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**CRIMINAL DEFENSE OF JUVENILES AS A FACTOR ENSURING  
SOCIAL WELFARE IN RUSSIA**

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*Abstract*

The article discusses the criminal liability in retail sale of alcoholic products to minors as an important mechanism for ensuring social well-being of the young generation. The growth of alcohol involvement among youth, the negative consequences connected with underage drinking, require the state effective measures to counter this social problem. One of such measure is the determination of criminal liability, aimed at protection of minors and the harmful effects of alcohol (by article No. 151.1 of the CC of the RF). The efficiency of criminal-legal impact primarily depends on the quality of the criminal law. Analysis of essential elements of the offence identifies the following main characteristics. The studied elements of offence have two objects. Public relations are considered to be the direct object of this crime ensuring the normal socialization of minors, the additional object is health of minors because the act causes harm or poses a threat of causing such harm. The concept of “retail sale” means a business activity, the subjects of which are exclusively individual entrepreneurs and legal entities. It is therefore proposed that the concept of “retail sale” is to be replaced with the concept of “distribution” that covers all forms and mode of provision of alcoholic products to minors. The legal nature of duplicity is revealed as a property of the subject of a crime, which refers to a person engaged in the sale of alcoholic products to minors, previously brought to administrative responsibility for a similar offense.

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**Keywords:** Administrative prejudgement, alcoholic products, retail sale.



## **1. Introduction**

The problem of accessibility of alcoholic products to minors is very sharp. Russia is in the top five among all countries in the world in terms of per capita alcohol consumption. Alcoholism in our country is getting significantly younger. The pace of this rejuvenation has already become a disaster. The availability of alcohol for young people greatly contributes to this process. First and foremost, it is its sale to minors. Alcohol consumption at a young age has a harmful influence on the health of minors and the social welfare of society. In addition, alcohol is a favorable background for the commission of minor offenses and crimes.

This testifies to the high public importance of countermeasure to this phenomenon and the need for more tough measures from the state.

The state makes considerable efforts to prevent alcohol involvement of young people through both legal and criminal-legal means.

One of such means is the introduction of an offence in the Criminal Code in accordance with which the retail sale of alcoholic products to minors, done repeatedly, is recognized as a criminal act.

However, this measure has relatively little experience of enforceability. Regional statistics shows uneven enforcement of measure due to the difference in the interpretation of the enforcers of the essential elements of offence, as well as the difficulties of differentiation of crimes and administrative offences.

Researchers have dwelled on these problems in criminal law, but they have never found explicit permission.

Therefore, we formulated the tasks that provided a new look at law-making and enforcement aspects of the crime as provided for by the article 151.1 of the Criminal Code.

## **2. Problem Statement**

The detection of the criminal law of a crime under article 151.1 of the Criminal Code as a mechanism to ensure social well-being of the young generation.

## **3. Research Questions**

3.1. The object of the composition of retail sales of alcoholic products to minors.

According to researchers, the main direct object of the retail sales of alcoholic products to minors is a set of social relations that ensure their normal physical, mental, moral and spiritual development and upbringing of a minor, his / her rights and legitimate interests (Rarog & Brilliantov, 2015).

Thus, researchers define the object of criminal-legal protection of the studied measure with different degree of specificity. So for a more accurate and succinct definition of the direct object of a crime, you must articulate the concept of all the above concepts. So, physical development is a dynamic process of growth (increase in height and body mass and development of organs and body systems, etc.) and biological maturation of the child in a certain period of childhood (Mazurin & Vorontsov, 1986). Mental development is the performance of methods, forms and contents of human thinking (Borisova & Gurevich, 1997). Spiritual and moral development is the assimilation and implementation of practical action and behavior of higher spiritual values of the younger generation (Adamova, 2008). Principles and

norms, based on the criteria of good and evil, lies and truth in the relationship of people to each other, to family and society are understood as fundamental one under moral values (Khablieva, 2009).

These concepts are interrelated and interdependent and are the basic conditions for the wellbeing of the adolescent in society. It is impossible or difficult to assimilate knowledge and skills while having physical health, but mental disorders. Physical disorders also hinder the process of assimilation of knowledge and skills. Without moral and spiritual development of the individual cannot be learned behaviors, social norms and values. Accordingly, the physical, mental, spiritual, moral development is a necessary component of normal socialization of adolescents and its social well-being. From the point of view of psychology, it is accepted to understand normal socialization as a process of learning patterns of behavior, attitudes, social norms and values, knowledge, skills for successful functioning in society by the human individual (Avdeeva et al., 2004). In this regard, the normal physical, mental, moral, spiritual development and education of minors in the criminal-law protection should be considered as a complex concept. This concept can be described as normal socialization of minors. Thus, public relations ensuring the normal socialization of minors should be seen as the direct object of the crime.

