

Proposed Regulatory Regime to Prohibit Sale and Supply of Alcohol in the Course of Business to Persons Aged Below 18

禁止在業務過程中售賣及供應酒精飲品予
18歲以下人士的規管制度建議

Food and Health Bureau

食物及衛生局

Department of Health

衛生署

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Dutiable Commodities (Liquor) Regulations (Cap. 109B)

《應課稅品(酒類)規例》(第109B章)

- Hong Kong has put in place a liquor licensing system under which no licensee shall permit persons aged below 18 to drink any intoxicating liquor on any licensed premises
- 根據現時的酒牌制度，酒牌持有人不可容許18歲以下人士在領有牌照的處所內飲用令人醺醉的酒類

However, there is no regulation to prohibit sale of intoxicating liquor to minors :

1. on licensed premises
2. on non-licensed premises
 - such as liquor stores, convenience stores, and supermarkets
3. through remote means
 - such as mail order, order made by telephone or any electronic means

可是，現時沒有法例禁止在以下情況售賣酒精飲品予未成年人：

1. 在領有酒牌牌照處所內
2. 在未有領有酒牌牌照處所內（例如酒舖、便利店及超級市場），或
3. 以遙距途徑(例如郵購，電話訂購，或以其他電子媒介)

Amendment Proposal

修訂建議

Scope 涵蓋範圍

The regulation applies to -

- vending machines
- face-to-face distribution = sale or supply of intoxicating liquor when the (agent of the) seller/supplier and buyer come into face-to-face contact e.g. at liquor stores and convenience stores
- remote distribution = sale or supply of intoxicating liquor other than a face-to-face distribution e.g. by phone/mail/online or any other electronic means

規例涵蓋-

- 銷售機
- 當面分發 = 賣方/供應商（的代理人）向買方售賣或供應酒類飲品時有面對面接觸，例如在酒舖和便利店的地方
- 遙距分發 = 除當面分發外的銷售及供應酒類飲品，例如以電話/郵寄/網上或其他任何電子媒介售賣或提供酒類飲品

Vending Machines 銷售機

- Selling intoxicating liquor from vending machines is prohibited
- 禁止以銷售機售賣酒精飲品

Sale and Supply of Intoxicating Liquor to Minors Prohibited

禁止向未成年人售賣或供應酒類飲品

- All sales or supplies of intoxicating liquor to minors in the course of business is prohibited
- Gifts of intoxicating liquor accompanying non-liquor products is also considered a “supply”
- 禁止在業務過程中向未成年人售賣或供應酒類飲品
- “供應” 亦包括伴隨非酒類飲品的酒類飲品禮物

Responsibility and Liability

職責及刑事責任

- Illegal sale of intoxicating liquor to minors is an act of both the business operator/employer and the sales person/employee
 - unless they can prove that they have taken reasonable steps to ensure that they have complied with the law concerned
- 營運者/僱主及售貨員/僱員均須就參與違例賣酒予18歲以下人士的行為負上責任
 - 除非他們能證明已採取合理措施，以遵守相關法例

Sign Requirements for Face-to-face Distribution

當面分發的告示規定

A person who offer to sell or supply intoxicating liquor must display a prescribed notice (both English and Chinese versions) in a prominent location

- **“Under the law of Hong Kong, intoxicating liquor must not be sold or supplied to a minor in the course of business”**
- Must be rectangular with sides of minimum 38cm (length) x 20cm (width)
- The letters must be in a colour that contrasts with the background

售賣或供應酒類飲品時必須在顯眼位置展示一個中英文的訂明告示

- “根據香港法律，不得在業務過程中，向未成年人售賣或供應令人醺醉的酒類”
- 訂明告示須為長方形，長度最少38厘米，寬度最少20厘米
- 文字的顏色與印於其上的背景顏色成對比

Defences for Face-to-face Distribution

當面分發的免責辯護

It shall be a defence for a person charged with sale/supply of alcohol to minors to show that:

- he/she had inspected a proof of identity of the buyer/recipient; and
- according to that proof of identity, the buyer/recipient had was an adult

*It is not a legal requirement to check ID – if the buyer/recipient cannot prove that he/she is over 18, the seller/supplier may refuse to sell/supply

