

## **MINORS ON THE LICENSED PREMISES**

*Please be advised that it is the Pennsylvania State Police, Bureau of Liquor Control Enforcement (BLCE), and not the Pennsylvania Liquor Control Board (PLCB), which enforces the liquor laws in Pennsylvania. Further, information provided below is not binding on the BLCE and is offered for information and guidance only.*

**Please note that Pennsylvania law defines a minor as a “person under the age of 21 years.” 1 Pa. C.S. § 1991.**

### **1) May a minor perform as an entertainer at a retail licensed premises?**

Generally, persons over the age of sixteen may be employed by licensees to work in licensed establishments. 47 P.S. § 4-493(13).

Persons over the age of eighteen are permitted to perform as entertainers in licensed establishments, Id.; whether a parent or guardian or someone over twenty-five years old who qualifies as a “proper supervisor” would need to also be present depends upon the situation.

For example, if the performers are considered employees of the licensee, no parent, guardian or proper supervisor would be necessary during the time they were performing their entertainment duties. If they are not considered employees, or are not at the time performing entertainment duties, they would have to abide by the general rules concerning minors on licensed premises.

A hotel, restaurant, club, or retail dispenser licensee may allow students receiving instruction in a performing art to perform an exhibition at the licensed premises if the students are not compensated and are under proper supervision (see response to Question # 4), and prior written notice of the performance is provided to the BLCE. Id.

### **2) May a minor be employed by a retail licensee?**

Generally, to be employed as a bartender or to serve or dispense alcohol in a licensed retail establishment, a person must be at least eighteen years of age. 47 P.S. § 4-493(13).

Sixteen and seventeen-year-olds may be employed on retail licensed premises to serve food, clear tables, and perform other similar duties—including the carrying of empty or partially full alcoholic beverages remaining on the table being cleared.

They are not permitted to dispense or serve alcoholic beverages. Minors under sixteen years of age cannot be employed on retail licensed premises, except under a narrow exception involving licenses located at ski resorts, golf courses, amusement parks and continuing care facilities. Id.

Be advised that there is a provision in the PLCB's Regulations that a seventeen-year-old minor can be treated as though he or she is eighteen years old for purposes of employment if he or she is a high school graduate, or if he or she has been declared to have attained his or her academic potential by the chief administrator of the school district where the minor resides. 40 Pa. Code § 5.14. In that case, the licensee must have in its possession on the licensed premises, to be produced on demand, a certified copy of the diploma or certificate of graduation or a letter on the official stationery of the minor's school district and over the signature of the chief administrator of the school district, declaring that the minor has attained his or her academic potential. Id.

Since employment of minors is primarily regulated by the state's Department of Labor and Industry, you may wish to contact that agency as well at (717) 787-5279.

3) **May an individual under the age of twenty-one be employed by a distributor ("D") or importing distributor ("ID") licensee?**

Section 493(27) of the Liquor Code, 47 P.S. § 4-493(27), makes it unlawful for any D or ID to employ minors under the age of eighteen. Persons eighteen and over may be employed to sell and deliver malt and brewed beverages. Id.

However, there is an exception found in the PLCB's Regulations which allows the employment of a seventeen-year-old minor who has graduated from high school or who, in the opinion of the chief administrator of the school district, has not graduated but has attained his academic potential. In that case, the minor will be deemed to be a minor of eighteen years for purposes of the Liquor Code. 40 Pa. Code § 5.14. If the D or ID has in its possession on the licensed premises, to be produced on demand, a certified copy of the diploma or certificate of graduation of the seventeen-year-old minor, or a letter from the chief administrator of the school district, on official school district stationery, stating that the seventeen-year-old minor has reached his academic potential, that minor may be employed by the distributorship.

Since employment of minors is primarily regulated by the state's Department of Labor and Industry, you may wish to contact that agency as well at (717) 787-5279.

4) **May an individual under the age of twenty-one ("minor") be present on the licensed premises?**

The general rule in Pennsylvania is that no one younger than age twenty-one may be present in an establishment licensed to sell alcoholic beverages. 47 P.S. § 493(14). There are, however, exceptions to the general rule. These five exceptions are as follows:

1. Minors with parents (“Parent exception”)

If a minor is with one or both of the minor’s parents, then the minor is permitted to be on the premises. The minor and parent(s) can sit anywhere on the premises, including the bar area, and alcoholic beverages can be served to the parent(s) or to any other adult with the minor.

2. Minors with legal guardians (“Guardian exception”)

If a minor is with a legal guardian, then the minor is permitted to be on the premises. The minor and the legal guardian can sit anywhere on the premises, including the bar area, and alcoholic beverages can be served to the guardian or to any other adult with the minor.

3. Minors under proper supervision (“Proper supervision exception”)

If a minor is present under proper supervision, then the minor is permitted to be on the premises. Section 102 of the Liquor Code defines proper supervision as someone who is at least twenty-five years of age, who is directly responsible for the care and conduct of the minor while on the premises, and who keeps the minor within his or her sight or hearing. Proper supervisors are generally unpaid volunteers. However, licensees or their employees are allowed to act as proper supervisors as long as they are not performing any other employment-related duties at the same time. 47 P.S. § 1-102.

If a minor is in the premises under proper supervision, the minor can sit anywhere on the premises, including the bar area, and alcoholic beverages can be served to any adults with the minor.

Proper supervisors can only supervise a limited number of minors. In Philadelphia, that number is five. In the rest of Pennsylvania, the number is twenty, i.e., one proper supervisor can supervise up to twenty minors. Notwithstanding the above limitations, if the minors are on the premises as part of a school-endorsed function, each proper supervisor can supervise up to fifty minors.

4. Minors attending a social gathering (“Social gathering exception”)

If a minor is attending a social gathering, then the minor is permitted to be on the premises. A social gathering is an event marketed to or catering to minors, in whole or in part, for which at least forty-eight hours advance notice has been given to the BLCE. No alcohol can be served to anyone, even adults, at a social gathering and all alcohol must be removed from or secured by lock and key at the licensed premises.

5. Minors at food-oriented establishments (“Pizza Hut exception”)

*Please note that this exception does not apply to club licensees.*

If a restaurant, hotel, or retail dispenser licensed premises has gross sales of food and non-alcoholic beverages equal to 50% or more of its combined gross sales of both food and alcoholic beverages, then minors are permitted on the premises. The presence of a parent, legal guardian, or proper supervisor is not necessary.

Minors present under the Pizza Hut exception are not permitted to sit in the bar section of the premises. Further, no alcoholic beverages can be served to any adult at the table or booth where the minor is seated (unless the minor is also there with a parent, legal guardian, or proper supervisor), without risk of citation by the BLCE for having minors frequent the premises. Pennsylvania law specifically defines a minor as a “person under the age of 21 years.” 1 Pa.C.S.A. § 1991. Minors are not permitted on licensed premises unless they fall under one of the above-listed exceptions. Be advised that it does not matter if a minor is age eighteen, nineteen, or twenty; the same rules apply. It should also be noted that an establishment is permitted to make house rules that place additional limits as to when minors are allowed on the premises.