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Department of Revenue

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Employment of underaged
persons on licensed
premises

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You have asked whether a person under 21 years of age may be employed on licensed premises while his or her parent is present.

I. Sale Activities

Your question arose because the board inquired whether an underaged son may assist his non-English speaking parents, who own a package store, by translating the sales transaction. That activity is prohibited because the underaged person is participating in a sales transaction.

Under AS 04.16.049(a), a person under the age of 21 years may not knowingly enter or remain in licensed premises unless accompanied by a parent, guardian, or spouse over the age of 21. AS 04.16.052 prohibits a licensee from allowing a person under the age of 21 years to sell or serve alcoholic beverages.

Because the underaged person's parents are non-English speakers, the underaged person must interpret any questions about price or availability of alcoholic products and must also interpret any questions about the qualifications of the purchaser to purchase alcohol (e.g., age, intoxication). The underaged person may also be the only one capable of assessing from the purchaser's mode of speech or word usage whether the purchaser is under the influence. The interpretation is essential to the sales transaction and involves direct customer contact.

The general rule is that an interpreter serves as the declarant's agent. See, e.g., People v. Torres, 262 Cal. Rptr. 323 (Cal. App. 1989); State v. Terrazas, 783 P.2d 803, 806 n.3 (Ariz. App. 1989). In this situation, the underaged person would be acting as the agent of both the buyer of alcohol and the seller of alcohol. The interpreter engages in the sales transaction on behalf of both parties and must have the capacity to do so. Under AS 04.16.052 and AS 04.16.060, the interpreter

must be over the age of 21 to engage in the sales transaction.

II. Non-Sale Activities

You have also inquired whether other work activities of an underaged person are prohibited if the person's parent is present. Under AS 23.10.355, a person under 21 years of age may not be employed on a licensed premise except those designated as hotels, restaurants, or eating places.¹ An exception is permitted under AS 23.10.330, if the person is under the direct supervision of a parent in a business owned and operated by the parent. The parent must be the licensee, not an employee of the person or corporation holding the license. Underaged persons are also prohibited from possessing or controlling alcoholic beverages under AS 04.16.050 and are prohibited from selling or serving alcoholic beverages under AS 04.16.052(4). Accordingly, underaged persons may be employed in licensed premises, in addition to those designated as a hotel, restaurant, or eating place, if directly supervised by a parent-licensee and if the work does not involve the possession, control, service, or sale of alcoholic beverages.²

TEW:mh

¹ If the licensed premises are designated as a hotel, restaurant, or eating place, an underaged person may work even though unaccompanied, if the child labor requirements of AS 23.10.325 - 23.10.370 and the implementing regulations are met. Between the ages of 16 and 19, the person may not serve, mix, deliver, or dispense alcoholic beverages. AS 04.16.049(c).

Between 19 and 20 years of age, the underaged person may not sell, serve, deliver, or dispense alcoholic beverages.

The lists set out in AS 04.16.049 (c) and (d) of prohibited activities for persons 16, 17, and 18 and for persons 19 and 20 are not identical. No prohibition is mentioned against 19 and 20 year-old persons mixing alcoholic beverages or against 16, 17, and 18 year-old persons selling alcoholic beverages. However, these activities are prohibited under AS 04.16.050 and AS 04.16.052(4).

² Under 15 AAC 104.745, once that regulation comes into effect, "possession" would not include the activities of temporarily handling containers of alcohol while bussing tables and washing dishes.

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