo is unacceptable, we recognize the need to confront this most difficult set of problems immediately. The proposal at hand, to raise the minimum drinking age to 21 years, is one we have sought to consider in view of its ramifications on all aspects of the problem as outlined above.

Our first consideration of that proposal must involve its relation to the question of highway safety. That consideration necessarily involves an overall examination of the impact which any change in the minimum drinking age may have on the rate of motor vehicle accidents. The specific questions which need to be addressed regarding this issue are quite simply stated.

1. What has been the experience of states which lowered their minimum drinking age with regard to alcohol-related motor vehicle crash involvement of those in the affected age group?
2. Is there evidence to suggest that raising the minimum drinking age can reverse any increases experienced in the category described above?

Unfortunately, two major problems present themselves in answering the questions we seek to address. First, difficulty is encountered in assessing an important factor, i.e. alcohol-related crash involvement in the affected age group. Second, we must take into account factors other than drinking which could affect the number of motor vehicle collisions (e.g. number of drivers aged 18-20, fuel prices and availability, change in speed limit, etc.). Nonetheless, some data is available from New Jersey, as well as more extensive data from other states, to shed light on the questions we have posed.

With regard to existing research into the relationship between a lowered legal drinking age and alcohol-related motor vehicle crash involvement of young drivers, a clear pattern is evident. Those research efforts in which sound methodological

bases were employed find, with few exceptions, that lowering the drinking age has led to increases in alcohol-related crash involvement of drivers in the affected age group. The preponderance of evidence supports the inference that a lowered drinking age will result in increased crash involvement by young drivers. The exceptions noted in the research do indicate, however, that the application of the generalization to all states is not without risk of error. Some independent assessment of the experience of any individual state is warranted, although a replication of these major research efforts is not necessary. The information now available does suggest that New Jersey's experience with the lowered drinking age is consistent with the rule rather than the exception. The data we have is, however, limited to young drivers' involvement in alcohol-related fatalities, and it would be preferable to have at one's disposal data regarding total alcohol-related collisions as opposed to only the special case of fatal collisions.

A paper recently prepared by the Division of Motor Vehicles, At Issue: The Minimum Legal Drinking Age in New Jersey, reports important findings. While drivers aged 18-20 have comprised a fairly constant portion of all licensed drivers in the periods 1965-72 and 1973-80 (7% and 8% respectively), their proportionate involvement as drunk drivers in motor vehicle fatalities has significantly risen. For the period 1965-72, 18-20 year old drunk drivers accounted for an annual average of 1.7% of all fatalities; from 1973 to 1980, members of the same age group were involved as drunk drivers in an average of 5.1% of all fatalities. In addition, although the absolute numbers are quite small, the paper also re-

ports findings which indicate substantial increases in the number of 18-20 year old drunk drivers involved in fatal crashes since the lowering of the drinking age. In sum, then, the available information does suggest that the lowered minimum drinking age in New Jersey has been accompanied by an increase in fatal crash involvement by the affected age group.

As for the second major question to be addressed, whether an increase in the minimum drinking age would abate or reverse these apparent increases in collision involvement, less information is available on which to make an informed judgment. In Michigan, which in 1979 raised its minimum drinking age from 18 to 21 years, researchers at the University of Michigan Highway Safety Research Institute have conducted a sophisticated and methodologically sound evaluation of the impact of that policy change on crash involvement rates for the affected groups. Their analysis clearly supports the contention that the raised minimum drinking age caused a reduction in alcohol-related crash involvement among drivers aged 18-20 years. Their preliminary analysis of the sub-group of fatal crash involvement did not indicate that a substantial change in such could be attributed to the raised drinking age. In New Jersey, it is interesting to note that both the proportion of fatalities accounted for by drunk drivers 18-20 years of age, and the absolute number of 18-year old drunk drivers involved in

fatal collisions continued to increase in 1979 and 1980, after the minimum drinking age had been increased to 19 years. Once again, this points out the difficulty of basing conclusions solely on data relative to fatal crash involvement. What we have then is high quality data indicating that in one state, Michigan, raising the minimum drinking age did have the desired result in the two-year period immediately following implementation. We are still confronted, however, with the difficult proposition of generalizing those results for application to our State.