However, alcohol has a negative impact not only on the normal socialization of minors. The harm is caused or may be caused to the health of minors, bought and consumed alcoholic products. Alcohol has a devastating impact on physical and mental development of minors, adversely affects its condition, forming various kinds of diseases. This situation occurs for the following reason. The body of a teenager is in a stage of rapid development. He does not have formed system of the liver (the organ, neutralizing a variety of alien substances, in particular allergens, poisons and toxins). He is not ready to aggressive influence of alcohol.

Thus, the studied essential elements of offence have two objects of a crime, because the criminal offence causes damage not only to the public, ensuring the normal socialization of minors, but also to their health or threatens to cause such harm due to the rapidly destructive effects of alcohol.

Alcohol products are considered as the subject of the crime. The concept of alcoholic products is determined by the regulatory law on production and turnover of ethyl alcohol, alcoholic and alcohol-containing products. A key characteristic for determining the alcohol is ethanol content (above 0.5%) in the volume of final products. alcohol-containing products of artisan sector should be included in alcoholic products. But it should contain more than 0.5 percent of ethyl alcohol in the final product.

Offense against the object is made through the impact on the person either by such effects on things or other material objects in the commission of many crimes. This offense prejudices the legally protected interests of the individual, causing the person criminal damage (physical, property or moral). (Sungurov & Tarkhanov, 2009).

The sale of alcoholic products is a criminal action through an object (alcoholic products) directed to minors. The process of his normal socialization is breaking and it causes his health harm, or there is a threat of causing such harm. The mechanism of criminal influence on the object of the crime provided for by the article 151.1 of the Criminal Code, allows you to select the victim as a required characteristic. This victim is a minor.

3.2. The objective side of essential elements of offence of retail sales of alcoholic products to minors.

The essential elements of offence provided for by article 151.1 of the criminal code, are formal elements.

Therefore, the objective side of article 151.1 of the Criminal Code is characterized by socially dangerous act. This act is the retail sale of alcoholic products to minors, committed repeatedly.

The term "retail sale" means a business activity, the subjects of which are exclusively individual entrepreneurs and legal entities. Therefore, private traders, people using other forms and methods of delivering of alcohol (exchange, donation, exchange, giving a loan etc.), including the Internet, left outside the scope of criminal and legal impact.

For this reason, the term "sale" alcoholic products are offered to be replaced with the term "distribution" as the modern design essential elements of offence provided for by the article 151.1 of the Criminal Code of the Russian Federation establishes responsibility only for the retail sale.

The term "distribution" covers any sale of (trade in legal networks, trade), as well as other forms and means of delivering (exchange, donation, exchange, giving a loan etc.) of alcoholic products to minors.

However, the term "distribution" should not include such forms of alienation that are connected with all forms of its consumption. For example, the adult hands to minors the alcohol which is drunk with him; here are signs of involvement of minors in systematic alcohol.

3.3. Subjective elements and signs of essential elements of offence of retail sales of alcoholic products to minors.

The subject of crime is a specific subject that has the following features: it is an individual of age, repeatedly engaged in sales of alcoholic products to minors.

It is necessary to consider the repeated commission by a person of the same offences as a specific feature of the subject of a crime.

In relation to the crime provided for by the article 151.1 of the criminal code, the duplicity is expressed as follows. First, the person must sell alcoholic products to minors more than once. Secondly, the person should be earlier brought to administrative liability provided for by the part 2.1 of article 14.16 AOC RF. Thirdly, it should not have passed more than one year after an administrative penalty coming into legal force.

Consequently, the legal nature of the duplicity of essential elements of offence provided for by article 151.1 of the Criminal Code of the Russian Federation, is expressed through administrative prejudice.

Initially, the legislator has abandoned the administrative prejudice in Criminal Code of the Russian Federation. Such denial was based on the position of those researchers who believed that a socially dangerous act is characterized only by objective features of the act. But the social practice faced with the fact that it is often quite difficult to establish the distinction between social danger of the crime and the severity of the administrative offence, especially in those cases when criminal features were judgment features. For this reason, in recent time, the scope of these acts, responsibility for which is stipulated according to the regulation of administrative prejudice is growing.

In addition, the use of regulations of administrative prejudice in criminal law has repeatedly received attention in the President's of the Russian Federation message. So, it is said in the Message 2009

that we should make greater use of so-called administrative preclusion in criminal law. Message 2015 once again draw our attention to the need of decriminalization of several articles of the Criminal Code of the Russian Federation and transfer of offences not representing a great social danger in the category of administrative offences, where only repeated misconduct must already be qualified as a criminal act.

