

PROTECTION OF YOUNG PERSONS ACT (JUGENDSCHUTZGESETZ, JUSCHG)

Translated excerpt from Act in force since 23 July 2002; Federal Law Gazette BGBl I p. 2730,
last amendment (to Art. 1) 9 April 2021; Federal Law Gazette BGBl I p. 742

§ 1 Definitions and interpretation

A(1) The following definitions shall apply for the purposes of this Act

1. Children are persons younger than fourteen years of age.
2. Adolescents are persons older than fourteen but younger than eighteen years of age.
3. A parent or legal guardian is a person with parental responsibility, i.e. any individual who is either solely responsible for the upbringing and welfare of a child or shares this responsibility with another person according to the provisions of the German Civil Code (BGB),
4. An educational guardian is any individual over the age of eighteen who is either permanently or temporarily responsible for the upbringing and welfare of a child on the grounds of an agreement with a person with parental responsibility for that child or any individual charged with the care for a child or adolescent within the scope of that child or adolescent's education or as a result of youth welfare measures.
(1a) For the purposes of this Act, the term media encompasses both physical and broadcast media ("telemedia").
(2) For the purposes of this Act, physical media are media capable of storing text, images or audio suitable for transfer or direct access or built into projectors or playback devices. The physical dissemination, sharing, offering or access of data media shall be deemed equivalent to electronic dissemination, sharing, offering or access, unless it is related to broadcasting as defined in § 2 of the German State Media Treaty ("Rundfunkstaatsvertrag").
(3) For the purposes of this Act, "telemedia" shall be all media transmitted or rendered accessible according to the German Telemedia Act (TMG), whereby transmission or rendering accessible applies to the making available of own or third party contents.
(4) For the purposes of this Act, the term mail order business shall encompass any commercial transaction involving the ordering and dispatch of goods either by mail or online without any personal contact between the supplier and buyer or where there are no technical or other measures in place to prevent such shipments to children and adolescents.
(5) The provisions of §§ 2 to 14 of this Act shall not apply to married adolescents.
(6) For the purposes of this Act, service providers shall be service providers as per the German Telemedia Act (TMG) in force since 26 February 2007 (Federal Law Gazette BGBl I p. 179) in the respectively applicable version.

§ 4 Restaurants

- 1) Children and adolescents below the age of sixteen may only enter a restaurant in the company of their parent or legal guardian or their educational guardian, or between the hours of 5 a.m. and 11 p.m. for the purpose of the consumption of a meal or beverage. Adolescents aged sixteen or older may not enter a restaurant between the hours of midnight and 5 a.m. unaccompanied by their parent or legal guardian or their educational guardian.
- (2) Subsection 1 shall not apply to children or adolescents who are travelling or are attending an event hosted by an approved youth welfare organisation.
- (3) Children and adolescents may not enter restaurants of a late night bar or nightclub nature or comparable entertainment establishments.
- (4) The respectively responsible local authority may approve exceptions to Subsection 1.

§ 5 Dances

- (1) Children and adolescents below the age of sixteen may only attend a dance or similar event open to the public in the company of their parent or legal guardian or their educational guardian; adolescents over the age of sixteen may attend such an event until midnight, at the latest.
- (2) Notwithstanding Subsection 1, children and adolescents under the age of sixteen may attend a dance event until 10 p.m. if this event is hosted by an approved youth welfare organisation, or within the scope of a dance performance or the pursuit of folklore customs and traditions.
- (3) The respectively responsible local authority may approve exceptions.

§ 6 Gambling establishments, games of chance

- (1) Children and adolescents may not enter gambling establishments or similar premises that primarily serve gambling purposes.
- (2) Children and adolescents may only participate in games of chance where prizes may be won in public at traditional local festivals, fun fairs and similar festivities, dedicated markets or similar events, and only on the condition that the prizes are goods of low value.

§ 7 Events and business operations that may harm children and adolescents

If a public event or commercial business may harm the physical, mental or emotional well-being of children and adolescents, the respectively responsible local authority may order the event organiser or business operator to refuse children and adolescents entry to this event or business. Such an order may contain age restrictions, time limits or other conditions that must be met in order to prevent or considerably minimise such a risk.

§ 8 Premises or locations that may harm children and adolescents

If a child or adolescent is found to be present on premises or in a location that may actually endanger their physical, mental or emotional well-being, the respectively responsible local authority or body must issue an order that measures for the immediate removal of this danger must be taken. If necessary, these measures may include 1) ordering the immediate removal of the child or adolescent from these premises or location, 2) returning the child or adolescent immediately to their educational guardian as defined in Section 7, Subsection 1 No. 8 of the SGB German Social Code or, if their educational guardian cannot be located, handing the child or adolescent over to a local youth welfare office representative.
In difficult cases, the local authority must inform the local youth welfare office of any premises or location that may harm children and adolescents.

§ 9 Beverages containing alcohol

- (1) In restaurants, sales outlets or elsewhere in public,
 1. beer, wine, beverages similar to wine or sparkling wine must not be sold to children and adolescents under the age of sixteen years along with non-alcoholic beverages, and
 2. other beverages containing alcohol or food that contains only a marginal quantity of alcohol must not be sold to children and adolescents; nor must they be permitted to consume such beverages or food.
- (2) Subsection 1 No. 1 shall not apply to adolescents accompanied by their parent or legal guardian.