被控售賣/供應酒類飲品予未成人的人士，如能證明：

- 他已查閱買方/收貨人的身份證明文件; 及
- 買方/收貨人的身份證明文件證實他已成年，

可以此作為免責辯護

*查閱身份證明文件並不是法律責任 – 如買方/收貨人未能證明他已成年，賣方/供應商可拒絕售賣/供應

Defences for Face-to-face Distribution

當面分發的免責辯護

It shall be a defence for a person who may be charged because of another person's act to show that reasonable measures had been put in place to prevent the liquor from being sold or supplied by that other person to a minor

如因另一人的行為而被控的人士，如能證明他已採取合理措施以防該酒類飲品被售賣或供應予未成年人，可以此作為免責辯護

Requirements for Remote Distribution

關於遙距分發的要求

1. A person who sells or supplies intoxicating liquor must do the following:
 - Visual image forms e.g. online order: Contain both Chinese and English versions of the prescribed notice in a prominent location in the offer
 - Audio forms e.g. telephone order: Either play a pre-recorded sound recording or read out the contents of the prescribed notice in either Chinese or English
1. 售賣或供應酒類飲品時必須：
 - 以視覺影像發布，例如網購：在顯眼位置設置一個中英文的訂明告示
 - 以音頻方式發布，例如電話訂購：播放錄音或口頭讀出中文或英文的訂明告示內容

Requirements for Remote Distribution

關於遙距分發的要求

The requirement does not apply if:

- the visual images were prepared before the commencement of this law; and
- it is not reasonably practical to retract or amend the images to contain the prescribed notice

相關規定在以下情況不適用：

- 如該視覺影像是任本法例生效前已製備；及
- 撤銷或修改影像以包含訂明告示內容是不切實可行

Requirements for Remote Distribution

關於遙距分發的要求

2. A person must:
 - receive an age declaration that states that the buyer/recipient has reached 18 years of age; and
 - there is no reason to suspect that the declaration is false before the sale or supply of intoxicating liquor

2. 在售賣或供應酒類飲品前，必須：
 - 收到年齡聲明，表示買家／收貨人已年滿**18**歲； 及
 - 沒有情況令賣家／供應商懷疑聲明為虛假的

Defences for Remote Distribution

遙距分發的免責辯護

1. It shall be a defence for a person charged with sale/supply of alcohol to minors to show that:
 - he had received an age declaration stating that the person had reached 18 years of age; and
 - there was no reason to suspect that the declaration was false

1. 被控售賣/供應酒類飲品予未成人的人士，如能證明：
 - 在售賣或供應前，已收到年齡聲明，表示買家／收貨人已成年；及
 - 沒有情況令賣家／供應商懷疑聲明為虛假的，
可以此作為免責辯護

Defences for Remote Distribution

遙距分發的免責辯護

2. It shall be a defence for a person who may be charged because of another person's act to show that reasonable measures had been put in place to prevent the liquor from being sold or supplied by that other person to a minor
2. 如因另一人的行為而被控的人士，如能證明他已採取合理措施以防該酒類飲品被售賣或供應予未成年人，可以此作為免責辯護

Enforcement 執法

- Department of Health will prepare guidelines to facilitate compliance of the trade
- Department of Health will perform compliance checks and conduct investigations in response to complaints
- 衛生署將擬定指引，協助業界遵從規定
- 衛生署將進行巡查及因應投訴進行調查

Penalty 罰則

- Selling intoxicating liquor from vending machines
 - Fine at level 5 (HK\$50,000)
- Sold or supplied intoxicating liquor to a minor in the course of business
 - Fine at level 5 (HK\$50,000)
- Failed to fulfil prescribed notice requirements
 - Fine at level 4 (HK\$25,000)
- Failed to obtain age declaration before sale or supply of intoxicating liquor in a remote distribution
 - Fine at level 4 (HK\$25,000)

- 以銷售機售賣酒精飲品
 - 第5級罰款（港幣50,000元）
- 在業務過程中售賣或供應酒類飲品予未成年人
 - 第5級罰款（港幣50,000元）
- 未能符合訂明告示要求：
 - 第4級罰款（港幣25,000元）
- 透過遙距分發售賣或供應酒類飲品前未取得年齡聲明：
 - 第4級罰款（港幣25,000元）

Timetable 時間表

- Target to introduce the amendment bill in the current legislative session
- 預計將於今個立法會會期內向立法會提交法例修訂建議

Please share your views

歡迎發言

**Let's join hands to protect
youths from the harms of
alcohol!**

讓我們攜手保護青少年
免受酒精的禍害!

THE END – THANK YOU

完 – 多謝