

NSW Responsible Service Of Alcohol Course

STUDENT NOTES

NSW OFFICE OF LIQUOR, GAMING AND RACING

April 2010

Copyright © NSW Office of Liquor, Gaming and Racing. All rights reserved. No part of this work may be reproduced by any means without written permission.

TABLE OF CONTENTS

Introduction to the responsible service of alcohol course	3
Element 1: The context of responsible service of alcohol in NSW	5
Government, and community concerns	8
The impact of alcohol abuse/misuse on the community	10
Key Agencies	11
Role of compliance officers and Director-General of Communities NSW	12
Role of NSW Police	13
Summary	14
Element 2: The legislative framework for the responsible service of alcohol	15
Liquor Licence Types	17
Trading Hours	17
Disturbance and Disciplinary Complaints	18
Temporary Closure Orders	19
Declared Premises	20
Intoxication	20
Fail to Leave	22
Banning Orders	23
Minors	23
Evidence of age	27
Alcohol Harm Minimisation Signage	28
Element 3: Alcohol Guidelines for low-risk drinking	33
What is a standard drink?	35
Impact of alcohol consumption	37
Effects of Alcohol	37
Short and long term impacts of excessive drinking	38
Element 4: Strategies to prevent intoxication and under-age drinking	42
Indicators of intoxication	44
Strategies to prevent intoxication	45
Strategies to prevent underage drinking and second-party sales	46
Evidence of age	47
Development of house policies	49
Liquor Accords and RSA	50
Drink Spiking	51
Appendices	53
Research: Schedule A	53
Culture and context of alcohol use in Australian Community sporting clubs	53
Trends and patterns in domestic violence assaults	53
Alcohol-related injuries presented to Saint Vincents Hospital emergency department	54
Director-General of Communities NSW's Intoxication Guidelines: Schedule B	56
Director-General of Communities NSW's Liquor Promotion Guidelines: Schedule C	61

INTRODUCTION

The Evolution of the NSW Liquor Laws and the Responsible Service of Alcohol

While the majority of people consume alcohol responsibly, Governments have always recognised the negative impact that alcohol can have on the community. As a result the sale and supply of liquor is appropriately controlled, and sanctions apply where licensed venues are poorly run and irresponsible liquor serving occurs – such as intoxication (i.e. drunkenness) and minors obtaining liquor

Responsible service of alcohol has been part of the State's liquor laws for nearly 100 years. Responsible service is not new.

For example in the 1912 Liquor Act, a licensee was prohibited from permitting drunkenness on the licensed premises and the onus was on the licensee and employees to establish that they took all reasonable steps to prevent the drunkenness. Nearly a century on this requirement is still in the NSW liquor laws.

Until the 1970s, registered clubs were regulated under the Liquor Act 1912. In 1976, the Registered Clubs Act was introduced in response to community concerns about the management of clubs and the inappropriate use of members' property. The Registered Clubs Act commenced on 1 July 1978. The Act contains an extensive range of controls applying to the management of registered clubs, and the sale and supply of liquor on club premises.

Since the Liquor Act 1982 and the Registered Clubs Act 1976 were introduced, there have been many significant amendments made in response to changing community attitudes and Government policy regarding the sale and supply of alcohol.

Perhaps the most significant changes occurred in 1996 when both Acts were changed to introduce "harm minimisation" (i.e. minimising the harm associated with the misuse and abuse of liquor) as a primary object of both Acts. The move to a harm minimisation approach in the liquor laws followed increasing concern about the extent of alcohol-related crime and violence - particularly in and around licensed venues.

In 2008, new liquor laws commenced, further strengthening harm minimisation controls over the way liquor is sold and consumed and consolidated the regulation of liquor in all premises, including registered clubs, into one Act – the Liquor Act 2007.

The Act places obligations on the Casino, Liquor, Gaming Control Authority, the Director-General of Communities NSW, the Commissioner of Police, licensees, and others in regard to responsible practices in the sale, supply, service and promotion of liquor, and the prevention of activities that encourage misuse or abuse of alcohol.

These laws also place greater responsibility on patrons to drink responsibly to minimise alcohol-related violence and anti-social behaviour in and around licensed venues.

Further regulatory controls now also apply to venues with high levels of recorded assault incidents.

The harm minimisation approach – with emphasis on responsible service and consumption of alcohol, and the responsible operation of licensed venues – is justified on public health and safety grounds. When considering reforms to liquor licensing, a balance must be struck between achieving a fairer, simpler regulatory system and consideration of the impact irresponsible liquor consumption can have on local communities, road safety and public health.

The protection of local amenity and the probity of industry participants have been identified as important considerations associated with the sale and supply of liquor. For example, alcohol-related nuisance, violence, crime and noise disturbances could erode the quality of life for people living or working in the vicinity of venues serving alcohol.

The liquor laws therefore seek to protect the interests of local communities by protecting and improving local amenity. As a result, the laws include various public interest provisions that allow local communities, local councils, police and other stakeholders to have a say about the conduct of licensed venues.

Today, RSA training is mandatory for everyone in NSW involved in the sale and supply of liquor to the public. This includes licensees, club secretaries, serving staff and security staff working at licensed venues. There are no exemptions from undertaking the course.

This mandatory training regime also captures volunteers, promotional staff and contract employees as well as directors of registered clubs who have liquor service responsibilities.

Sanctions apply to licensees and staff in cases where RSA training has not been undertaken.

If you are unsure about whether you, or a member of your staff, are required to do RSA training, you should contact the Office of Liquor, Gaming and Racing on (02) 9995 0333.

ELEMENT 1

THE CONTEXT OF

RESPONSIBLE SERVICE OF

ALCOHOL

IN NEW SOUTH WALES

ELEMENT 1

Identify the context of responsible service of alcohol

This element identifies the context in which responsible service of alcohol is to be managed.

Assessment Criteria

Students should be able to identify:

- government and community concerns associated with alcohol abuse and misuse, particularly in relation to crime, violence and anti-social behaviour occurring as a result of excessive drinking, and the effects on the neighbourhoods of licensed venues;
- the impact of alcohol abuse/misuse on the community;
- the role of key agencies in regulating and enforcing the liquor laws, such as the NSW Office of Liquor, Gaming and Racing, the Casino, Liquor and Gaming Control Authority, the NSW Police Force, the Director-General of Communities NSW and other Government agencies involved in preventing alcohol abuse.

In this element we will examine Government and community concerns about serving alcohol responsibly, the behaviour of patrons and providing a safe environment for everyone, the Government agencies that have responsibility for the regulation and administration of the liquor laws, and those agencies upon which the liquor laws impact.

Identifying the Context of Responsible Service of Alcohol

(Why do we need to be aware of, study and implement responsible service of alcohol?)

Alcohol is widely used and enjoyed throughout our society, and for many people it forms part of an enjoyable and generally healthy lifestyle that includes good diet and exercise.

For the vast majority of adults, the consumption of alcohol is considered a form of relaxation and social entertainment. However, the misuse and abuse of liquor can have a devastating effect on individuals, their families and society in general. Historically, both in Australia and elsewhere, Governments have taken the position that the sale and consumption of liquor should not be left exclusively to market forces.

In fact, all developed countries have liquor laws in place on social policy grounds. They recognise that alcohol is a drug that can have harmful effects and must therefore be regulated.

People who drink regularly at higher levels place themselves at increased risk of chronic ill health and premature death. An episode of heavy drinking places the drinker and others at risk of injury and death. These patterns of drinking also have substantial social and economic implications.

