

STATE OF NEW YORK

6856

2023-2024 Regular Sessions

IN SENATE

May 11, 2023

Introduced by Sen. RHOADS -- 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 or she permits a child less
10 than [~~sixteen~~] eighteen years old to enter or remain in such place
11 unless:

12 (a) The child is accompanied by his or her parent, guardian or an
13 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-
24 lishment, to conduct any such activity or entertainment, not less than
25 ten days prior to any such closing; or

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

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1 2. He or she marks the body of a child less than eighteen years old
2 with indelible ink or pigments by means of tattooing; or

3 3. He or she sells or causes to be sold tobacco in any form to a child
4 less than twenty-one years old; or

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

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

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

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

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

19 Unlawfully dealing with a child in the second degree is a class B
20 misdemeanor.

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