

TITLE 4. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL PROPOSED REGULATIONS

Text of proposed language for adoption.

Authority cited: Sections 25658 and 25750 Business and Professions Code

§141.1. Minor Decoy Requirements for Delivery Enforcement.

- (a) A law enforcement agency may only use a person under the age of 21 to attempt to purchase alcoholic beverages for delivery to apprehend licensees or employees or agents of licensees who deliver alcoholic beverages to minors (persons under the age of 21) and to reduce deliveries of alcoholic beverages to minors in a fashion that promotes fairness. For purposes of this section, fairness is defined as compliance with all the conditions set forth in subdivision (e).
- (b) For purposes of this section, “delivery” shall mean any transfer of alcoholic beverages by a licensee, or an employee or agent of a licensee, to a person under the age of 21, subsequent to an order made by way of the internet, telephone, or other electronic means.
- (c) For purposes of this section, “agent” shall mean any entity or person the licensee uses or contracts or agrees with, who is not an employee of the licensee, including but not limited to a third-party delivery person or service, to deliver alcoholic beverages to persons who place orders by way of the internet, telephone, or other electronic means.
- (d) This section shall not apply to questions asked about the age of the minor at the time the minor orders the alcoholic beverages by way of the internet, telephone, or other electronic means.
- (e) The following minimum standards shall apply to actions filed pursuant to Business and Professions Code Section 25658 in which it is only alleged that a minor decoy has received an alcoholic beverage by delivery:
 - (1) At the time of the operation, the decoy shall be less than 20 years of age;
 - (2) The decoy shall display the appearance which could generally be expected of a person under 21 years of age, under the actual circumstances presented to the person delivering the alcoholic beverages at the time of the alleged offense;
 - (3) A decoy shall either carry their own identification showing the decoy’s correct date of birth or shall carry no identification; a decoy who carries identification shall present it upon request to the person delivering the alcoholic beverages;
 - (4) At the time of delivery, the decoy shall answer truthfully any questions about their age asked by the person delivering the alcoholic beverages at the time of delivery.
 - (5) Following any completed delivery, the peace officer directing the decoy shall make a reasonable attempt to have the minor decoy who purchased alcoholic beverages make a face to face identification of the person delivering the alcoholic beverages.
- (f) Failure to comply with this rule shall be a defense to any action brought pursuant to Business and Professions Code Section 25658.

Authority: Business and Professions Code sections 25658 and 25750.

Reference: California Constitution, article XX, section 22.