Government and Community Concerns

Because the Government regulates liquor sale and supply, there is an onus on those who are responsible for the retailing of that product to do so responsibly by providing a safe and enjoyable environment for patrons. That onus also means serving liquor to ensure that patrons do not become drunk and subsequently a problem for management, staff and the community.

When poor patron behaviour is left unchecked, it has the potential to escalate and can manifest into serious crime, including brawls, affray, sexual assaults and property damage.

In recent years, considerable research has been undertaken in New South Wales by the NSW Bureau of Crime Statistics and Research and others to identify the link between irresponsible serving practices and liquor abuse problems. A summary of this research is contained in Schedule A for reference purposes.

More than 14,000 venues are licensed to sell liquor in New South Wales, making it readily available and enjoyed by many.

People who drink regularly at higher levels place themselves at substantially increased risk of chronic ill health and premature death, while an episode of heavy drinking places the drinker and others at increased risk of injury and death. For some, particularly among younger age groups, such drinking can form part of a wider pattern of risk-taking behaviour.

While health is an important issue, the use of liquor, particularly when it is abused and misused, is associated with crime, violence, anti-social and offensive behaviour. You don't have to drink to experience the harm that can be associated with liquor – assaults, road accidents, property damage and excessive noise can all seriously affect the lives of individuals and the community.

Therefore, governments place restrictions on the age at which liquor can be legally purchased and consumed, and determine the controls over liquor such as how, when, where and by whom liquor can be sold and supplied.

The statutory framework for the sale and supply of liquor in NSW is the Liquor Act 2007 and regulates licensed venues and those who operate them, and when and how liquor is sold.

All the various State and Territory Liquor Acts aim to ensure that alcohol is sold by responsible people; that liquor venues are operated in a way that does not disturb other residents, and that the possible harmful effects of alcohol are minimised or avoided.

Therefore, the liquor laws determine:

- WHERE liquor can be sold – on licensed premises.
- WHEN alcohol can be consumed – on licensed premises.
- HOW liquor can be sold – the trading conditions that apply to various types of licensed premises.
- WHO can consume alcohol - adults.

In regulating the sale of liquor, sanctions apply for breaches of the liquor laws that may range from a reprimand, a fine through to a suspension or cancellation of a liquor licence.

Each State and Territory in Australia has its own liquor authority that administers the liquor laws. This includes the implementation of the law, issuing of licences, checking licensees' personal and criminal histories (probity) and enforcing the law. Later in this module, we will examine the principal regulators and administrators of the liquor laws in New South Wales.

The responsible service of alcohol means: complying with the law by serving liquor responsibly and legally; by looking after patrons; and, by being aware of the rights of neighbours and the general community to remain undisturbed by the operation of the venue.

Licensees have an obligation under the liquor laws to:

- Minimise the harm associated with liquor abuse
- Encourage responsible attitudes towards the sale and consumption of liquor, and
- Ensure the sale and consumption of liquor contributes to, and does not detract from, the amenity of community life.

Working in the hospitality industry carries responsibilities. Responsibility for the general public is not just the concern of the licensee. Staff can also be held accountable for their actions. This statutory training course is designed to ensure that you are aware of your role and responsibilities as well as the penalties that can arise from irresponsible service.

Knowledge of the liquor laws will help you avoid situations caused by alcohol abuse and misuse. It will also help you identify potential compliance risks at your venue, and how to take action to prevent abuses occurring.

The Impact of Alcohol Abuse / Misuse on the Community

In Australia, alcohol is the most commonly used recreational drug. People drink alcohol for a number of reasons, including the relaxing and socialising effects of small to moderate amounts.

In addition to the health issues resulting alcohol consumption, there are social consequences both to the drinker and the community. These consequences include harm to family members and to friends and colleagues, as well others.

Costs accrue not only to government health and welfare services, but also to industry through absenteeism, premature retirement, and impaired or lost productivity. It has been estimated that alcohol cost Australia about \$15.3 billion in 2004-05, when factors, such as crime and violence, treatment costs, loss of productivity and premature death were taken into account.

Abusive behaviour, vandalism, unruly crowds, crime and accidents cause undue stress to the general public and communities as a whole. Additionally, they stretch the limited resources of police and emergency services to attend to calls and complaints.

In 2007, the NSW Bureau of Crime Statistics and Research found that at least \$50M a year was spent by the NSW Police Force responding to alcohol-related crime. According to the Bureau, this would fund the annual salaries of around 1,000 constables.

Responding to assaults was the most common police activity, accounting for almost 15 per cent of the total alcohol related crime.

The 2007 National Drug Strategy survey found that alcohol accounted for 27 per cent of the \$56.1B economic costs associated with licit and illicit drug use in Australia in 2004-05 (tobacco accounted for 56 per cent, while illicit drugs accounted for 15 per cent).

The NSW Office of Liquor, Gaming and Racing, the Department of Health, the Roads and Traffic Authority and NSW Police Force play a significant role in trying to reduce these costs. They facilitate liquor accords, conduct advertising campaigns; produce educational material and training programs as preventative measures to educate both the public and liquor industry to help minimise alcohol abuse problems in the community.

Key Agencies

Casino, Liquor and Gaming Control Authority

Liquor and gaming licence applications (including applications to extend trading hours) and disciplinary matters are considered by the Casino, Liquor and Gaming Control Authority.

Anyone can make a submission to the Authority, and those submissions must be taken into account by the Authority when making a licensing decision.

Reviews of disciplinary decisions made by the Authority are determined by the Administrative Decisions Tribunal.

The Authority is also responsible for administering the responsible service of alcohol and responsible conduct of gambling training schemes, as well as determining any further training requirements for licensees.

NSW Office of Liquor, Gaming and Racing (OLGR)

OLGR is part of Communities NSW and is the principal liquor industry regulator in this State. Through its various functions, OLGR provides leadership and strategic direction to the liquor industry through rigorous enforcement, compliance, investigative, monitoring and field education programs. OLGR is also responsible for implementing the Government's liquor reform process.

OLGR works with other agencies such as the NSW Police Force to promote practices that ensure the minimisation of harm, often associated with the operations of the liquor venues, as well as facilitating the development and monitoring of compliance strategies – eg. the State's liquor accord program.

OLGR also provides administrative support to the Authority in determining licensing proposals and its other regulatory functions.

OLGR also offers an e-news service to its stakeholders. The service aims to keep stakeholders up to date on changes which impact them. Anyone can subscribe, go to www.olgr.nsw.gov.au/website_subscribe_form.asp

More information about OLGR and its activities can be found in the Communities NSW Annual Report which can be viewed or downloaded from the web – www.olgr.nsw.gov.au

Compliance Officers

OLGR compliance officers undertake inspections and other enforcement functions under delegation from the Director-General of Communities NSW. Inspection of licensed venues can result from:

- complaints received from the public or other licensed venues;
- investigating matters referred to the Office;
- inspection programs to determine compliance;
- allegations concerning the suitability of licensees and club secretaries;
- liquor and gambling harm minimisation enforcement programs; and
- covert inspections of licensed venues.

Legislated powers include:

- entering a licensed venue at any time (with or without a police officer) if it is considered reasonable grounds exist that a breach has been, or is being, committed;
- requiring the licensee/secretary to produce all books and records relating to the operation of the venue;
- seize documents and make copies or take extracts from them;
- request identification from a young person suspected of being under 18; and
- interview any person at the venue in relation to any relevant matter.

It is an offence to obstruct or refuse admission to a compliance officer. A maximum penalty of \$5,500 applies for this offence.

