

Accompanying the tenth recommendation of the Executive Office of Consumer Affairs and Business Regulation (House, No. 31). Government Regulations.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Ninety-Four.

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**AN ACT RELATIVE TO UNDERAGE DRINKING.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 138 of the General Laws, as appearing in the 1990  
2 official version, is hereby amended by inserting the following  
3 section 34F:

4 Any agent of the commission, agent of the local licensing  
5 authority, or police officer who takes cognizance of a violation  
6 of section thirty-four A, thirty-four C, or thirty-four E of this  
7 chapter by a person under the age of twenty-one years may as  
8 an alternative to instituting criminal proceedings, forthwith give  
9 to the offender a written notice to appear before the clerk at the  
10 district court having jurisdiction at any time during office hours,  
11 not later than twenty-one days after the date of such violation.  
12 Such notice shall be made in triplicate, and shall contain the name  
13 and address of the offender; the time and place of the violation;  
14 the specific offense charged; and the time and place for his  
15 required appearance. Such notice shall be signed by the officer,  
16 and shall be signed by the offender whenever practicable in  
17 acknowledgement that the notice has been received. The officer  
18 shall if possible deliver to the offender at the time and place of  
19 the violation a copy of said notice. Whenever it is not possible  
20 to deliver a copy of said notice to the offender at the time and  
21 place of the violation, said notice shall be mailed or delivered by  
22 the officer, or by his commanding officer or any person authorized  
23 by said commanding officer, to the offender's last known address.  
24 Such notice mailed, by the officer, his commanding officer, or the  
25 person so authorized to the last address of said registrant as

26 appearing as aforesaid, shall be deemed a sufficient notice, and  
27 a certificate of the officer or person so mailing such notice that  
28 it has been mailed in accordance with this section shall be deemed  
29 prima facie evidence thereof and shall be admissible in any court  
30 of the commonwealth as to the facts contained therein. The officer  
31 shall give to his commanding officer those copies of each notice  
32 of such a violation he has taken cognizance of which have not  
33 already been delivered or mailed by him as aforesaid. Such  
34 commanding officer shall retain and safely preserve one of such  
35 copies and shall deliver another of such copies to the clerk of the  
36 court before whom the offender has been notified to appear. The  
37 clerk of each district court shall maintain a docket of all such  
38 notices to appear.

39 Any person notified to appear before the clerk of a district court  
40 as hereinbefore provided may appear before such clerk and  
41 confess the offense charged, either personally or through an agent  
42 duly authorized in writing, or by mailing to such clerk, with the  
43 notice, the sum provided herein, such payment to be made only  
44 by postal note, money order or check. Payment to such clerk in  
45 the sum of two hundred dollars shall operate as a final disposition  
46 of the case. Proceedings under this paragraph shall not be deemed  
47 criminal; and no person notified to appear before the clerk of a  
48 district court as provided herein shall be required to report to any  
49 probation officer, and no record of the case shall be entered in  
50 any probation records.

51 If any person notified to appear before the clerk of the district  
52 court fails to appear and pay the fine provided hereunder or,  
53 having appeared, desires not to avail himself of the procedure  
54 hereinbefore provided for the noncriminal disposition of the case,  
55 the clerk shall, as soon as may be, notify the officer concerned,  
56 who shall forthwith make a complaint and follow the procedure  
57 established for criminal cases. If any person fails to appear in  
58 accordance with the summons issued upon such complaint the  
59 clerk shall send such person by certified mail, return receipt  
60 requested, a notice that the complaint is pending and that if the  
61 person fails to appear within twenty-one days from the sending  
62 of such notice a warrant for his arrest will be issued. If any person  
63 fails to appear within twenty-one days from sending of such  
64 notice, the court shall issue a warrant for his arrest.

65 The notice to appear, provided herein, shall be printed in such  
66 form as the administrative justice for the district court department  
67 and the administrative justice for the Boston municipal court  
68 department may prescribe for their respective departments;  
69 provided, however, that a notice prepared pursuant to sec-  
70 tion twenty A or twenty C of chapter ninety may be so revised  
71 or adapted that said notice may also be used for the notice  
72 provided for in this section.

