

Dutiable Commodities (Amendment) Ordinance 2018
– Prohibition against the Sale and Supply of Alcohol to Minors

Purpose

The Dutiable Commodities (Amendment) Ordinance 2018 was enacted on 8 February 2018 in order to prohibit the sale and supply of intoxicating liquor to minors in the course of business. This paper briefs members on the progress and details of the legislation.

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 May 2018 and 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. Prohibiting the sale and supply of intoxicating liquor to minors in the course of business; offenders are liable to a fine at Level 5 (i.e. \$50,000);
 - b. Prohibiting the sale of intoxicating liquor from vending machines; offenders are liable to a fine at Level 5;
 - c. 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.); offenders are liable to a fine at Level 4 (i.e. \$25,000); and
 - d. 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.); offenders are liable to a fine at Level 4.

Vending machine

4. Vending machine is a special sale 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.

Age inspection or declaration

5. For face-to-face distribution, there is no requirement to check purchaser's or recipient's proof of identity. Instead, it is one of the defences to a charge for selling or supplying intoxicating liquor to minors to establish that 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.

6. For remote distribution, there is a requirement to require the vendor to receive from the purchaser or recipient an age declaration to the effect that the purchaser or recipient has reached 18 years of age before intoxicating liquor is sold or supplied. It is one of the defences to a charge for selling or supplying intoxicating liquor to minors to establish that the person charged had received a declaration from the purchaser or recipient that he or she had reached the age of 18 years, and there was no circumstance that caused the person to reasonably suspect that the declaration was false.

The prescribed notice

7. For face-to-face distribution, there is a requirement to display at the place of sale or supply a sign containing the prescribed notice on the prohibition against the sale or supply of intoxicating liquor to minors. Similarly, for remote distribution, the prescribed notice must be included in an offer to sell or to supply intoxicating liquor.

8. The prescribed notice is as follows:
『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』
“Under the law of Hong Kong, intoxicating liquor must not be sold or supplied to a minor in the course of business.”
9. 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.
10. For a sample of the prescribed notice, please refer to Annex A.

Enforcement

11. For face-to-face distribution, officers of the Department of Health (DH) will conduct inspections and carry out enforcement actions upon receipt of intelligence and complaints. DH officers may conduct inspections, either randomly or targeted, on places in face-to-face distribution to check whether the vendors have displayed the prescribed notice, and enhance inspection of black spots.

12. For remote distribution, DH officers will conduct inspections and carry out enforcement actions similar to that of face-to-face distribution. DH officers will focus on inspecting remote means (such as internet liquor stores or phone numbers for customers to purchase alcohol), to check whether vendors have complied with the relevant requirements.

13. 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. It is anticipated that the new Tobacco and Alcohol Control Office (“TACO”) will commence operation in Q3 2018 before the commencement of the Legislation on 30 November 2018.

Publicity

14. DH will issue guidelines which will be available to the public at TACO's new website www.taco.gov.hk before the commencement of the Amendment Ordinance.

15. Briefing sessions for stakeholders and any interested parties will also be organised to facilitate the understanding and implementation of the new law. Specifically, six briefing sessions will be held throughout Hong Kong (Causeway Bay area), Kowloon (Yau Ma Tei and Mong Kok), and the New Territories (Sha Tin and Tuen Mun) from late August to late September 2018.

16. DH will attend meetings of the Business Liaison Groups under the Business Facilitation Advisory Committee structure to brief the trades on the new legislative requirements.

17. DH will also advertise the commencement of the new law via several means of mass media.

18. DH Ambassadors will be deployed prior to the commencement of the Amendment Ordinance to distribute publicity materials to vendors and DH will also arrange media briefing to notify the public of the commencement of Amendment Ordinance.

Commencement

19. The Dutiable Commodities (Amendment) Ordinance 2018 to prohibit the sale and supply of intoxicating liquor to minors will take effect on 30 November 2018.

Views sought

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

Department of Health
August 2018

Annex A – 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.**

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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。**



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