Compliance officers can undertake desk audits of liquor licences and certificates of registration. They also conduct operations in association with the NSW Police Force.

Director-General of Communities NSW

The Director-General of Communities NSW is a statutory officer under the NSW liquor and gaming machines laws.

The Director-General of Communities NSW can take disciplinary and prosecution action and object to the grant or variation of a liquor licence.

In addition, the Director-General of Communities NSW can also impose conditions on a licence and make written directions that require a licensee or staff to address a problem or improve compliance in a venue.

Specific statutory powers also enable the Director-General of Communities NSW to take action in relation to:

- banning undesirable liquor products and promotions
- requiring alcohol advertising to contain RSA style messages
- determining noise disturbance complaints against venues

The Director-General of Communities NSW is also required to publish guidelines to assist the industry in relation to the indicators of intoxication and the types of liquor promotions that are likely to result in disciplinary action being taken.

NSW Police Force

Police have wide ranging enforcement powers under the liquor laws. Police can issue penalty notices for breaches of the liquor laws. Police can prosecute a licensee, a staff member or a patron for breaches of the law, or they can take disciplinary action against a licensee on certain grounds prescribed by the liquor laws.

Short term closures of licensed venues are also an effective tool that police can use to prevent serious liquor-related problems escalating in a licensed venue.

SUMMARY

- Alcohol is a drug. It is second only to tobacco in drug-related deaths and hospitalisation.
- Its harmful effects are well documented and the liquor laws recognise the harm associated with its abuse.
- Liquor is tightly controlled by government because of the potential for its misuse and abuse.
- Liquor licensees and staff must comply with the liquor laws by selling, supplying and serving liquor responsibly.
- In exercising their functions under the liquor laws, regulators and others must have due regard to liquor harm minimisation.

ELEMENT 2

LEGISLATIVE FRAMEWORK FOR THE RESPONSIBLE SERVICE OF ALCOHOL

Element 2

This element identifies legislative measures and public interest issues relevant to RSA.

Assessment Criteria

Students should be able to identify relevant legislative provisions including:

- harm minimisation and public interest provisions of the liquor laws
- intoxication provisions
- underage provisions

Identify The Legislative Framework For The Responsible Service Of Alcohol

What Types of liquor licences can be issued?

The following table outlines the categories of liquor licence that can be issued under the *Liquor Act 2007*.

Type of Licence	Type of activity	Community Impact Statement Required
Hotel (including a general bar licence)	Hotel, bar, tavern	Yes
Club	A registered club selling liquor to members and their guests	Yes
On-premises	Can be tailored for one or more types of business activities including a restaurant, entertainment venue, motel, function centre and other settings where liquor is consumed on the premises	Yes, but only where the on premises licence relates to a restaurant or a public entertainment venue (other than a cinema or theatre).
Packaged liquor	Liquor stores, internet operators selling liquor to the public	Yes
Producer/wholesaler	Brewer, distiller winemaker, wholesaler	No
Limited	Functions held by non profit organisations, as well as special events and trade fairs	No

All liquor licensing applications are determined by the Casino, Liquor and Gaming Control Authority. In many cases, a liquor licence application must be accompanied by a community impact statement.

A community impact statement allows the Casino, Liquor and Gaming Control Authority to be aware of the impact that granting an application will have on the local community. It does this by ensuring the potential applicant consults with the local community – including the local council – before deciding to go ahead with making an application. The CIS summarises the results of consultation between the applicant and the local community about any issues and concerns with a proposed application.

Trading Hours

The standard trading period for hotels, on-premises licences (except vessels), wine producers and packaged liquor licences is outlined below.

Monday – Saturday 5am-midnight

Sunday – 10am-10pm

Harm Minimisation and Public Interest Provisions of the Liquor Laws

The NSW liquor laws contain extensive harm minimisation provisions to minimise the potential for the misuse and abuse of alcohol.

Those who exercise statutory functions under the Liquor Act, including the Director-General of Communities NSW, the Casino, Liquor and Gaming Control authority and police, must:

- have regard to the need to minimise alcohol-related harm;
- encourage responsible attitudes towards drinking in the community; and
- ensure alcohol sales and drinking does not detract from the amenity of the community.

Apart from these overarching provisions, there is a raft of specific measures in the liquor laws designed to minimise liquor abuse problems and ensure venues are operated responsibly and in the public interest. Offence provisions apply in relation to underage drinking/entry and intoxication offences, while powerful enforcement tools can be used to fix serious problems associated with the irresponsible management and operation of a venue.

The fundamental RSA provisions of the liquor laws are that, on licensed premises, liquor cannot be served to minors or intoxicated persons. These provisions are supported by a range of regulatory requirements to complement these measures and provide clear guidance to patrons and industry on the responsible drinking rules.

These offence and public interest measures are outlined below.

Public Interest and Venue Conduct

The liquor laws recognise the serious problems that can be caused when premises are operated unlawfully and irresponsibly and when those venues endanger the amenity of the neighbourhood, patrons and the community.

Police, the Director-General of Communities NSW and local councils have extensive powers to deal with serious alcohol related problems that have an adverse impact on the community. Experience has shown that many of these problems are linked to irresponsible serving practices, poor patron behaviour (which is often a by-product of the irresponsible practices) and / or a lack of proper management and control of the venue.

Statutory powers that can be used include the temporary closure of a venue and noise disturbance complaints to the Director-General of Communities NSW. These provisions, and their relevance to RSA training, are outlined below.

Disturbance Complaints

A complaint about undue disturbance caused by the conduct of a licensed venue and/or its patrons can be made to the Director of Liquor by police, councils, residents and others.

Many noise disturbance complaints stem from serious problems relating to the management and operation of the venue, or violent, anti-social or criminal activity involving patrons in the vicinity of

the venue. Disturbances and criminal activity involving patrons can often be linked back to their levels of intoxication and the questionable serving practices of the venue in the first instance.

Where a complaint is established, conditions can be imposed on a venue to restore the amenity of the neighbourhood and to ensure the venue operates in the public interest. These conditions often call for additional security, a reduction in trading hours / entertainment and requiring management to adopt further responsible serving practices.

In those cases where conditions have been imposed and enforced, and responsible serving principles are followed, there is usually a reduction in noise and associated anti-social behaviour.

Disciplinary Complaints

A disciplinary complaint can be lodged by the Director-General of Communities NSW and police with the Casino, Liquor and Gaming Control Authority against a venue operator on prescribed grounds. A number of these grounds are used to take action where the venue has been operated unlawfully and / or where liquor has been served in a way that is likely to lead to excessive consumption and intoxication.

Those grounds that relate to RSA training include:

- breach of licence condition;
- licence not exercised in the public interest eg. allowing patrons to conduct drinking competitions;
- intoxicated persons have frequently been on or leaving the premises;
- the licensee / manager has engaged in activities likely to encourage liquor abuse eg. irresponsible liquor promotions such as all you can drink offers; and
- acts of violence involving patrons have frequently occurred on or near the premises.

Where a disciplinary complaint is upheld, heavy sanctions can be imposed. Among the sanctions that can be imposed is the cancellation or suspension of the licence and disqualification of the licensee / club secretary. Further conditions can also be imposed, while the Authority also has the option of imposing penalties of up to \$22,000.

Temporary Closure Orders

The Casino, Liquor and Gaming Control Authority or a magistrate can order the closure of a licensed venue for up to 72 hours where it is considered there is a threat to public health or safety, a risk of serious property damage or a risk of serious breaches being committed on the premises.

