

OPINION
70-25

March 11, 1970 (OPINION)

Mr. George M. Ackre
State's Attorney
Towner County

RE: Alcoholic Beverages - Minors - Not Employed Where Served

In your letter of March 4, 1970, you requested an opinion with regard to whether a supper club or restaurant in which alcoholic beverages are served can employ persons under the age of twenty-one years as bus boys or waitresses as long as such persons in no way handle or take part in the serving of the alcoholic beverages in such establishments.

Section 5-02-06 of the North Dakota Century Code provides as follows:

PERSONS UNDER TWENTY-ONE YEARS PROHIBITED - PENALTY - EXCEPTION.
Any licensee who disposes alcoholic beverages to a person under twenty-one years of age or who permits such person to remain on the licensed premises while alcoholic beverages are being sold or displayed is guilty of a misdemeanor. Any person under twenty-one years may remain in a restaurant where alcoholic beverages are being sold if accompanied by a parent or legal guardian."

Section 5-01-08 of the North Dakota Century Code provides as follows:

PERSONS LESS THAN TWENTY-ONE YEARS PROHIBITED - EXCEPTIONS. Any person under twenty-one years of age purchasing, attempting to purchase or being in possession of alcoholic beverages or furnishing money to any person for such purchase or entering any licensed premise where such beverages are being sold or displayed, except a restaurant when accompanied by a parent or legal guardian, is guilty of a misdemeanor.

The foregoing statutes do not make a distinction between "employees" and "patrons." Therefore, it is our opinion that a person under the age of twenty-one years is absolutely prohibited from employment wherein such person is required, as a condition of his employment, to be present in that portion of the establishment, (other than a restaurant where alcoholic beverages are served), which is designated as the licensed premises. Furthermore, it is our opinion that a person under the age of twenty-one years is prohibited from being employed in a restaurant wherein alcoholic beverages are served unless such person is accompanied at all times by a parent or legal guardian.

HELGI JOHANNESON
Attorney General