



TRUST ATTORNEY GENERAL
OF TEXAS

Gerald C. Mann

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable G. A. Walters
County Attorney
San Saba County
San Saba, Texas

Dear Sir:

Opinion No. O-2143

Re: The gift of intoxicating
liquors to infants.

Your request for an opinion upon the above stated subject has been received and considered by this department. To correctly present your problem, we quote as follows from your letter:

"I desire to prosecute a bootlegger here at San Saba for giving whiskey and beer to each of four minor girls causing them all to get drunk. The ages of the girls range from fifteen to seventeen years and I do not find but one article in the Penal Code to-wit, Art. 693 makes it a penalty of not less than \$25.00 nor more than \$100. . . .

"I am wondering whether Article 693 has been repealed by the Texas Liquor Law? If so, can you cite me to any statute making it a violation of law to give intoxicating liquor to a minor?"

Article 693, Penal Code of Texas, reads as follows:

"Any person who shall give or deliver, or cause to be given or delivered, or be in any way concerned in the gift or delivery of any spiritous, vinous, malt or intoxicating liquors to any person under the age of twenty-one years, without the written consent of the parent or guardian of such minor, or any person, who, as agent for or employed by an express company or other common carrier, or who, as agent for or employe of any other person, firm, or corporation, delivers or causes to be delivered, any spiritous, vinous, malt or intoxicating liquors to any person under the age of twenty-one years, whether consigned to such person or to some other person, without the written consent of the parent or guardian of such minor shall be fined not less than twenty-five nor more than one hundred dollars. Acts 1909, p. 119."

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Article 1, Section 49, H.B. 77, Acts 1935, 44th Legislature, Second Called Session, provided that:

"Sec. 49, Chapter 7 of Title II, Penal Code of Texas of 1925, and all amendments thereto are hereby expressly repealed. Title 80, Revised Civil Statutes, 1925, and all amendments thereto are hereby expressly repealed."

Chapter 7, Title 11 of the Revised Criminal Statutes of 1925, related to the use and sale of intoxicating liquors and included Articles 666 and 694. Article 693, relating to the gift or delivery of intoxicants to minors, was expressly repealed thereby.

Section (b) of Article 666-26 provides that:

"(b). It shall further be unlawful for any person to knowingly sell any liquor to any person under twenty-one (21) years of age, or to any person who is intoxicated, or to any habitual drunkard, or to any insane person. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 26; Acts 1937, 45th Leg., p. 1053, ch. 448, § 34."
(Underscoring ours)

Obviously, this does not govern nor apply to the case now before us.

Consequently, it is our opinion, and you are respectfully advised, that there is no express nor implied provision in the present laws of this State whereby a county official or any person or persons charged with the administration and enforcement of the Liquor Control Act can prosecute criminally those persons guilty of giving intoxicating liquors to children under age.

However, for your information and consideration, we refer you to Article 534, Vernon's Annotated Penal Code, and Article 1083, Code of Criminal Procedure. These statutory provisions relate to, and provide punishment for, those who contribute to the delinquency of a child under the age of seventeen.

Trusting that the above satisfactorily answers your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

GW:LM
APPROVED APR 19, 1940
s/ Gerald C. ^{Ma}am
ATTORNEY GENERAL OF TEXAS

By s/ Wm. J. Fanning
Wm. J. Fanning
By s/ Grundy Williams
Grundy Williams