While the temporary closure provisions are often used to address drug dealing and other criminal activity occurring in a venue, they are also used where serious alcohol related incidents occur or are likely to occur, such as brawls, violence and affray.

In more extreme cases, closure orders can be made for up to six months.

Declared Premises

In 2009 the NSW Government introduced a new scheme to regulate venues that have recorded a high number of assault incidents. The scheme divides venues into three categories based on the number of assaults recorded in a twelve month period.

Category 1 venues are venues that have 19 or more assaults and are subject to the following conditions:

- A mandatory 2am lockout of patrons (except members of a registered club)
- Cessation of alcohol service 30 minutes prior to closure
- No glass containers to be used after midnight
- No shots and drink limitations after midnight
- 10 minute alcohol sales timeout every hour after midnight or active distribution of and/or food, and
- Additional security measures

Category 2 venues are venues with 12 to 18 assaults and are subject to three conditions:

- No glass containers to be used after midnight
- 10 minute alcohol sales time out every hour after midnight or active distribution of water and/or food., and
- Cessation of alcohol service 30 minutes before closing

Category 3 venues are venues that have 8 to 11 assaults and are provided with additional support from OLGR to strengthen alcohol and security management.

Intoxication

The liquor laws provide a broad framework designed to prohibit intoxication in licensed venues. Under these provisions, an intoxicated person cannot be admitted or allowed to remain in a licensed venue, nor can they be served liquor.

There are two key intoxication offences in the NSW liquor laws:

- permitting intoxication; and
- serving liquor to an intoxicated person.

Penalties of up to \$11,000 can be imposed for intoxication offences, while police and inspectors also have the option of issuing \$1100 penalty notices for these types of breaches.

If an intoxicated person is detected in a venue the licensee can be liable for the offence of permitting intoxication on their premises.

This means the onus is on the licensee and staff to remove an intoxicated person immediately. Of course, policies should be implemented to prevent intoxication in the first instance. Strategies for preventing intoxication are outlined in module 4.

To avoid prosecution for the offence of permitting intoxication, the licensee must be able to prove that the intoxicated person was not served any alcohol on the premises, and as a minimum, took the following steps:

- asked the person to leave the licensed premises;
- contacted, or attempted to contact, police for assistance in removing the person from the premises; and
- refused to serve the person any alcohol after becoming aware that the person is intoxicated.

Additional steps should also be in place that can be used in mitigation for permitting intoxication that shows the venue is committed to the responsible service of alcohol. Such steps could include:

- being an active member of the local liquor accord;
- ensuring compliance with all regulatory requirements;
- providing ongoing training to staff in implementing the venue's responsible serving house policy (in addition to mandatory RSA training);
- not conducting promotions or entertainment likely to encourage liquor abuse;
- having quality food available whenever liquor is served; and
- promoting the venue as one that is committed to the responsible service of alcohol.

Where liquor is served to an intoxicated person in a licensed venue, an offence is committed. This offence can apply to anyone – a licensee, a staff member, a club director or volunteer (who has liquor service responsibilities) or a patron.

There is no statutory defence or mitigating steps available for the offence of serving liquor to an intoxicated person.

How am I supposed to know if someone is intoxicated when I can be prosecuted for intoxication offences?

This is one of the most common questions asked across all levels of the liquor industry.

Intoxication Defined

The liquor laws contain a definition of intoxication to assist industry comply with their responsible serving obligations and enhance enforcement efforts by police and inspectors.

For the purposes of the liquor laws, a person is considered to be intoxicated if:

- the person's speech, balance, coordination or behaviour is noticeably affected, and

- it is reasonable, in the circumstances, to believe that the affected speech, balance, coordination or behaviour is the result of the consumption of liquor.

In addition to this statutory definition of intoxication, the Director-General of Communities NSW must also issue guidelines to further assist the industry determine whether a person may be intoxicated. Those guidelines are attached in Schedule B.

The Director-General's guidelines for determining whether a person may be intoxicated include the following:

Speech - Slur words, talk in rambling or unintelligible sentences, are incoherent or muddled in their speech.

Balance - Are unsteady on their feet, stumble or bump into people or objects, sway uncontrollably or cannot stand or walk straight.

Coordination - Fumble to light a cigarette, have difficulty in counting money or paying, spill or drop drink, have difficulty in opening or closing doors.

Behaviour - Become rude, aggressive, or offensive, are unable to concentrate or follow instructions, become boisterous or pester others.

Notwithstanding the prescribed definition and the availability of the Statutory guidelines, a degree of judgement is still required by licensees, serving staff and security officers in determining whether a person is intoxicated, or approaching the point of becoming intoxicated.

This judgement should be based on observations of the person's behaviour, coordination, appearance and speech. Further information on the common indicators of intoxication is outlined in element 4.

Voluntary Exclusions

The law provides for people with a drinking problem to exclude themselves from licensed premises in a similar manner to people with a gambling problem who can exclude themselves from gambling venues.

In the case of venues that are part of a liquor accord, this exclusion can extend to other venues that are part of that accord if they are specified in the agreement.

Licensees are obligated to comply with a request from a person to be self excluded from a venue.

Fail to Leave

As described above, the NSW liquor laws provide a framework that prohibits intoxicated patrons being served liquor, as well as people who are intoxicated being admitted to a venue.

At the same time, patrons also commit an offence where they are drunk or disorderly and refuse to leave the premises, or the vicinity of the premises, when asked to by police or venue staff.

The vicinity of the premises is defined to include a radius of 50 metres from the boundary of the licensed premises, but provides exemptions for people remaining in the vicinity for a lawful purpose eg. waiting for transport or where they live near the venue.

These fail to leave provisions, which carry penalties of a \$5,500 fine or a \$550 penalty notice, provide a safety net to licensees in certain circumstances where drunk people attempt to enter the premises before being detected by staff and are then immediately asked to leave.

In these situations, where police are called for assistance and are satisfied that an offence has occurred, the patron will be issued with a \$550 penalty notice.

These provisions also prohibit the person from re-entering, or attempting to re-enter, the premises for 24 hours. Also, the person must not re-enter the vicinity of the premises within 6 hours.

This does not override the intoxication provisions of the liquor laws. In simple terms, an offence is still committed where an intoxicated patron continues to be served liquor, but is only asked to leave for other reasons, such as acts of violence or anti-social behaviour.

In these instances, police could obtain evidence to determine whether the patron was intoxicated while liquor was still being served to that person, and what steps, if any, were taken at the time by staff to remove the patron.

This enables police to consider the merits of taking disciplinary action against the venue (or its staff) for intoxication offences and against the patron for the fail to leave offence.

If police are continually called to the same premises to assist in removing drunken patrons or enforcing the fail to leave offence, a disciplinary complaint can be taken on the ground that intoxicated persons have frequently been on the premises or have been seen frequently leaving the premises.

Banning orders

Where a person has been excluded from a licensed premises for being reportedly drunk, violent or disorderly an application can be made by a licensee, who is a member of the local liquor accord, to the Authority for the person to be barred for up to six months.

In imposing a ban on a patron, the Authority must be satisfied that that the person has been repeatedly drunk, violent, quarrelsome or disorderly on or in the immediate vicinity of the premises.

A person banned by the Authority commits an offence if they attempt to enter, or remain in, the licensed premises to which the order relates.

Minors

There is a general prohibition applying to the supply of liquor to a minor in a licensed venue. In most instances, this prohibition also extends to private settings. In a licensed venue, those liable for the offence of supplying liquor include the licensee, staff, and other patrons, including minors (where liquor is supplied to other minors).