To conclude, regarding the relationship between highway safety and the proposal to raise the minimum drinking age, we have seen no evidence to indicate that New Jersey's experience, after lowering the drinking age, is contrary to the increased alcohol-related crash rates experienced by several other states which have undertaken the same action. It would, though, be helpful to accumulate the more complete data needed in New Jersey to confirm that relationship. If our only concern was to affect highway safety and alleviate a major cause of morbidity among a specific age group, we would be inclined to strongly support an increase in the minimum drinking age. We must recognize, however, that inherent in such a step are issues of importance, and potential problems, which are independent of the question of highway safety. These are issues which need to be more than just identified; they are matters which must be considered in depth if we are to accurately gauge both the social costs and benefits of espousing the measure herein considered.

One major issue raised in this vein is that of enforceability. Will a minimum drinking age of 21 be in any practical sense enforceable, or will law enforcement be confronted with commonly occurring flagrant violations, about which little, if anything, can be done? We ought to remember that in the period of debate prior to lowering the drinking age in 1973, a major argument forwarded in favor of lowering the age was that the minimum age (at that time) was an unenforceable and thus meaningless proscription. We should also be keenly aware of the difficult position in which law enforcement has been historically cast by laws which are in reality unenforceable.

This issue of the relative enforceability of any minimum age leads inevitably to the question of provisions for dealing with the underage user. Quite obviously, raising the minimum age will substantially increase the number of underage persons who will drink, and thus the number of persons to whom any penalties may be applied. The question becomes whether the imposition of such penalties, whatever they may be, will actually foster any discouragement regarding the use of alcohol by those aged 19 and 20. To what extent will an effective deterrent result from legal bans which, in all probability, will besporadically and unenthusiastically enforced? Also to be considered in this respect, are the somewhat less tangible perceptions of injustice, arbitrariness, and unfairness engendered in those whose contact with the criminal justice system is solely the product of this proscription. In sum, then, the major considerations surrounding this point are easily stated

even if the answers are not. We must consider the extent to which the expanded legal sanctions necessarily accompanying any increase in the minimum drinking age will actually contribute to the discouragement of alcohol use. We must also consider the costs of using the criminal process in this manner, and finally, we must weigh the gains in discouragement against the costs of applying this strategy.

Still another issue concerns the impact of any symbolic effect which can be attributed to an increase in the minimum drinking age. In the past decade, New Jersey has had in place three different designations of the minimum drinking age. The age has gone from 21 years to 18 years to 19 years, and now we consider yet another change. Ignoring for an instant the relative efficacy of any one of those minimum ages, society's message certainly appears ambivalent. Unfortunately, such ambivalence attaches not only to formal rules regarding alcohol, but is at least equally evident in the current confusion regarding the legal control of marijuana. This ambivalence then is a fact concerning society's formal efforts to regulate and control substance use in general. Any decisions to further change the law should only be made with this situation in mind and with the realization that any further changes should be considered final, at least for an extended period of time.

Such confusion notwithstanding, there may still be beneficial consequences to formal, albeit symbolic, attempts to regulate the use of alcohol- in this case by raising the minimum drinking age. We must attempt to assess whether an increase in the minimum

drinking age will in any way influence the norms and attitudes of those in their teen years regarding the use of alcohol. Even if it is unreasonable to assume that such an increase can affect the behavioral norms carried to adulthood relative to the use of intoxicants, at least a message may be clearly conveyed which urges the postponement of such decisions and behavior. That message may be that the use of intoxicants is formally approved only with the onset of greater maturity, and the corresponding capability to make responsible judgments and set reasonable limits on one's behavior. It is this notion of postponement, of both decisions and actions, which may affect what has been termed the "spill-over effect" from the establishment of any minimum drinking age. It can be argued that by lowering the minimum drinking age to 18 years, we at the same time lowered the age at which underage drinking would become more frequent. When the drinking age was 21, the 18-20 year old group, those at the margin of the legal limit, may have been more likely to drink both, as a result of that marginal status, and as a result of frequent peer interaction with those over the age of majority. With the drinking age lowered, those same factors may contribute to a greater frequency of drinking among those aged 15-17 years. In fact, a major reason cited in the increase of the drinking age from 18 to 19 years, was the need to exclude those still in high school from being able to legally purchase alcoholic beverages.

A final point to be considered in this light concerns the matter of national uniformity relative to the minimum drinking age.

