

# ASK the Experts

Professional guidance and information is provided by industry experts.

**Kelly Allen,** Adkison, Need & Allen PLLC

**Q** *"A law enforcement agent informed me that we sold alcohol to a minor in a decoy operation, what should I do?"*

**A** Always be respectful, whether it is an Michigan Liquor Control Commission investigator, local police, or sheriff's department. Do not argue. Do not ask to see the decoy (the minor who bought the alcohol). Do not follow the officer out of the establishment. You may or may not be given a written citation at that time, but you will receive an MLCC complaint later in the mail.

As soon as the officer leaves, have the employee who made the sale write a statement detailing his or her exact recollection of the facts. It is important to include the following: 1) Was identification requested? 2) If not, why? 3) If the decoy provided ID, it would have been a vertical



driver's license (all minors in Michigan have vertical driver's licenses). The employee should state why he or she served a person with a vertical license. 4) Provide a description of the decoy, including clothing and any identifying features, such as facial hair or tattoos. 5) Describe what was happening in the establishment at the time; was it busy? 6) State how long the employee has been employed and whether the employee has completed an approved program for alcohol management. 6) Have the employee sign and date the statement, save it in the employee's personnel file, and retain it for a hearing or acknowledgment of the MLCC complaint.

Whether you terminate the offending employee depends on your policies and the circumstances surrounding the sale. If your policy is to terminate any employee who violates the law by selling to a minor, absent an extenuating circumstance, such as a long-term employee with a perfect record, you

should do so. At a minimum, you should discipline the employee by placing a warning letter in the personnel file and/or by placing the employee on an interval of unpaid leave. You may also require the employee to pay the costs or fines and complete additional alcohol management training as a condition of continued employment.

When you receive the MLCC complaint, read it carefully and respond in a timely fashion. Failure to respond within the stated time will escalate the matter further. You may consider hiring counsel to represent you at the MLCC hearing or assist you in acknowledging the complaint.

The best way to avoid an MLCC violation is to have all staff that deal with alcohol sales trained and certified in alcohol management. You should also have written policies, signed by the employees, stating the law and the consequences to the employee and the owner if the law is violated. The Michigan Restaurant Association offers approved server training through ServSafe Alcohol certification. Visit [michiganrestaurant.org](http://michiganrestaurant.org) for more information.