

A bartender is charged with the statutory offense of "knowingly violating a regulation of the State Alcoholic Beverage Control Board" and specifically that he knowingly violated regulation number 345-90 issued by the State Alcoholic Beverage Control Board. That regulation prohibits the sale of alcoholic beverages to any person under the age of 21. It also prohibits the sale of any alcoholic beverage to a person over the age of 20 and under the age of 24 without the presentation of such person's driver's license or other identification showing the age of the purchaser to be 21 or older.

The evidence showed that the bartender worked in a tavern, sold a bottle of beer to a person who was 19 years old, and did not ask for or see the purchaser's driver's license or any other identification.

Which of the following, if found by the jury, would most help the bartender?

- A. The bartender did not know that the regulations classified beer as an alcoholic beverage.
- B. The bartender had never been told he was supposed to check identification of persons over 20 and under 24 before selling them alcohol.
- C. The bartender mistakenly believed the purchaser to be 26 years old.
- D. The purchaser had a driver's license that falsely showed his age to be 21.

Explanation:

The bartender is charged with **knowingly** violating an alcoholic-beverage regulation. Knowledge requires proof that the defendant was **aware** that his/her **conduct was of the nature required** by the criminal statute. This means that the bartender can only be convicted if he knowingly sold alcohol to someone (1) under the age of 21 or (2) between the ages of 21 and 23 without checking identification. And since the bartender could not knowingly do so if he mistakenly believed the purchaser to be 26 years old, this jury finding would most help his defense.

(Choices A & B) Ignorance or **mistake of law** would serve as a defense if it negated the requisite mental state. But the bartender's ignorance regarding the regulation's identification requirement and beer classification is no defense here since it fails to show that he did *not know* that the purchaser was under 24 years old.

(Choice D) The statute required the bartender to check the identification of persons between 21 and 23 years of age before selling them alcohol. But since the bartender never checked the purchaser's identification, the fact that his driver's license was false would not absolve the bartender of guilt.

Educational objective:

Criminal statutes listing "knowledge" as the requisite mental state require proof that the defendant was aware that his/her conduct was of the nature required by that statute.

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Criminal mental states