President Reagan has indicated that in the very near future he will appoint a national commission to examine the issue of drunk driving. It is quite likely that that commission will consider current proposals to establish a national minimum drinking age. Such a measure would certainly be of value in addressing problems confronting states which border jurisdictions with different minimum drinking ages. This is a problem which exists for states whose minimum drinking age is either higher or lower than that in contiguous states. New Jersey finds itself bordered by one state with a higher minimum age and another in which the age is lower. Whereas those areas bordering Pennsylvania, where the minimum age is 21, function to provide alcoholic beverages to our neighbor's 19 and 20 year olds, areas bordering New York are subject to the return of those having crossed that border to purchase and consume alcohol. In addition to this border issue, the establishment of a national minimum drinking age can be seen as an initial step in injecting some uniformity into the current state of confusing and ambivalent signals our society sends regarding the use of intoxicants. We feel that as New Jersey moves to address the issues raised in this paper, no steps should be taken without a consideration of their relationship to any coordinated activity undertaken at the national level. Although we can't be sure what measures will result from such a national effort and, indeed, whether such measures would be constitutional, consideration must be given to the advisability of changing our state's minimum drinking age now, only to find ourselves repeating the process once again soon thereafter. We should not further contribute to the social confusion regarding this issue, nor would we

want to undermine any steps taken nationally which would begin to restore some order to our current efforts to address this issue, unless the anticipated social benefits offset these disadvantages.

CONCLUSION

This paper has sought to examine one proposal - an increase of the minimum drinking age to 21 years, in light of the full spectrum of issues which are inextricably tied to such a measure. Proponents of such an increase center their argument, for the most part, on the matter of highway safety. This is a point which is inarguably important, and one for which the supporting evidence appears strong. If society and the officials of this State wish to make that issue determinative, then there is a very strong argument in favor of raising the drinking age to 21. Based on the data we have before us, the logical conclusion appears to be that raising the drinking age to 21 will result in fewer accidents and fewer fatalities for all who use our roadways.

The data underlying this conclusion is, however, not without its limitations. Further statistics and further information may yet be helpful in making a decision which we can even more confidently embrace, and this is important for, as noted earlier, we have already demonstrated substantial indecision. Another course of action officials could choose would be to seek further data and experience; but that experience must be based on a real effort to control the issues about which we are undecided. For example, would additional penalties for driving while intoxicated in the 19 to 21

age group bring that age group into line with other age groups in avoiding drinking while driving? Perhaps those penalties should be established (provided doing so would be constitutional) to determine if the answer to the question is in the affirmative. Would a special education program requirement for 19 to 21 year old drivers enhance their understanding of the extreme hazards of driving after drinking? Perhaps such programs should be a pre-requisite to driving licensure for this age group. If additional statistics are needed, they should be sought but in a manner calculated to resolve the remaining issues we face and, at the same time, to minimize accidents and fatalities. Indeed, we must face the realization that it may be that a combination of steps other than simply raising the drinking age may actually save more lives and injuries than raising the age. Whether such steps combined with raising the drinking age would prevent even more deaths and injuries is unclear. It is possible, though improbable, that a highly sophisticated and most effective approach to this problem would include not raising the drinking age. In other words, raising the drinking age may be of limited value for, notwithstanding steps we may take to address the complex set of problems outlined in the opening of this paper, we cannot lose sight of what is perhaps the most obvious characteristic of the behavior we seek to address. The use of alcohol by young adults is and will continue to be an event of relative frequency regardless of the law. Alcohol users, even those under the legal age, enjoy widespread peer support, and even tacit approval from the mainstream of adult society. Certainly the

pervasiveness of any undesirable conduct is not a sound basis on which to abandon all efforts to remediate the consequences of that conduct; however, it is something to consider as the means toward that end are contemplated.

It must be emphasized that while raising the drinking age to 21 will, as stated above, almost certainly result in few accidents and fewer fatalities for men and women in the age group of 19 through 20, this would almost certainly also be the case for men and women in any age group. But society is clearly not prepared to take this step to save those lives. In the end, we are involved in a process of determining those values which will best serve the needs of all involved, as well as deciding on the actions necessary to implement those values. Given the specific issues we are confronting, such a process unavoidably involves a series of decisions which cannot be viewed as other than subjective value judgments. But we must try to ensure that through the formal processes at our disposal, we take steps which at the very least consistently reflect the values on which they are grounded.

Finally, we cannot study this issue ad infinitum. Governing officials must be prepared to take forceful action. A well-considered combination of steps, including raising the drinking age to 21, would be the most effective and intelligent manner to deal with the situation both immediately and in the long run. Other steps could include imposing stiffer penalties for drunk driving on young persons, educational programs for young drivers, and the development of a national drinking age. If the governing officials cannot develop and implement such steps immediately, raising the drinking age might be nonetheless justified to prevent injuries and loss of

lives, but we must also then quickly determine and adopt those measures which will serve our overall societal values and so that we may develop the most effective way to save lives in the long run.