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:

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

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

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

1. Being an owner, lessee, manager or employee of a place where alcoholic beverages are sold or given away, he **or she** permits a child less than [~~sixteen~~] **eighteen** years old to enter or remain in such place unless:

(a) The child is accompanied by his **or her** parent, guardian or an adult authorized by a parent or guardian; or

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

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

(d) The establishment is closed to the public for a specified period of time to conduct an activity or entertainment, during which the child is in or remains in such establishment, and no alcoholic beverages are sold, served, given away or consumed at such establishment during such period. The state liquor authority shall be notified in writing by the licensee of such establishment, of the intended closing of such establishment, to conduct any such activity or entertainment, not less than ten days prior to any such closing; or

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

LBD11074-01-3

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

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

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

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

(b) the majority of the gross square feet of space that is nonresidential is used for that purpose and where the primary function of said establishment is the selling of alcoholic beverages for consumption on the premises; and

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

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

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

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