(3) Beverages containing alcohol must not be offered for sale in public vending machines. This does not apply to vending machines

1. installed in a location that is inaccessible to children and adolescents or
 2. installed on commercial premises that are either constantly monitored or where there are technical measures in place to ensure that children and adolescents cannot obtain beverages from these machines.
- (4) According to § 1, Subsections 2 and 3 of Germany's alcopop tax act, sweet beverages that contain alcohol may only be offered for sale if they are labelled "Not to be sold to persons under the age of eighteen years old, § 9 Protection of Young Persons Act". This information must be included in the same font, font size and colour as that of the brand, fancy or product name on the packaging it is sold in, if applicable, or on the front label of bottles.

§ 10 Smoking in public, tobacco products

- (1) In restaurants, retail outlets or anywhere else in public, tobacco and other products containing nicotine and their containers must not be sold to children and adolescents, nor must they be permitted to smoke or consume products that contain nicotine.
- (2) Tobacco and other products containing nicotine and their containers may not be offered for sale in vending machines installed in public places. This shall not apply if a vending machine
 1. is installed in a location that is inaccessible to children and adolescents or
 2. it is either constantly monitored or there are technical measures in place to ensure that children and adolescents cannot obtain tobacco and other products that contain nicotine and their containers from these machines.
- (3) Tobacco and other products that contain nicotine and their containers may not be offered for sale to children and adolescents either via mail order nor sold to children and adolescents via mail order.
- (4) Subsections 1 to 3 shall also apply to products that do not contain nicotine, such as electronic cigarettes or shishas containing liquids that are evaporated with the aid of a heating element, with the aerosols thus released inhaled through the mouth, as well as their containers.

§ 12 Image media with films or games

- (1) Data media storage devices (image media) containing films or game software designed to be viewed or played on any device with a screen may be made accessible to a child or adolescent in public only if their content has been approved for the respective age group by a higher regional authority or national voluntary self-regulatory body within the scope of a rating procedure according to § 14 Subsection 6 and if they are labelled accordingly, or if their purpose serves the information, instruction and education of children and adolescents and they have been labelled as such by the provider.
- (2) Such image media and the cover of such image media must feature a clearly visible label as described in Subsection 1 in the form of a symbol. This symbol must measure at least 1,200mm² and must be positioned on the front of the cover in the lower left-hand corner, and must measure at least 250mm² on the image medium itself. The higher regional authority may
 1. Issue additional instructions with regard to the content, size, form, colour and display of the rating information and
 2. Grant exceptions with regard to the display of this rating symbol on the image medium or cover.
- (3) Image media that are not labelled or have been labelled "Not approved for young persons under the age of 18" as per § 14 Subsection 2 by a higher regional authority or a national voluntary self-regulatory body within the scope of a rating procedure according to § 14 Subsection 6 or § 14 Subsection 7 by the provider may not
 1. be offered for sale, made available or be made accessible to any child or adolescent
 2. be offered for sale or made available in any other way in retail outlets outside the business premises, at kiosks or at any other point of sale where it is usually not necessary for the customers to enter premises, or via mail order.
- (4) Playback devices for image media with content may only be installed in
 1. public spaces accessible to children and adolescents,
 2. outside business premises or premises used for any other professional or commercial purposes or
 3. in access areas, foyers or corridors of the latter if only image media labelled in accordance with § 14 Subsection 2 No. 1 to 4 are offered and technical measures are in place to ensure that they cannot be used by children and adolescents for whose age group the programmes available thereon have not been approved in accordance with § 14 Subsection 2 No. 1 to 4.
- (5) Notwithstanding Subsections 1 and 3, image media that contain excerpts from films and game software may only be sold together with printed periodicals if the provider labels these with information that makes it clear that a voluntary self-regulating body has confirmed that these excerpts do not contain material that may be harmful to young persons. This information must be displayed both on the printed periodical as well as the image medium by way of a clearly visible symbol prior to their distribution. Subsection 2 (1) to (3) apply accordingly. A higher regional authority may exempt individual providers from (1).

§ 13 Gaming devices with screens

- (1) Children and adolescents may only play games on electronic gaming devices with screens installed in public spaces where prizes cannot be won unaccompanied by a parent or educational guardian if the software thereon has been approved for the respective age group by a higher regional authority or national voluntary self-regulatory body within the scope of a rating procedure according to § 14 Subsection 6 for their age group and has been labelled accordingly or if their purpose serves the information, instruction and education of children and adolescents and they have been labelled as such by the provider.
- (2) Electronic gaming devices with screens may only be installed
 1. in public spaces accessible to children and adolescents,
 2. outside business premises or premises used for any other professional or commercial purposes or
 3. in deren unbeaufsichtigten Zugängen, Vorräumen oder Fluren nur aufgestellt werden, wenn ihre Programme für Kinder ab sechs Jahren freigegeben und gekennzeichnet oder nach § 14 Abs. 7 mit „Infoprogramm“ oder „Lehrprogramm“ gekennzeichnet sind.
- (3) in access areas, foyers or corridors of the latter
if the programmes thereon have been approved for children aged six years and over and has been labelled accordingly, or has been labelled as information or educational material in accordance with § 14 Subsection 7.
- (3) § 12 Subsection 2 (1) to (3) accordingly applies to the display of these labels on electronic gaming devices with screens.

§ 28 Penalties for offences - excerpt

Any breach of these regulations may be punishable by a fine of up to €50,000.