Penalties of up to \$11,000 (or \$1,100 penalty notices) and/or 12 months imprisonment apply to adults convicted of underage liquor supply offences. Minors are also liable for the offences of purchasing and drinking liquor in a licensed venue.

Statutory defences for the offence of supplying liquor to a minor are available in certain circumstances. The statutory defences are:

- if the minor was over 14 and produced evidence of age (that could be reasonably accepted) that indicated they were over 18.
- the licensee has a defence against prosecution if the liquor is supplied to a minor by their parent or guardian.

- the liquor was supplied to the minor on licensed premises by the parent/guardian.
- that a person was authorised by the parent/guardian to obtain liquor from licensed premises for a minor.
- a person has a defence if they are the parent/guardian of the minor, or are authorised by the parent/guardian and the alcohol was not supplied on a licensed premises (eg. at home).

The law imposes sanctions on minors attempting to purchase liquor from a licensed premises and drinking alcohol on a licensed premises. Penalties of up to \$2,200 apply.

Second Party Sales

Second party sales occur when a person purchases liquor on behalf of a minor. The person supplying the liquor to the minor (either on a licensed premises or elsewhere) is committing an offence which can attract penalties up to \$11,000 (or \$1100 penalty notice) and/or 12 months imprisonment.

Liquor Sales by Minors

By law, minors are prohibited from serving liquor on licensed venues. For example, a minor working in a licensed restaurant cannot take an order for, or deliver, alcohol to patrons. But the minor could take food orders.

The law does not stop minors from doing other things within the premises - such as stocking shelves in a bottleshop or serving meals in a restaurant.

While approval can be given to allow a minor to serve liquor in a venue, approval would normally only be granted in limited circumstances and subject to stringent supervisory conditions.

A similar provision also applies to registered clubs, where an offence is not committed if the sale, supply or service of liquor by the minor occurred in a dining room or other non-restricted area of the club and regulatory approval has been obtained.

These statutory controls recognise the potential problems associated with minors serving liquor, that include a minor's lack of understanding of the liquor laws and the peer pressure that can be applied to enable liquor to be served to a minor's friends.

Penalties of \$5,500 apply to a licensee if a minor serves liquor without approval.

Remote Sales

The remote liquor sales provisions provide a regulatory framework for liquor sold to the public via the Internet, telephone, facsimile and mail orders.

The provisions recognise that remote liquor sales, particularly via the Internet, are a potential source of supply for minors and that added controls are needed to prevent liquor being supplied to minors.

Statutory requirements for remote liquor sales include:

- display of the liquor licence number in any published or electronic advertising; and

- display of the liquor licence number and the statutory notice (stating the offence of supplying liquor to a minor) on the website where liquor is being sold.

When taking a telephone, facsimile or mail order, the licensee must ensure that the prospective buyer provides a date of birth to confirm that the client is an adult (unless the details have been provided when placing a previous order).

The licensee must then give written instructions to the person delivering the order, such as a courier, requiring the liquor to be delivered:

- to the adult who placed the order; or
- another adult accepting the delivery on behalf of the adult who placed the order; or
- in accordance with the customers instructions – eg. delivery to a vacant residential address, if the delivery occurs on a day after the order is placed.

Penalties of up to \$2,200 apply if a licensee commits any of these offences. A penalty of up to \$3,300 applies to a person who requests a minor to take delivery of a remote sale. A penalty of \$2,200 applies if a minor takes delivery of a remote sale.

Entry into Licensed Premises by Minors

The liquor laws allow minors to enter most licensed premises under certain circumstances.

Hotels

Whilst most parts of a hotel are a bar area (ie. minors are not permitted under any circumstances), there are some areas where a minor can enter provided certain conditions are met.

For instance, an unaccompanied minor is allowed to be in the dining room of a hotel, provided that the dining room is serving meals by waiter service, or in the accommodation area of the hotel.

The hotel may also have an area known as a minors area approved for use by minors (with a responsible adult) such as a bistro or lounge area. (*see page 27 for the definition of a responsible adult*).

The licensee is liable for fines of up to \$5,500 (\$550 penalty notice) if a minor is found in a bar area of the premises. A minor can be fined up to \$2,200 (\$220 penalty notice) if they enter a bar area, or are in a minors area without a responsible adult.

A 'walk through' defence provision exists, which provides a statutory defence where a minor passes through a bar area to access a minors area, provided that the minor is with a responsible adult and does not stop while in the bar area. For example, a minor may pass through a bar area to use the bathroom facilities if they are with a responsible adult.

Other defences also include:

- Both the licensee and minor have a defence if the minor is an apprentice and was in the bar area for the purpose of receiving training.

- The licensee also has a defence if the minor was over 14 years of age, and prior to the minor entering the bar area, the minor produced documentary evidence (driver's licence, Photo Card, etc) that could reasonably indicate that the minor was over 18.
- The licensee has a defence if the minor is performing in a show or as part of a performance in the bar area.
- A minor has a defence if they believed that they were on a part of the premises in which a minor's functions authority was in force.

Registered Clubs

Minors are prohibited from being in certain parts of a registered club such as bar and gaming machine areas. However, like hotels, there are circumstances where minors may be in a registered club if certain conditions are met.

A minor can be admitted into a registered club's non restricted area if:

- They are accompanied by a member (who is over 18) of the club; or
- In the case of a temporary member, they are in the company and immediate presence of that member (who must be a responsible adult).

A 'walk through' defence provision exists, which provides a statutory defence where a minor passes through a restricted area to access an authorised area, provided that the minor is with a responsible adult and does not stop while in the restricted area.

Other defences also include:

- Both the secretary and minor have a defence if the minor is an apprentice and was in the bar area for the purpose of receiving training.
- The secretary also has a defence if the minor was over 14 years of age, and prior to the minor entering the bar area, the minor produced documentary evidence (drivers licence, photo id card) that could reasonably indicate that the minor was 18 years or older.
- The licensee has a defence if the minor is performing in a show or as part of a performance in the bar area.
- A minor has a defence if they believed that they were on a part of the premises in which a minor's functions authority was in force.

Other Premises

Premises Type	Restrictions
On premises licence	In most cases, unrestricted to minors. The exception to this is where the on premises licence relates to a public entertainment venue. In this instance, minors must be with a responsible adult.
Packaged liquor licence	Unrestricted to minors.

Limited licence	Unrestricted to minors.
Producer/wholesaler licence	Unrestricted to minors.

Responsible adult

A responsible adult is defined as an adult who is:

- a parent, step-parent or guardian of the minor;
- the minor's spouse or de facto partner; or
- for the time being, standing in as the parent of the minor.

Note: A person standing in as the parent could include a relative such as a grandparent, aunt/uncle, or a person in charge of an organised sporting or school group.

Evidence of age

If you are in doubt as to a person's age, you must ask for evidence of age.

The Liquor Regulation prescribes that acceptable forms of identification are:

- (3) current motor vehicle driver's or rider's licence, or permit issued by the RTA, or interstate equivalent;
- (4) current passport issued by the Commonwealth or corresponding authority in another country;
- (5) a NSW Photo Card, issued by the Roads and Traffic Authority or a proof of age card issued by an interstate authority.

However, it is up to licensees and their staff to determine that the document/s that are presented are valid and demonstrate that the person presenting the ID is over 18.

Checklist for evidence of age

When you accept one of the documents as evidence of age, it is important to satisfy yourself that it is authentic. Remember – the final decision rests with you – if you are suspicious you should refuse access or purchase.

