

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~~ 21 years of age 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~~ 21 years of age), 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~~ persons under ~~the age of 21~~ 21 years of age, ~~subsequent pursuant~~ subsequent pursuant to an order made by ~~way of the~~ internet, telephone, ~~or other electronic means~~, or any method of ordering other than in person at the licensed premises.
- (c) For purposes of this section, “agent” shall mean any entity or person the licensee uses to deliver alcoholic beverages to persons who place orders by internet, telephone, other electronic means, or any method of ordering other than in person at the licensed premises, whether by or contracts contract or agreement agrees with, who is even if 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~~ For purposes of this section, “minor decoy” shall mean a person used by law enforcement pursuant to Business and Professions Code section 25658(f).
- (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~~ been furnished an alcoholic beverage by delivery:
- (1) At the time of the ~~alleged violation operation~~, the minor decoy shall be under ~~less than~~ 20 years of age;
 - (2) The minor 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 violation offense;
 - (3) A minor decoy shall either carry their own identification showing their ~~the~~ decoy’s correct date of birth or shall carry no identification; a minor decoy who carries identification shall present it upon request ~~to~~ of the person delivering the alcoholic beverages;
 - (4) ~~At the time of delivery, the~~ A minor decoy shall answer truthfully any questions about their age, asked by the person delivering the alcoholic beverages, at the

time of delivery. *This requirement shall not apply to questions asked about the age of the minor decoy at the time the alcoholic beverages are ordered.*

- (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.