

INTOXICATING LIQUOR: Adult who purchases for person under
MINORS: 21 is guilty of a misdemeanor.

December 30, 1941

Honorable J. R. Garrison
Prosecuting Attorney
Johnson County
Warrensburg, Missouri

12-30



Dear Sir:

This is in reply to your request for an official opinion by your recent letter, which is in the following terms:

"I would like to have your opinion on a question under the liquor laws of this state. If two or three minors give a person of age the money to buy liquor and he buys it for them and gives it to them, is he guilty of a violation? I have been requested to secure your opinion concerning this matter and would appreciate hearing from you."

Section 4885, R. S. Mo. 1939, provides in part:

"Intoxicating liquor shall not be given, sold or otherwise supplied to any person under the age of twenty-one years, but this shall not apply to the supplying of intoxicating liquor to a person under said age for medicinal purposes only, or by the parent or guardian of such person or to the administering of said intoxicating liquor to said person by a physician. * * * "

Regarding a similar statute, the Kansas City Court of Appeals said, in *State v. Bruder*, 35 Mo. App. 475, l. c. 479:

"This act to prevent sales of intoxicating liquors to minors is a police regulation, to protect the growing youth and to promote good morals, and we have no doubt, as repeated by the court in the case last cited, that the intention was to inflict the statutory penalty without regard to the motives or knowledge of the offender."

This statute likewise is to be construed in the light of the legislature's plain purpose to protect the health and morals of persons under twenty-one years of age. The attitude of the courts toward enforcement of such a statute is illustrated by the rule that (*State v. Bruder*, supra, l. c. 478),

" * * * the seller's good faith, or want of knowledge, as to the age of the minor furnishes no excuse, or justification, for a violation of the statute."

Accordingly, in *State v. Field*, 139 Mo. App. 20, l. c. 21, 22, 119 S. W. 499, the St. Louis Court of Appeals said:

"This information was filed on the statute which says any person who shall directly or indirectly sell, give away or otherwise dispose of or furnish, or deliver any intoxicating liquor, in any quantity, to a minor without the written permission of

the parent, master or guardian of such minor first had an obtained, shall be deemed guilty of a misdemeanor, * * * The gist of the offense is disposing of intoxicating liquor to a minor."

Section 4885, supra, provides that intoxicating liquor shall not be "given, sold or otherwise supplied to any person under the age of twenty-one years." It is unnecessary to decide whether the adult mentioned in your letter gave or sold the liquor to the minors. It is obvious that he supplied it to them. In Webster's New International Dictionary (2nd Ed.) p. 2534, the word "supply" is defined as follows:

"To furnish or provide. * * * Provide, administer, contribute. * * * Act * * * of providing something or someone; * * *"

In State v. Alvord, 271 Pac. 322, 46 Idaho 765, a conviction of furnishing liquor to a minor was affirmed under a statute providing in effect that liquor should not be "sold, given or furnished" to a minor. The court approved an instruction stating (271 Pac. 1. c. 324):

"The word "furnish," as used in these instructions, means to provide; supply; give; to supply or offer something."

In that case the defendant handed a drink to a minor who took it in her hand, but did not drink it. The court further said (271 Pac. 1. c. 323, 324):

"The word "furnish" is broader than the words "sell" and "give," as they are used in the statute * * * * *"

" * * * 'It must be held that the legislature intended to prevent the delivering of liquor to children; that they should 'touch not, taste not, handle not.'"

In this case the adult furnished, provided and supplied liquor which could not legally be sold to the minors. That is the very act which the statute was designed to prevent, and which the statute prohibits. In a prosecution under this statute it is not necessary to prove that the minors drank the liquor. In *State v. Alford*, supra, at 271 Pac. 324, the court further said:

"The rule, as stated by Woolen and Thornton, p. 1226, section 723, is as follows:

"'It is not necessary, under a statute forbidding a sale or gift to a minor of intoxicating liquor, that the minor should drink the liquor sold or given him in order to constitute the offense. The mere placing of the liquor in his possession is the offense.'"

Some portions of the Liquor Control Act of Missouri (Sections 4874--4949, R. S. Mo. 1939) apply only to persons licensed to sell liquor. But the above quoted portion of Section 4885, supra, applies to all persons in the state. A person who violates it is guilty of a misdemeanor. Section 4933 provides:

"Any person violating any of the provisions of this act, except where some penalty is otherwise provided, shall upon conviction thereof be adjudged guilty of a misdemeanor and punished by a fine

of not less than fifty (\$50.00) dollars, nor more than one thousand (\$1,000.00) dollars, or by imprisonment in the county jail for a term not exceeding one year, or by both such fine and jail sentence."

CONCLUSION

In our opinion any adult who receives from a person under twenty-one years of age the price of intoxicating liquor, and purchases such liquor and delivers it to such minor, is guilty of the misdemeanor of supplying intoxicating liquor to a person under twenty-one, under the Liquor Control Act, except that such liquor may be supplied to a minor by his parent, or by another on prescription by a physician.

Respectfully submitted,

ERNEST HUBBELL
Assistant Attorney General

APPROVED:

VANE C. THURLO
(Acting) Attorney General

EH:VC