- **Check the photo** Does it match the person?
- **Check the birth date** Does it confirm the person is over 18 years?
- **Check for any alterations** Have any numbers been altered – particularly the last digit of the date of birth.
- **Check the hologram** For NSW drivers licence and photo card

You should refuse admission to anyone you suspect of using false evidence of age.

Mandatory signs

Liquor signs for all licensed premises

For most hotels and registered clubs, only two or three types of liquor signage are required to be displayed, while for on-licences operating as a restaurant, only one mandatory sign may be needed.

Sign No.1 - Minors not to be served liquor



This sign must be obtained from the Office of Liquor, Gaming and Racing and be displayed wherever liquor is sold on licensed premises ie. at each bar and counter. Where there is no bar or counter eg. a small restaurant, the sign must be prominently displayed at each entrance to the premises.

Sign No.2 - Bar areas of hotels and clubs



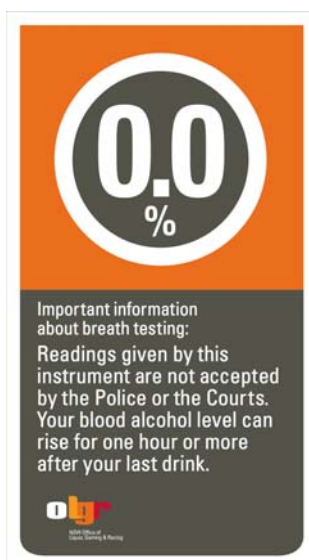
This sign must be obtained from the Office of Liquor, Gaming and Racing and be displayed in each bar area of a hotel and club. A bar area is defined as any area of a hotel or club where liquor is served, except those areas where minors are lawfully permitted to enter eg. a bistro/dining area.

Sign No.3 - Minors Area Authorisation sign - hotels



This sign must be obtained from the Office of Liquor, Gaming and Racing and be displayed in areas of the hotel that have been approved to allow minors to enter with a responsible adult.

Sign No.4 - Breath testing sign – all premises



This sign, which partly indemnifies a licensee from civil action, must be clearly displayed next to a breath analysis machine.

Sign No.5 – Liquor not to be sold to minors sign – all internet operators

IT IS AGAINST THE LAW TO SELL OR SUPPLY ALCOHOL TO, OR TO OBTAIN ALCOHOL ON BEHALF OF, A PERSON UNDER THE AGE OF 18 YEARS

This sign must be displayed wherever liquor is sold via the internet.

Sale of Undesirable Liquor Products

The law enables liquor products to be banned by the Director-General of Communities NSW if it is considered, on one or more of a number of grounds, that the products should be banned.

Targeted action can be taken by the Director-General against specific venues where undesirable liquor products are sold that:

- are indecent or offensive by virtue of its name, design or packaging;
- encourage rapid consumption of the product by virtue of its name, design or packaging
- are likely to be attractive to minors or have special appeal to minors;
- are likely to be confused with soft drink or confectionery; or
- are not in the public interest to be sold.

Undesirable liquor products can also be banned from sale in all licensed premises in NSW under regulation making powers on the same grounds above.

The maximum penalty for selling an undesirable liquor product is \$5,500.

Products already banned from sale under the NSW liquor laws include:

- **Alcoholic iceblocks**
- **Alcohol aerosol products**
- **Alcoholic milk**
- **Alcohol vapour**

Orders by the Director-General of Communities NSW Prohibiting Undesirable Liquor Promotions

Under the liquor laws the Director-General of Communities NSW may issue a written order to a licensee prohibiting them from carrying on, or being involved in, a particular liquor promotion. An order may be issued if the Director-General considers that:

- the promotion is likely to have a special appeal to minors:

- because of the use of designs, motifs or characters in the promotion that are, or are likely to be, attractive to minors, or
- it is indecent or offensive; or
- involves the supply of liquor in non-standard measures or the use of emotive marketing that encourages irresponsible drinking likely to cause intoxication; or
- involves the supply of free alcohol, or extreme discounts, or discounts that are only available for a short period of time and create an incentive for patrons to drink rapidly
- the promotion is not in the public interest.

Maximum penalties of \$5,500 apply for not complying with an order issued by the Director-General

The Director-General of Communities NSW has issued guidelines to indicate the types of liquor promotions and activities that are likely to result in an order being issued against a licensee. Those guidelines are attached in Schedule C.

ELEMENT 3

ALCOHOL GUIDELINES FOR LOW-RISK DRINKING

ELEMENT 3

Identify the Impact of Alcohol Abuse

This element addresses the impact of alcohol and includes safe levels of drinking, standard drinks and the impact of alcohol consumption (short and long term).

Assessment Criteria

Students should be able to identify:

- Low-risk drinking guidelines
- Short and long term effects of alcohol
- Standard drinks

National Health and Medical Research Council

Australian Guidelines to Reduce Health Risks from Drinking Alcohol

The National Health and Medical Research Council (NHMRC) released revised guidelines which aim to reduce the risks associated with alcohol consumption.

The Guideline can be found on the National and Medical Research Council website - <http://www.nhmrc.gov.au/publications/synopses/ds10syn.htm>

It provides universal guidance for healthy adults aged 18 years and over and guidelines specific to children and young people and to pregnant and breastfeeding women.

The guidelines do not represent a “safe” or “no-risk” level. Rather, it is an advisory drinking level that enables healthy adults to maintain a low risk of alcohol-related accidents, injuries, diseases and death.

What is a standard drink?

The term “standard drink” should not be confused with a serving of alcohol, which is often much larger. For example, with wine, a standard drink corresponds to 100mL of wine, whereas a typical serve is at least 150mL. Australian law requires that all cans, bottles and casks containing alcoholic beverages be labelled with the approximate amount of standard drinks it contains.

However, it can sometimes be difficult to translate standard drinks into real-life scenarios. There are no common glass sizes used across all drinking environments and people often underestimate how much they are drinking. This is compounded where large containers such as jugs and casks, are shared, where glasses are topped up by others, where the composition of mixed drinks is not known eg. cocktails or punch, and when pre-mixed spirit drinks contain a variable amount of alcohol per bottle or can.

Numbers of standard drinks in common containers of various alcoholic beverages

Alcoholic beverage	Standard drinks
Low strength beer (2.7% alcohol) 1 can or stubbie 285mL glass 425mL glass Slab of 24x375mL cans or stubbies	08 standard drinks 0.6 standard drinks 0.9 standard drinks 19 standard drinks
Mid strength beer light beer (3.5% alcohol) 1 can or stubbie 285mL glass 425mL glass Slab of 24x375mL cans or stubbies	1 standard drink 0.8 standard drinks 1.2 standard drinks 24 standard drinks
Full strength beer (4.9% alcohol) (includes diet beer) 1 can or stubbie 285mL glass 425mL glass Slab of 24x375mL cans or stubbies	1.4 standard drinks 1.1 standard drinks 1.6 standard drinks 34 standard drinks
Wine (9.5% -13% alcohol) 100mL glass Average restaurant serving (150mL) 750mL bottle 4-litre cask	1 standard drink 1.4-1.6 standard drinks 7 to 8 standard drinks 36-43 standard drinks
Spirits (37%-40%) 1 nip (30mL) 700mL bottle	1 standard drink 22 standard drinks
Pre-mixed spirits (5%-7% alcohol) 1 can (375mL) 1 bottle (275mL)	1.5-2.1 standard drinks 1.1-1.5 standard drinks

The impact of alcohol consumption

Research shows that alcohol is second only to tobacco when it comes to a preventable cause of death and hospitalisation in Australia.