Supporting a legislator who returned to the use of administrative regulations in the criminal law, we rely on the work of those researchers who claimed, that the social danger of the criminal act, depends not only on objective but on subjective features, in particular stability of its infringing behavior. For example, Filimonov, 1973; Malkov, 2006; Prozumentov, 2007.

The fact of bringing a person to administrative responsibility has important criminal meaning because, despite the negative assessment of the actions of a person from the judiciary, expressed in the decision on administrative punishment, a person commits the same offense one more time. Public danger intensifies in this situation, becoming anti-social, or getting personal orientation that underlies the criminalization of a person.

In addition, during the period when the person subjected to administrative punishment, he / she is in the administrative punishment. It is during this period in case of repeated violation of the same regulation under the threat of criminal punishment, a person is characterized by social danger.

Thus, the duplicity in article 151.1 of the Criminal Code must be understood as a feature of the subject of essential elements of offence, who has antisocial personality traits and is the source of criminal behavior, and which is expressed through the fact of a prior imposition of an administrative penalty under part 2.1 of article 14.16 AOC RF in the period when the person is subjected to administrative punishment.

The subjective side of a crime provided for by article 151.1 of the Criminal Code, is characterized only by direct intent, which lies primarily in the realization of the actual nature of his act (minor's age), its social importance (by their actions causes harm to minors), and also the wrongfulness of his acts (violates the prohibition of selling alcohol to minors and does not execute obligation to establish age of the buyer).

However, awareness of the wrongfulness of the act does not mean that the seller must necessarily know the content of the regulation, provided for by the article 151.1 of the Criminal Code. Awareness of the illegality of the sale of alcohol to minors results from the regulatory legislation and generally accepted standards of education of adolescents in society, and also from the fact that earlier the seller when committing administrative offences was notified against receipt about threatening to be prosecuted for repeated commission of a similar act.

Therefore, awareness of the age of the customer is a mandatory element of direct intent, wherefore it is proposed to complement the article 151.1 of the Criminal Code with such element, as the sale of alcoholic products to minors, "designedly by the seller".

#### **4. Purpose of the Study**

Developing scientifically-based recommendations on improving the existing criminal legislation on responsibility for the retail sale of alcoholic products to minors and practices of its application.

#### **5. Research Methods**

The study used general scientific methods: analysis and synthesis, systematic approach, and private scientific methods of cognition: sociological, statistical.

## **6. Findings**

1. The direct object of the crime under article 151.1 of the Criminal Code is normal socialization of minors as a complex phenomenon. It consists of interrelated and interdependent elements: physical, mental, moral, spiritual development and education of minors, their rights and legitimate interests.

2. The object of the crime under article 151.1 of the Criminal Code has two objects. The first object is a normal process of socialization and well-being of minors. Second is the health harm of minors or threatening to cause such harm due to the quick destructive impact of alcohol on the teen body.

3. The term "retail sales" should be replaced by the term "distribution". Distribution covers any sale (trade in legal networks, trade), as well as other forms and means of delivering (exchange, donation, exchange, giving a loan etc.) of alcoholic products to minors. The term "distribution" does not include forms of alienation of alcohol connected with its consumption.

5 The following features of a subject of a crime were revealed: an individual of age; this individual repeatedly sale alcoholic products to minors.

6. The legal nature of the duplicity are repeated in the offense under article 151.1 of the Criminal Code as a feature of the subject of a crime. This feature is understood in the following way. A person sells alcoholic products to minors. He was previously brought to administrative responsibility for a similar offense in the period when the person is subjected to administrative punishment.

7. Duplicity is understood as the feature of a subject, which is manifested not only in the period of administrative prejudice, but during the period of validity of a previous conviction under this article, as a person subjected to a negative judgment by the state (subject to administrative and criminal responsibility), to an even greater extent ensures the stability of antisocial personality traits.

8. A person has direct intent on the crime under article 151.1 of the Criminal Code. Direct intention includes the awareness of a character of actions by the individual (the age of minors). It also includes awareness of the social significance of the act (harm of alcohol to minors). This includes awareness of the wrongfulness of the act (violation of the ban on the sale (distribution) of alcohol to minors and failure to fulfill its responsibilities to establish age of the buyer. In this regard, it is proposed to add a feature of imputed knowledge of a guilty about the minor's age to the article 151.1 of the Criminal Code of the Russian Federation.

## **7. Conclusion**

There is no doubt that the issues of criminal-legal protection of the rights of minors are always under the scrutiny of researchers, as a teenager is most vulnerable to different kinds of criminal attacks in virtue of the emerging socially important standards. Therefore, improvement of criminal-legal regulations aimed at protection of public relations, providing social well-being of the younger generation should be integrated in a comprehensive manner, forming thus proper citizens to society.

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