



K A N S A S

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DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL

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August 25, 2003

POLICY MEMORANDUM 2001-3 (Revised)

Subject: Age Restrictions and Allowable Duties for Liquor Industry Employees under the Age of 21

1. Purpose: The purpose of this memorandum is to provide clarification of the statutes and regulations as they pertain to restrictions and allowable duties for employees under the age of 21.

2. Applicability: All Retail Liquor Stores, Farm Wineries, Microbreweries, Drinking Establishments, Clubs, Caterers, Hotels, Cereal Malt Beverage Outlets, Temporary Permit Holders and Salespersons.

3. Discussion: One of the most frequently asked questions we receive from liquor licensees is how old employees need to be and what duties they can perform if they are less than 21 years of age. The answer varies depending on the type of license held.

a. Employees of licensees with licenses or permits issued under the Liquor Control Act.

1. Retail Liquor Stores. Pursuant to K.S.A. 41-713 and K.A.R. 14-13-5(c)(2), liquor retailers are prohibited from employing anyone under the age of 21 years old, in any capacity whatsoever connected with operations of the retail establishment. In other words, even a clerk, stocker, or janitor must be at least 21 years old in order to work in a retail liquor store.

2. Salespersons. Pursuant to K.S.A. 41-334, a person also must be at least 21 years old in order to apply to the ABC director for a salesperson's permit.

3. Farm Wineries and Microbreweries. Pursuant to K.S.A 41-308a (Farm Wineries) and 41-308b (Microbreweries) it is unlawful for these licensees to:

- employ any person *under the age of 18* years in connection with the *manufacture, sale or serving* of alcoholic liquor;
- permit any employee of the licensee or permit holder who is *under the age of 21* years to work on premises at any time when *not under the on-premises supervision of either the licensee, or an employee who is 21 years of age or over*;
- employ any person *under 21* years of age in connection with the *mixing or dispensing* of drinks containing alcoholic liquor.

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4. Other licensees/permit holders. No other licensees under the Kansas liquor control act, K.S.A. 41-101, *et seq.* (i.e. distributors, manufacturers, etc.) are subject to statutes or regulations prescribing a minimum age for their employees.

b. Employees of licensees with licenses or permits issued under the Club and Drinking Establishment Act. (Drinking Establishments, Clubs, Caterers, Hotels and Temporary Permit Holders)

1. Pursuant to K.S.A. 41-2610 [and K.A.R. 14-19-24(b)(1)-(3) (Class A clubs), 14-20-26(b)(1)-(3) (Class B clubs), 14-21-9(b)(1)-(3) (drinking establishments), 14-22-9(b)(1)-(3) (caterers), and 14-23-7(a)-(c) (temporary permit holders)] it is unlawful for those licensed under the club and drinking establishment act to:

- employ any person *under the age of 18* years in connection with the *servicing* of alcoholic liquor;
- permit any employee of the licensee or permit holder who is *under the age of 21* years to *work* on premises where alcoholic liquor is sold by such licensee or permit holder at any time *when not under the on-premises supervision of either the licensee or permit holder, or an employee who is 21 years of age or over;*
- employ any person *under 21* years of age in connection with the *mixing or dispensing* of drinks containing alcoholic liquor.

2. In other words, an “on premise” licensee **cannot** employ anyone **less than 18** years of age in the capacity of **servicing** alcohol. Employees who are at least **18 – but not yet 21** – may **serve** alcoholic beverages, but they **cannot mix or dispense** alcoholic beverages (i.e. tend bar); in order to **mix or dispense** alcoholic beverages, employees must be **at least 21** years of age. Finally, any time a licensee or permit holder has an employee **younger than 21** years of age working on the premises – **in any capacity** – the licensee or permit holder must also have on the premises a supervisor who is at least 21 years of age.

3. As a point of clarification, although **servicing** alcoholic beverages can be defined as: 1) taking an order, 2) verifying the age of the purchaser, 3) delivering the alcoholic beverage, and 4) collecting payment, employees must be at least 18 years of age to verify the age and deliver the alcoholic beverage. Employees of licensees *who are less than 18 years of age may take orders and collect payment* for alcoholic beverages **so long as they are not responsible for verifying age or actually delivering the drink.**

4. Again, though, as long as there is a supervisor on the premises who is at least 21 years old, there is nothing to prevent an employee under the age of 18 from working in the following capacities:

- cook;
- janitor;
- dishwasher;

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- table busser (which may include removing leftover glasses and bottles containing alcoholic liquor);
- host or hostess;
- kitchen manager (as long as the person has NO responsibility for managing any staff involved in mixing, dispensing or serving alcoholic beverages;
- sales clerk or cashier (as long as the person is *exclusively* ringing up sales, and isn't also serving liquor to patrons at their tables, and then ringing up the sales); or
- any other capacity that does not involve any activity associated with *mixing, dispensing or serving* alcoholic beverages.

c. Employees of outlets licensed under the Cereal Malt Beverage (CMB) Act.

1. Pursuant to K.S.A. 41-2704(e), it is unlawful for those licensed under the CMB Act to:

- employ any person *under the age of 18* to dispense or sell CMB in any circumstances whatsoever,
- employ any person *who is at least 18 – but not yet 21* – years of age to sell or dispense CMB, unless:
 1. The licensee is licensed only to sell *CMB in original and unopened containers*, for consumption off the licensed premises, or
 2. The licensee operates a licensed food service establishment, as defined by K.S.A. 36-501, and *derives at least 50% of its gross receipts from the sale of food* for consumption on the licensed premises.

2. As points of clarification on *servicing and selling* CMB:

(a) On-premise CMB licensees who operate a licensed food service establishment and derive at least 50% of their gross receipts from the sale of food for consumption on the licensed premises must ensure employees who verify the purchaser's age and deliver the CMB are at least 18 years of age. Employees of licensees *who are less than 18 years of age may take orders and collect payment* for CMB **so long as they are not responsible for verifying the purchaser's age or actually delivering the drink.**

(b) On-premise CMB licensees who do not operate a food service establishment, or those who operate a food service establishment that does not derive at least 50% of their gross receipts from the sale of food for consumption on the licensed premises must ensure employees who verify the purchaser's age and deliver the CMB are at least 21 years of age. Employees of licensees *who are less than 21 years of age may take orders and collect payment* for CMB **so long as they are not responsible for verifying the purchaser's age or actually delivering the drink.**

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(c) Off-premise CMB licensees must ensure employees who verify the purchaser's age and ring up sales of CMB are at least 18 years of age. CMB licensee employees *who are less than 18 years of age may handle the product and collect payment for CMB* **so long as they are not responsible for verifying the purchaser's age or ringing up or entering the CMB sale into the point-of-sale system.**

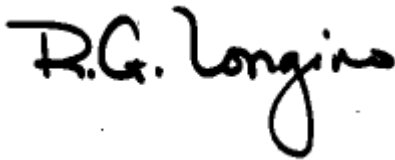
4. Additional Comments:

a. Failure to comply with the applicable statutes, regulations and/or this policy memorandum, may result in administrative action for violation of the liquor laws.

b. Alcoholic Beverage Control Agents will verify compliance with the provisions of the applicable statutes, regulations and this policy memorandum.

5. Clarification of Policy: All clarification requests to this policy should be directed *in writing* to this office via mail, fax, or email.

6. Effective date of this Policy: This policy is effective from the date of signature until further notice.



R.G. Longino

cc: Assistant Attorney General
Chief of Enforcement
Licensing Supervisor
Compliance Supervisor
Administration Supervisor
Enforcement Agents