The cost to the Australian community of alcohol related social problems was estimated to be \$15.3 million in 2004/05.

Alcohol consumption accounted for 3.3 per cent of the total burden of disease and injury in Australia in 2003. However, the effects of alcohol consumption go beyond disease, accidents and injuries to a range of adverse social consequences, both for the drinker and for others in the community. These consequences include harm to family members (including children) and to friends and workmates, as well as to bystanders and strangers.

Regular excessive alcohol consumption increases the risk over time of chronic ill health and premature death. Episodic heavy drinking places the drinker and others at risk of injury or death. Heavy drinking is also associated with injury, unwanted sexual relations and violence. Alcohol is also a factor in fatal road crashes. For Australian men, about one-third (33 per cent) of motor vehicle deaths and one-quarter (25 per cent) of motor vehicle injuries have been attributed to alcohol consumption. For women the figures are 11 per cent in each case.

In NSW, 41.3% of males and 30.3% of female respondents to the 2003 NSW Health Survey reported risk drinking behaviours. Males were more likely than females to report this in all age groups (NSW Department of Health, 2004).

It is estimated that 3200 people die as a result of excessive alcohol consumption and around 81,000 people are hospitalised annually.

National Health Alcohol Strategy 2006-2011 has set a goal to prevent and minimise alcohol related harm to individuals, families and communities in the context of developing safer and healthy drinking cultures in Australia. This strategy is based on extensive stakeholder consultation and current research on alcohol consumption trends in Australia.

Binge-drinking is an ever increasing trend in Australia, especially among young people. Research shows that the average age of first use of alcohol in Australia is 14, which is mostly in the form of binge drinking.

Binge drinking consists of drinking a lot over a few hours - or non-stop over days or weeks. This can be very dangerous as it makes the harms from alcohol worse. Also, because drinking a lot can stop you thinking clearly and acting sensibly, you may put yourself in danger from other things.

Effects of Alcohol

Immediate Effects

The most obvious and immediate effects of alcohol are on the brain. People drink alcohol for a variety of reasons, for example to experience the immediate feeling of relaxation, wellbeing and loss of inhibitions. The social and psychological benefits of alcohol may also include enhanced creativity and a therapeutic value in times of stress. However, as the intake of alcohol increases, these effects are counterbalanced by less pleasant adverse effects, such as drowsiness, loss of balance, nausea and vomiting, as well as the other harmful effects described below.

Alcohol dampens the brain's arousal, motor and sensory centers, dampening reactions to stimuli and affecting coordination, speech, cognition and the senses. The first potentially adverse effect of alcohol consumption is loss of fine motor skills and inhibitions.

A blood alcohol concentration (BAC) of about 0.05 g/100 mL (or 0.05%), which is the legal limit for driving in Australia, was based on controlled studies testing driving skills (Transport and Road Research Laboratory 1987). Above this BAC, performance and behaviour deteriorate progressively.

If the BAC reaches a high enough level, it leads to unconsciousness and, eventually, inhibition of normal breathing. This may be fatal, particularly as the person may vomit and can inhale vomit and suffocate. Alcohol also affects the pituitary gland at the base of the brain, suppressing the production of a hormone that keeps the body's fluid reserves in balance. The kidneys fail to reabsorb an adequate amount of water, and the body excretes more water than it takes in, leaving the person dehydrated and with a headache.

As alcohol intake increases, both skills and inhibitions decrease and therefore risky behaviour, injuries and trauma increase. Also, without the cognitive or verbal capacity to resolve conflicts, physical violence becomes more likely.

The immediate effects of alcohol on the brain are often less apparent in people who drink regularly, as they acquire a degree of tolerance. Tolerance occurs because the liver becomes more efficient at breaking down alcohol. The person learns to cope with, and compensate for, the deficits induced by alcohol. Despite this tolerance, the long-term effects remain damaging, particularly as the drinkers who have greater tolerance for alcohol are those who subject themselves to higher blood alcohol levels more frequently.

There are no safe levels of alcohol consumption because of the different ways alcohol can affect people. Women are generally affected by alcohol more than men because of the differences in the way their bodies process alcohol. Basically the more alcohol you consume the higher the risk of harm.

People choosing to consume alcohol must be aware that there is always a potential of harm both short and long term to their health and social wellbeing.

Short term impacts

Short term impacts refer to the risk of harm (particularly injury or death) in the short term that is associated with given levels of drinking on a single day. These levels assume that overall drinking patterns remain with the levels set for long-term risks, and that these heavier drinking days occur infrequently and never more than 3 times a week. Outside these limits, risk is further increased.

These are some of the short term health consequences of excessive drinking on a single day:

- risk taking behaviour, accidents, falls, reduced coordination, altered thinking and speech and at the highest level unconsciousness. Alcohol is a contributor in a number of accidental deaths, including road death and drowning.
- aggravated sleep, stress and sexual functions. The consumption of moderate amounts of alcohol is seen as a method to minimise stress and induce sleep. However, it does not address the real cause of the stress and leads to increased wakefulness and disturbed sleep patterns.
- heart problems. One or two standard drinks can affect heart rate, blood pressure and heart muscle contraction. This reaction may not be clinically important but the overall effect on blood flow may have negative implications on persons with cardiovascular disease.

Long term impacts

Long term impacts refer to the risk of harm due to regular daily patterns of drinking, defined by the total amount of alcohol typically consumed per week. The long term consumption of alcohol is a

serious contributor to ill health in our society and can be compounded by the negatives affects of smoking, poor diet and other drugs.

Certain levels of alcohol consumption over a long period of time increases the risk of developing certain disorders

Following are some of the long term consequences of excessive drinking over a long period of time:

- Range of diseases affecting the heart disease and blood, and including stroke and hypertension
- Cirrhosis of the liver
- Cancer, especially of the mouth, throat and oesophagus
- Cognitive problems and dementia
- Problems with the nerves of the arms and legs
- Gut and pancreas disease
- Harm to unborn baby
- Sexual problems, especially male impotence
- Alcohol dependence
- Alcohol related brain injury
- Problems with memory and reasoning

Factors that affect susceptibility to alcohol

Sex

Women tend to have a smaller body size and a higher proportion of body fat than men. As alcohol is not taken up by fatty tissues, for women, a given amount of alcohol is distributed over a smaller body volume with less absorption. In addition, the ability to break down alcohol is limited by the size of the liver, and women on average have smaller livers than men. On the other hand, the higher level of risk-taking behaviour among men means that, over a lifetime, male risks exceed female risks for a given pattern of drinking

Age

In general, the younger and smaller a person is (eg. children), the less tolerant they are to alcohol. Younger people also have less experience of drinking and its effects. In addition, puberty is often accompanied with risk-taking behaviours (such as an increased risk of drinking, sometimes in association with other dangerous physical activities or risky sexual behaviour).

Finally, as people age, their tolerance for alcohol decreases and the risk of falls, driving accidents and adverse interactions with medications increases.

Mental health and sleeping patterns

People who have, or are prone to, mental illness (eg. anxiety and depression, schizophrenia) may have worse symptoms after drinking.

Alcohol can also disrupt the later part of the sleep cycle, which may trigger a variety of mental health problems in people who are already prone to these conditions.

Medication and drug use

Alcohol can interact with a wide range of prescribed and over-the-counter medications, herbal preparations and illicit drugs. This can alter either the effect of the alcohol or the medication and has the potential to cause serious harm to both the drinker and others.

Specific health conditions that are made worse by alcohol

People who already have health conditions caused or exacerbated by alcohol, such as alcohol dependence cirrhosis of the liver, alcoholic hepatitis or pancreatitis are at risk of the condition becoming worse if they drink alcohol.

