



Irish liquor laws: the sale of non-alcoholic or 'No/Lo' drinks to minors

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No/Lo drinks are alcohol free or low alcohol alternatives to alcoholic beverages.

In the EU, 'alcohol free' means 0.5% or below ABV (alcohol by volume). Drinks with an ABV of under 0.5% are not subject to the same legal restrictions as alcoholic drinks - for context, ripe bananas and bread can contain similar amounts of alcohol.

By contrast, in the UK alcohol free is ten times lower than that ABV in the EU at 0.05% and below ABV. Peculiarly, if the UK were still an EU member state, 'alcohol free' beer produced in Ireland, may be legitimately sold in UK under the principle of mutual recognition or the 'Cassis Principle', whereas a domestic UK producer would be bound by the lower 'alcohol free' ABV requirement.

Similarly, definitions of 'low alcohol' differ across EU members states. Ireland lacks a definition of 'low alcohol', however, it appears to be accepted by Irish State agencies that low alcohol is 1.2% ABV or below. In Spain, by comparison, between 1-3% ABV is considered low alcohol.

The Intoxicating Liquor Act, 1988 prohibits the sale or supply of alcohol to any person under 18, while the Intoxicating Liquor Act 2008 restricts off-sales of alcohol to 10-30am-10pm Monday-Saturday and 12.30pm-10pm on Sundays.

Current legislation on the sale of alcohol does not account for alcohol free alternatives and technically, a premises appears not to need a licence to sell No/Lo drinks, nor is it required by law to ensure customers purchasing No/Lo drinks are over 18. However, in reality, retailers, bars and pubs are generally treating such products as alcohol products, by checking ID, selling them at the limited times as prescribed by statute and containing them in or directly outside of off-licence sections of their stores, seemingly for two reasons:

- As 'responsible retailers', in order to avoid promoting such products to children;
- For practical purposes at the point of sale, to make it easier to enforce rules regarding the sale of alcoholic drinks.

Understandably, it is felt that promoting No/Lo drinks to minors such as alcohol free beer and allowing them to buy it, could indirectly promote similar products to them that do contain alcohol. Tesco has a policy of restricting sale of No/Lo drinks to minors to avoid inadvertently selling alcohol to children and they use checkout prompts when checking ID on alcoholic, low alcohol and alcohol free variants of alcoholic brands. The Advertising Standards Authority for Ireland have issued guidelines providing that that non-alcoholic product variants should not target children through children's media or via advertising sites close to schools. Advertisements may not appeal to children and those drinking the products in any advertisement should be, or appear to be, aged 25 or over, mirroring the position for alcoholic drinks.

Latest data from Drinks Ireland estimates that non-alcoholic beer sales grew by 129% between 2017 and 2020 and international growth is expected to continue annually by 8.7% between 2021 and 2025. No/Lo Beer dominates the market for alcohol-free alternatives, with 92% of the No/Lo market, while No/Lo spirits account for just 0.5%. According to new research from IWSR (International Wine and Spirits Record) in 2022, No/Lo drinks have acquired 3.5% of the entire alcohol industry.

There has been huge reform in alcohol and licensing laws in the past number of years, most recently with minimum unit pricing on alcohol of 10c per gram, and perhaps part of the focus of Minister McEntee's overhaul of the liquor licensing regime will be legislating for the rapidly growing 'No/Lo' industry to provide necessary clarity for retailers on the sale of these products to under 18s.

For further information on this topic please feel free to contact Elaine White or Ultán Anderson by email to elaine.white@ogier.com and ultan.underson@ogier.com

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