

## Smells like teen spirit

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Though the current crop of teenagers is faced with many new illicit or merely unproductive temptations, some of the historic ones remain. These include alcohol. A drink might be offered at a party, nicked from a parent's drinks cabinet, served at a bar with a nearsighted doorman or purchased from an accommodating corner shop; the sources haven't changed in decades ... and neither have the effects.



Whether you are the teen drinker, the parent, the bartender or the sales assistant, you should be aware that there could be legal consequences of your actions. Perhaps more importantly for parents, we'll give you some justification for imposing a curfew and a late-night sniff test on your wayward teen. We can't guarantee that your teen will consider your actions reasonable though; we're lawyers, not magicians.

First, the vendor. Under the Child Protection Act BE 2546 (2003), a person is forbidden from selling, exchanging or giving away alcohol, other than for medical purposes, to a child who is under the age of 18. The penalty for doing so is imprisonment for up to three months and/or a fine not exceeding 30,000 baht. However, the act goes on to state that if this offence carries a heavier penalty under another law, then the harsher penalty shall be imposed. This leads us back to the Alcoholic Beverages Control Act BE 2551 (2008) that we introduced last week, under which the penalty for selling alcohol to a minor (being a person under 20 in that act) is imprisonment for up to one year. Since this penalty is more severe, it will take precedence over the lesser sentence. Further, under the Liquor Act BE 2493 and an associated regulation, a vendor of alcohol to a person under 18 can have their licence to sell alcohol suspended for six months or revoked.

Next, the child. According to Section 45 of the Child Protection Act, a child under 18 is forbidden to purchase or consume alcohol and is also forbidden from entering a bar. If caught doing either, the first step is an official questioning, perhaps by a police officer, and an issuance of a summons for the parents to meet with a "competent official". The official and the parents then consult on the proper course of action to rectify the situation and prevent the child from repeating the offence. This could include putting the child under a bond of good behaviour (see below), or producing a joint agreement concerning the procedures and time frame for the child to undertake some community service work. There is no explicit financial penalty for a child who is caught drinking underage, unlike in many Western countries, because the act frames the actions of the child as the result of neglectful parenting.

Now, the parent. The Child Protection Act outlines a number of steps that the parents of a child caught drinking underage must undergo. First, a competent official must opine as to the level of neglect, and whether the child needs to be taken from the home to be placed under State protection. If the official decides it is not yet timely to do so, the official may impose suitable conditions to prevent the child from misbehaving or engaging in behaviour which places the child at risk of wrongdoing. They can do so by ordering the child's parents or guardian to adopt one or more of the following courses of action:

To be vigilant in not letting the child enter any place or locality which would induce the child to behave in an unfitting manner.

To be vigilant in not letting the child go outside the place of residence at night, except if there is a necessity or the child is accompanied by a guardian.

To be vigilant in not letting the child associate with persons or groups of persons who might induce the child to behave inappropriately.

To be vigilant in not permitting the child to undertake any act that might cause the child to behave inappropriately.

To arrange for the child to receive education suitable to the child's age, intellect and interests.

To arrange for the child to engage in an occupation or pursuit which is in line with the child's interests and ability.

To arrange for the child to participate in activities which help improve the child's spiritual and ethical development and are beneficial to society.

If the parent or guardian displays conduct that suggests he or she will resume negligent caring behaviour, the official must give advice (ie a warning) to the guardian. If the parent or guardian does not act according to the advice, the official can submit a petition to the Permanent Secretary or Provincial Governor, to summon the parent or guardian to be put under a bond of performance. This will require the parent or guardian to deposit an amount of bond money, as determined by the statute, for a period not exceeding two years. The amount of the bond will be set having regard to the status of the child's guardian and to the best interests of the child. If the performance terms are violated, the money is forfeited and deposited into the Child Protection Fund. Finally, if it is apparent that the parent or guardian has failed to comply with the conditions imposed, the competent official shall take the child and place them under state supervision.

The studious reader will have noticed that people aged from 18 to 19 seem to have fallen between the legislative cracks when the drinking age was changed from 18 to 20 in 2006. There is no penalty under either law for the drinker who is 18 or 19. In addition, there appears to be no penalty for anyone who exchanges or gives away alcohol to this person. An issue arises only for the vendor who sells alcohol to someone 18 or 19 years of age according to Section 29 of the Alcohol Beverages Control Act.

Thailand's child protection laws relating to the use of alcohol by minors thus strikes a balance between deterrence, retribution and rehabilitation. They take child protection seriously, but also offer ample opportunity and advice for both parents and children to work together with government officials to improve the child's behaviour and enhance the odds for a positive long term outcome.

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