

TITLE: Minors can mean major problems for hotels

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Within the next 90 days, prom night and graduation parties will occur in hotels across the United States. It is of the utmost importance that hotels protect themselves from liability issues relating to minors — alcoholic consumption and other improper activities.

Consider a recent case that put a hotel's liquor license in jeopardy. The hotel gave away, on a complimentary basis, a banquet room to a group of individuals who were from a local university. The hotel hoped to build rapport with the university for future business. Although the individuals representing the university in making the arrangements were over 21 years of age, undercover ABC (alcoholic beverage control) agents came into the establishment during the evening and made arrests for minors who were being served by the group. Although the hotel did not furnish any alcohol to the group, the violation occurred on the hotel's premises. The agents threatened a 30-day suspension of the liquor license or a \$1500 fine.

A general rule to keep in mind is that any activities relating to alcohol which occur on the hotel's premises, with or without the hotel's knowledge, are still the hotel's responsibility. This must be remembered when booking individuals and groups into the hotel.

Here are a few guidelines from the California Hotel & Motel Association (based on California law) which when enforced as policy, communicated to all employees, and firmly put in place will protect the hotel. But please note, for hotels outside of California, it is wise for managers to contact their specific country/state/local government for details particular to their area.

1. Unless otherwise indicated, a minor is an individual under twenty-one years of age.
2. Innkeepers have a general duty to admit all persons who seek accommodations, unless the innkeeper has "just cause or excuse" to refuse accommodations.
3. Although each situation will depend on its particular facts and circumstances, grounds to refuse accommodations (i.e. "just cause or excuse") typically include:
  - Failure to provide reasonable proof of ability to pay the applicable charges.
  - Reasonable belief by innkeeper that prospective guest is seeking accommodations for improper or unlawful purposes.
  - Lack of available of guestrooms.
  - Indication of improper conduct (including intoxication).
4. An innkeeper cannot arbitrarily refuse accommodations to all unaccompanied minors — notwithstanding the facts that they can often disaffirm their contracts, or the fact that minors, as a class, might be deemed to be unruly or likely to misbehave. NOTE: This general rule is subject to two very important exceptions discussed in section 5 and 6 below.

5. Where a minor unaccompanied by an adult seeks accommodations, the innkeeper may require a parent or guardian of the minor, or another responsible adult, to assume, in writing, full liability for any and all proper charges and other obligations incurred by the minor for accommodations, food and beverages, and other services provided by or through the innkeeper, as well as for any and all injuries or damage caused by the minor to any person or property. Thus, each innkeeper should consider instituting a policy that all minors unaccompanied by an adult must present a written document, signed by a parent, guardian, or other responsible adult, agreeing to pay for all charges and damages as a condition to providing a room to the minor. Such a policy can be in force all of the time, or only at certain times of the year (e.g., during prom and graduation season), at the discretion of the innkeeper. The key is that an innkeeper who institutes such a policy must be sure to apply it to all unaccompanied minors, uniformly and without discrimination.

6. In addition, and regardless of whether an unaccompanied minor presents a written and signed guarantee to pay for the applicable charges and any damages, an innkeeper is almost certainly justified in refusing accommodations to a minor — or to a parent or other adult on behalf of a minor — where the innkeeper reasonably suspects that the guestroom will be used for a party by a group of unaccompanied minors. This is a consequence of (1) the duty of the innkeeper to take reasonable steps to safeguard the peace and quiet of other guests, and (2) the right of the innkeeper to take precautions to safeguard its own property.

Thus, “just cause or excuse” to refuse accommodations will exist where the innkeeper reasonably suspects that the guestroom will be used for the consumption of alcohol or drugs, or for other illegal purposes. A refusal in these circumstances is justified in light of the factors listed above, and also because it is a misdemeanor for alcoholic beverage licensees to permit minors (i.e., persons under 21 years of age) to consume alcoholic beverages on their premises. Also, the innkeeper will be criminally liable, and possibly liable for damages in a civil suit, if the innkeeper furnishes alcoholic beverages to minors.

Finally, if an innkeeper knowingly permits unlawful drugs to be used on the premises it is possible that such conduct will constitute a felony.

