

ENFORCEMENT CHANGES REGARDING SALES TO MINORS

Retail licensees should be aware of certain amendments to the Alcoholic Beverage Control Law regarding the sale of alcoholic beverages to minors. These amendments provide licensees with an opportunity to reduce penalties imposed by the Authority. In addition, licensees should know that the Authority has made some changes in its practices regarding the investigation of sales of alcoholic beverages to underage persons.

Penalty reduction

Licensees now have two ways to obtain a reduction of a penalty imposed by the Authority for selling alcoholic beverages to a minor. Both methods involve the licensee taking advantage of the Alcohol Training Awareness Program (“ATAP”) which the Authority oversees. These reductions are only available to licensees who have no prior violations of the Alcoholic Beverage Control Law during the five years preceding the sale.

- If the person who sold the alcoholic beverage had a valid certificate of completion (or a renewal of a certificate of completion) of an ATAP course at the time of the sale, the penalty is limited to a claim against the licensee’s surety bond. It is the licensee’s responsibility to bring this to the attention of the Authority’s prosecutor.
- If the person who sold the alcoholic beverages did not complete an ATAP course before the sale, the licensee can still obtain a 25% reduction of the penalty. This reduction is available to a licensee who provides proof that all of its employees directly involved in the sale or service of alcoholic beverages have successfully completed an ATAP course. The proof must be submitted within 90 days of the penalty being imposed.

The Authority's website includes information regarding ATAP, including a list of organizations that have been certified by the Authority to provide the courses.

Investigative practices

One of the methods employed by the Authority and other law enforcement agencies to investigate allegations of sales of alcoholic beverages to minors is the use of underage agents. These individuals are often high school and college students who intend to pursue a career in criminal justice. The agents, under the supervision of law enforcement agencies, attempt to purchase alcoholic beverages in licensed premises. Previously, the Authority instructed its underage agents that, if questioned about their age when attempting to make a purchase, they were to provide their true age. This policy has recently been changed. The Authority now advises its underage agents that they may misrepresent their age, *if asked*, by the person selling the alcoholic beverages.

Some questions have been raised about this change. Licensees should be aware that it is entirely proper and appropriate for what are, in effect, undercover law enforcement agents, not to disclose their true age or that they are associated with law enforcement.

More importantly, licensees should understand that merely asking a patron or customer their age is not an adequate measure to prevent a sale of an alcoholic beverage to a minor. An underage sale is a "strict liability" offense, meaning that the licensee is responsible regardless of intent. A licensee who relies solely on assurances made by the purchaser that he/she is old enough to buy alcoholic beverages bears the risk that the purchaser is not being truthful.

To lessen the risk that a purchaser is underage, licensees should request valid documentary proof of age from customers. The identification offered should be examined to determine if the person offering the identification is the person shown in the document.

Licensees are also encouraged to use scanning devices that verify that the identification being offered is valid.

Finally, whether or not a licensee is the subject of disciplinary action, the Authority recommends that all employees who are involved in the sale or service of alcoholic beverages complete an ATAP course. The cost involved is outweighed by the consequences faced by a licensee when an untrained or inadequately trained employee sells alcoholic beverages to an underage person.