

A state statute provides: "The sale of an alcoholic beverage to any person under the age of 21 is a misdemeanor." A woman who was 20 years old, but who looked older and who had a very convincing fake driver's license indicating that she was 24, entered a convenience store, picked up a six-pack of beer, and placed the beer on the counter. The store clerk, after examining the driver's license, rang up the purchase. Both the clerk and the store owner were charged with violating the state statute. At trial, the court found both the clerk and store owner guilty.

What standard of liability must the court have interpreted the statute to impose?

- A. Strict liability only.
- B. Vicarious liability only.
- C. Both strict and vicarious liability.
- D. Either strict or vicarious liability.

Explanation:

Most crimes require proof that a person committed a particular act (actus reus) with a particular state of mind (mens rea). But **strict liability crimes** have **no mens rea requirement**. This means that proof of the **actus reus alone is sufficient** to support a conviction. And persons can be **directly liable** for the strict liability crime if they commit the actus reus themselves OR **vicariously liable** if their agent (often an employee) does so.

Here, the clerk and store owner were convicted of violating the state statute after the clerk sold beer to a woman who was under 21 years of age (actus reus). But the clerk did not do so knowingly, or even negligently, since the woman looked older and the clerk examined her driver's license (no mens rea). Therefore, the court must have interpreted the statute as imposing *strict liability* to convict the clerk.

And since the store owner did not personally complete the sale, the court must have construed the statute as authorizing *vicarious liability* to convict the store owner for the sale by the clerk (the owner's agent) **(Choices A, B, & D)**.

Educational objective:

Strict liability crimes require a particular actus reus—but not a particular mens rea. And persons can be (1) directly liable for such crimes if they commit the actus reus themselves or (2) vicariously liable if their agent does so.

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Types of mens rea

