

# STATE OF NEW YORK

289

2025-2026 Regular Sessions

## IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. RHOADS, BORRELLO, OBERACKER -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to expanding the offense of unlawfully dealing with a child in the second degree

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 260.21 of the penal law, as added by chapter 362 of  
2 the laws of 1992, the opening paragraph of subdivision 1 as amended by  
3 chapter 478 of the laws of 1996 and subdivision 3 as amended by chapter  
4 100 of the laws of 2019, is amended to read as follows:

5 § 260.21 Unlawfully dealing with a child in the second degree.

6 A person is guilty of unlawfully dealing with a child in the second  
7 degree when:

8 1. Being an owner, lessee, manager or employee of a place where alco-  
9 holic beverages are sold or given away, [~~he~~] such person permits a  
10 child less than [~~sixteen~~] eighteen years old to enter or remain in such  
11 place unless:

12 (a) The child is accompanied by [~~his~~] such child's parent, guardian or  
13 an adult authorized by a parent or guardian; or

14 (b) The entertainment or activity is being conducted for the benefit  
15 or under the auspices of a non-profit school, church or other educa-  
16 tional or religious institution; or

17 (c) Otherwise permitted by law to do so; or

18 (d) The establishment is closed to the public for a specified period  
19 of time to conduct an activity or entertainment, during which the child  
20 is in or remains in such establishment, and no alcoholic beverages are  
21 sold, served, given away or consumed at such establishment during such  
22 period. The state liquor authority shall be notified in writing by the  
23 licensee of such establishment, of the intended closing of such estab-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[~~-~~] is old law to be omitted.

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1 lishment, to conduct any such activity or entertainment, not less than  
2 ten days prior to any such closing; or

3 2. [~~He~~] such person marks the body of a child less than eighteen years  
4 old with indelible ink or pigments by means of tattooing; or

5 3. [~~He or she~~] Such person sells or causes to be sold tobacco in any  
6 form to a child less than twenty-one years old; or

7 4. Being an owner, lessee, manager or employee of an establishment,  
8 such person permits a child less than eighteen years old to enter or  
9 remain in such establishment, provided that:

10 (a) alcoholic beverages are exclusively sold, served, or given away at  
11 said establishment; and

12 (b) the majority of the gross square feet of space that is nonresiden-  
13 tial is used for that purpose and where the primary function of said  
14 establishment is the selling of alcoholic beverages for consumption on  
15 the premises; and

16 (c) said establishment does not have an on-site kitchen that is used  
17 for the preparation of food items ordered by patrons.

18 It is no defense to a prosecution pursuant to subdivision three of  
19 this section that the child acted as the agent or representative of  
20 another person or that the defendant dealt with the child as such.

21 Unlawfully dealing with a child in the second degree is a class B  
22 misdemeanor.

23 § 2. This act shall take effect on the first of November next  
24 succeeding the date upon which it shall have become a law.