

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

No

December 19, 1955

To Dexter F. Knights, Town Manager of Jackman  
Re: Minors where Liquor is Served

. . . No doubt you are aware that the Attorney General's office is not authorized to give legal opinions to anyone other than a head of one of the Maine State Departments. Actually, you should seek counsel from your Town legal adviser or such other authority as your Maine Municipal Association.

However, with the stipulation that you are not to consider it the Attorney General's Department opinion, I am going to call your attention to a provision which was enacted by the last legislature as an addition to Section 51 of Chapter 61, being P. L. 1955, Chapter 196. This enactment makes it illegal for a person under the age of 21 years to purchase, consume, order or attempt to purchase or otherwise procure or attempt to procure the serving of any alcoholic beverage or even to have an alcoholic beverage in his possession. So far as the minor is concerned, this would appear to be a broad and drastic law imposing penalties on minors who seek to take advantage of service in licensed premises.

As you no doubt know, likewise it is illegal for a licensee to sell liquor of any sort to a person under the age of 21 years.

Between these two laws there is a penalty imposed upon the seller and a penalty imposed upon a minor who purchases or seeks to purchase liquor in a licensed premise.

You are also aware of the fact that under the liquor laws, as well as the general laws of the State, a hotel and a restaurant are both defined as places which are available to the public for the services which they render.

Subject to local option and the authority of municipalities to approve of applications for licenses where liquor is to be consumed on the premises where sold, the State Legislature controls the sale of liquor within the State. Under police powers, municipalities may enact ordinances having a very broad scope, provided they apply equally to all individuals intended to be controlled by the ordinance; but it would appear to the writer that an ordinance which sought to compel an innkeeper, hotel man or restaurateur to prevent persons under the age of 21 from being in their premises regardless of whether or not they were interested in the purchase of consumption of liquors, would be stretching municipal police powers to, if not beyond, their limits.

You refer to preventing persons under 21 from being permitted in a "cocktail lounge". Actually, under State law, there is no such thing as a "cocktail lounge". I presume you refer to rooms in hotels where liquor is served. The State law authorizes the issuance of licenses to hotels in certain designated rooms. It may be that some

licensees have rooms which are in effect dining rooms, but in which very little, if any, food is served and most business transacted is the sale of liquor. If you were to seek to enact an ordinance forbidding persons under 21 being permitted in licensed rooms in hotels, it would have to include bona fide dining rooms, where it is very possible that persons under the age of 21 would go, with or without their parents, solely for the consumption of food.

In the light of the foregoing, it is possible that you will draw the conclusion that, unofficially, I am of the opinion personally that an ordinance which sought to compel hotel owners to keep persons under the age of 21 out of dining rooms or other designated rooms where liquor is sold might have hard sledding if tested for constitutionality before our appellate court.

I am sure you will further recognize that the foregoing is my personal, and not the Attorney General's Department, view.

Henry Heselton  
Assistant Attorney General