

**Business Facilitation Advisory Committee
Food Business and Related Services Task Force**

***Dutiable Commodities (Amendment) Ordinance 2018 –
Prohibition on the Sale and Supply of Intoxicating Liquor to Minors
in the course of business***

Purpose

This paper briefs members on the main features and progress of the Dutiable Commodities (Amendment) Ordinance to prohibit the sale and supply of intoxicating liquors to minors in the course of business.

Background

2. The Dutiable Commodities (Amendment) Bill 2017 aims to prohibit the sale and supply of intoxicating alcohol to minors (persons aged below 18) in the course of business. The Bill was passed by LegCo on 8 February 2018. The Commencement Notice was gazetted on 27 April 2018 and the Dutiable Commodities (Amendment) Ordinance 2018 (“The Legislation”) will come into operation on 30 November 2018..

The Legislation

3. The Legislation has the following main requirements –
- (a) ***Sale and supply***: Prohibiting the sale and supply of intoxicating liquor to minors in the course of business;
 - (b) ***Vending machines***: Prohibiting the sale of intoxicating liquor from vending machines. Vending machines are a special sales channel where there is no direct contact between the operator and the purchaser. It would be difficult to prevent sales to minors through vending machines, thus it is considered necessary to restrict the sale of intoxicating liquor from vending machines;

(c) ***Face-to-face distribution:***

- Displaying a sign containing the prescribed notice at the place of sale or supply of intoxicating liquor for face-to-face distribution (including but not limited to supermarkets, convenience stores, liquor stores etc.). The prescribed notice should be displayed in a prominent location at the premises or store, easily seen by the public, for example, above the cashier counter. It should comply with the requirements on language, shape and size, character and colour contrast. Please refer to **Annex** for the detailed requirements for and a sample of the prescribed notice;
- There is no requirement to check purchaser's or recipient's proof of identity. However, it is a defence to the person charged if the person charged had inspected the proof of identity of the purchaser or recipient of the intoxicating liquor and was reasonably satisfied that the purchaser or recipient was not a minor; and

(d) ***Remote distribution:*** Displaying a sign containing or expressing the contents of the prescribed notice and to receive an age declaration from the purchaser or recipient for remote distribution (including but not limited to online liquor stores, telephone orders, email orders, etc.). Fulfilment of the latter requirement on declaration is a defence to the person charged if there was no circumstance that caused the person charged to reasonably suspect that the declaration was false.

4. Offenders of requirements (a) and (b) above are liable to a fine at Level 5 (i.e. \$50,000); offenders of requirements (c) and (d) are liable to a fine at Level 4 (i.e. \$25,000).

Enforcement

11. Officers from the Department of Health (DH) will conduct inspections and carry out enforcement actions upon receipt of intelligence and complaints. They may conduct inspections, either randomly or targeted, to check whether the vendors have displayed the prescribed notice at places or have complied with the relevant requirements. In order to share the manpower resources and achieve greater economies of scales, the Tobacco Control Office of DH will expand its scope to cover the new alcohol provisions. The new Tobacco and Alcohol Control Office ("TACO") has commenced operation on 1 November 2018.

Publicity

14. DH has issued guidelines on 1 November 2018 which was available to the public at TACO's new website www.taco.gov.hk. DH has also facilitated stakeholders' understanding of the new law and publicised the implementation of the new law through various means including organising briefing sessions, attending meetings of the Wholesale and Retail Task Force and Business Liaison Groups, advertising via different means of mass media, distributing publicity materials to vendors and arranging a media briefing, etc.

Way Forward

20. Members are invited to note the contents of this paper and offer comments, if any.

Department of Health
November 2018

Annex – Sample of the prescribed notice

**Under the law of Hong Kong,
intoxicating liquor must not be sold or supplied
to a minor in the course of business.**

**根據香港法律，
不得在業務過程中，
向未成年人售賣或供應令人醺醉的酒類。**

 **衛生署控煙酒辦公室**
Tobacco and Alcohol Control Office
Department of Health 

查詢及投訴熱線 : 2961 8823
Enquiry and Complaint Hotline

It must:

- a. Be displayed in a prominent location at the premises or store, easily seen by the public, for example, above the cashier counter;
- b. Be rectangular in shape with sides of at least 38cm in length and 20cm in width;
- c. Be in plain and legible characters and letters; and
- d. Have characters and letters of a colour that contrasts with the background on which they appear.