7. Innkeepers must respect the rights of their guests — minors and adults — to privacy in the guestrooms. However, innkeepers have the right to enter a guestroom for such purposes, among others, to protect the innkeeper’s property if it is in danger of being damaged, to preserve the peace and quiet of the establishment, and to prevent the commission of a crime. When an innkeeper has cause to believe that a crime is being committed (e.g., that minors are consuming alcoholic beverages and/or that drugs are being consumed), the innkeeper has the right to enter the guest room. It doesn’t matter if the innkeeper’s belief is based on personal knowledge or observation or if it is based on other information which comes to the attention of the innkeeper. For example, it is quite possible that the employees of a hotel or motel will learn of a party, and perhaps develop a reasonable belief that drinking is taking place, even without entering the guestrooms (e.g., when other guests complain of noise). REMINDER: Innkeepers must respect their guests’ right to privacy, and entry to a guestroom should take place only when they have reasonable grounds for entry.

8. Where a licensed innkeeper has reasonable grounds to suspect that minors are consuming alcohol, a failure of the innkeeper to take reasonable steps to prevent minors (persons under 21 years of age) from consuming alcoholic beverages on the premises can also result in the suspension or revocation of the innkeeper’s liquor license. Many beverage control departments take the position that a licensed innkeeper who knows, or should have known, that minors are consuming alcohol on the premises (including private guestrooms, if they are part of the premises under the license) must take steps to stop the consumption. Depending on the circumstances, this could mean that the innkeeper might have to remove the alcoholic beverages, and it is usually not enough merely to tell the minors to quit drinking. Some agencies have taken disciplinary action against innkeepers for failure to take appropriate steps in this type of situation. NOTE: Care should always be exercised in such cases to avoid altercations. In appropriate cases, the innkeeper should consider evicting the minors (see item 9, below).

9. Even where grounds exist to evict minors (such as where they are engaging in the consumption of alcoholic beverages) reasonable care must always be exercised as to the timing and method of the eviction so as to avoid to the extent possible injuries and the possibility of

liability on a variety of grounds. Thus, the manner in which an eviction is carried out must be carefully handled so that there will be no physical violence, and employees should not do anything which could constitute defamation or the infliction of emotional distress (e.g., making needless derogatory remarks). In cases where there are any reasonable grounds to believe that a proposed eviction could result in violence, the assistance of the local police/sheriff should be sought to protect the minors, the innkeeper and his/her employees and other guests. Also, minors should never be evicted when doing so would place them in danger, such as late at night (especially if they are without transportation) and/or in high-crime areas. If possible innkeepers should consider calling the minors' parents to provide safe transportation.

10. When minors seek accommodations for prom nights or graduation ceremonies, innkeepers should consider notifying the person seeking the accommodations that guestrooms and suites cannot be used for parties of minors, and that the innkeeper reserves the right to cancel the reservation or to evict the minors in the event that the innkeeper learns that such a party is planned or is taking place. It is suggested that innkeepers consider informing each prospective guest in writing, at the time of confirming reservations, of the innkeeper's policy in this regard. Here is a suggested form of notice:

"NOTE: It is the policy of the (name of hotel/motel) not to make guestroom or suite accommodations available to minors for the purpose of parties in connection with proms or graduation ceremonies. Any such intended use of the guestroom or suite reserved for such purposes is grounds for the cancellation of the reservation. If the hotel management learns that such a party is in progress, and particularly if management has reasonable grounds to suspect that alcoholic beverages are being consumed or that other illegal activity is taking place, the hotel reserves the right to revoke the license to use the accommodation and to immediately evict the occupants."

Innkeepers should develop policies and procedures tailored to their particular properties and to comply with country/state/local laws to deal with situations involving minors. For example, if an innkeeper decides to provide accommodations for such an event that may include minors, the innkeeper might want to condition providing the room(s) on receiving the names and telephone numbers of parents who promise they will be available in the event there is any problem during the party.

All employees should be carefully informed in advance of their responsibilities to provide accommodation for minors. Often the state will provide free on-site training of employees concerning an innkeeper's responsibilities in dealing with alcoholic beverages and minors.

Action steps for hotel managers include:

- Contact the area schools for information about upcoming prom nights, graduation ceremonies, and similar events.
- Contact the state for appropriate guidelines for innkeepers.
- Contact the state for available training.
- Confer with area hotels and the local hotel association regarding available guidelines for implementation.

NOTE: These Voluntary Guidelines were first published by the California Hotel and Motel Association and do not constitute legal advice. Innkeepers with questions should seek the advice of legal counsel.

(TRC thanks the California Hotel and Motel Association for the preparation of these guidelines.)