Family history of alcohol dependence

People who have a family history of alcohol abuse and dependence (particularly among first-degree relatives) have an increased risk of developing dependence themselves.

Information sourced from:

National Alcohol Strategy 2006 - 2011 www.alcohol.gov.au

Australian Guidelines to Reduce Health Risks from Drinking Alcohol www.alcoholguidelines.gov.au

NSW Health www.alcoholinfo.nsw.gov.au

National Health and Medical Research Council www.nhmrc.gov.au

ELEMENT 4

STRATEGIES TO PREVENT INTOXICATION AND UNDERAGE DRINKING

ELEMENT 4

Implementing Responsible Service of Alcohol Strategies

This element identifies those strategies used to reduce the harm associated with liquor abuse.

Assessment Criteria

Students should be able to describe:

- indicators of intoxication;
- strategies for preventing intoxication;
- strategies for preventing underage drinking, and second party sales (including evidence of age);

Indicators of Intoxication

The indicators of intoxication (below) should be used to assist licensees, managers and staff to reach an informed opinion about whether a person is intoxicated. They should also be used in conjunction with guidelines issued by the Director-General of Communities NSW (refer to Schedule B).

Intoxication cases are often reported in the *Liquor and Gaming* bulletin published by the Office of Liquor, Gaming and Racing. These demonstrate that multiple indicators or a cluster of behavioural signs are present to indicate the level of intoxication of the patron. Observations by undercover Police Officers show that licensees, staff and security personnel ignore or tolerate the patrons' behaviour.

Excuses are often given that the person is a regular or is "always like that". However, each determination of intoxication must be on the merits of what is observed and, in some cases, only one or two behavioural changes may need to be present to form an opinion of intoxication.

The indicators are not exhaustive or, in a particular case, not necessarily conclusive of intoxication. A licensee, manager, or employee must use their judgment to evaluate each situation.

In exercising that judgment, other factors should be considered as well – eg. the amount and type of liquor served to a patron, and the time over which the consumption took place.

NOTICEABLE SIGNS OF INTOXICATION			
Speech	Balance	Co-ordination	Behaviour
<ul style="list-style-type: none"> • slurring words • rambling or unintelligible conversation • incoherent or muddled speech • loss of train of thought • not understanding normal conversation • difficulty in paying attention 	<ul style="list-style-type: none"> • unsteady on feet • swaying uncontrollably • staggering • difficulty walking straight • cannot stand or falling down • stumbling • bumping into or knocking over furniture and people 	<ul style="list-style-type: none"> • spilling drinks • dropping drinks • fumbling change • difficulty counting money or paying • difficulty opening or closing doors • inability to find one's mouth with glass 	<ul style="list-style-type: none"> • becoming rude • aggressive, argumentative • offensive • bad tempered • belligerent • physically violent • loud • boisterous • confused • disorderly • using offensive language • annoying / pestering others • inappropriate sexual advances • drowsiness or sleeping at a bar or table • vomiting • drinking rapidly

Strategies for Preventing Intoxication

Strategies to prevent intoxication include:

- offering alternatives to full-strength alcohol - including mandatory free water, food and non-alcoholic drinks
- promoting food, low-alcohol and non-alcoholic drinks
- restricting the types of alcohol available, particularly late at night eg. a restriction on the sale of shots, high strength RTDs late at night
- implementing voluntary entry restrictions, such as a curfew, particularly on busy nights;
- restricting the number of drinks that can be purchased at one time, particularly for large venues where patrons can be regularly buying drinks for others who maybe drunk
- waiting for patrons to re-order their drinks, rather than topping them up
- incorporate RSA style messages in venue advertising and promotions to reinforce to patrons that intoxication and associated behaviour is not tolerated
- Employing responsible service of alcohol (RSA) marshals to monitor patrons and consumption levels.
- Conducting high visibility security patrols to deter intoxicated people from entering or loitering.
- Offer discounted food and soft drinks for patrons at risk of becoming intoxicated
- Ensuring any liquor promotions comply with the NSW liquor laws, and in particular, guidelines issued by the Director-General of Communities NSW for liquor promotions. These guidelines are available at Schedule C.

Strategies for Preventing Underage Drinking, and Second Party Sales (including Evidence of Age)

In New South Wales it is illegal for any person:

- *to sell or supply liquor to a person under 18;*
- *to buy or obtain liquor from licensed and registered club premises on behalf of a person who is under 18.*

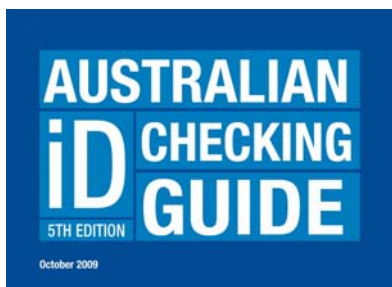
A “second party sale” occurs when an adult purchases liquor and then supplies it to a minor.

Notwithstanding the legislation, minors quite often remain undeterred and there continues to be a long-standing community concern about how to deter and prevent minors unlawfully being on licensed premises and obtaining and consuming liquor.

To reinforce the legislation, licensees must display prescribed signs within their venues warning of age restrictions and penalties (refer to element 2). However, in some instances licensees need to take a more proactive and high profile approach to support the legislation.

It is imperative that venues focus on checking evidence of age identification. This will send a powerful message to the local community and minors that the licensed premises will be extremely vigilant in preventing minors’ access to liquor.

Many initiatives include simple practices such as staff requiring any person appearing under 25 years of age to produce age identification, close scrutiny of any identification produced and strict adherence to only accepting the approved forms of identification. Venues should keep an up-to-date copy of the Australian ID Checking Guide to assist staff with determining the validity of the evidence of age documents provided by patrons.



The Australian ID Checking Guide is available to purchase from the NSW Office of Liquor, Gaming and Racing. Contact the Office on 02 9995 0333 for more information.

Venues should maintain an incident register and record all instances where minors were refused entry in the register, or where police were called because of concerns over the validity of the evidence of age produced.

The information in the register should then be used to determine if the venue’s underage strategy is effective and, if needed, to take any necessary steps to enhance the strategy. This may include joining a liquor accord or, if the premises is already an active member of an accord, raising the issue at the next accord meeting.

In some cases, incident registers are a mandatory requirement under the liquor laws ie. Where a venue regularly trades past midnight.



Incident registers can be purchased from the NSW Office of Liquor, Gaming and Racing. Contact the Office on 02 9995 0333 for more information.

Acceptable forms of Evidence of Age

The legal drinking age in NSW is 18 years of age. If you go into licensed venues (eg. hotels, bottle shops, nightclubs and registered clubs), or if you wish to buy alcohol, you can be asked to prove you are over 18 years of age or older.

Acceptable evidence of age documents in NSW:

- a current Australian or other country's passport;
- a current NSW, interstate or overseas driver's licence; and
- RTA Photo Card or a proof of age card issued by an interstate authority

Tips for Checking Evidence of Age

Regardless of what document you accept, it is important your venue has practices in place to assist with evidence of age documents. Tips for establishing if a document is genuine may include:

- examine the document in a well-lit area where alterations will be spotted more easily;
- do not inspect the document through the window face in a person's wallet – ask them to remove it;
- take the document from the patron and take your time examining it;
- make sure the document includes a hologram or other security feature;
- compare the photo with the patron presenting the document – do they match? Pay particular attention to distinguishing facial features;
- feel around the photo, birth date and edges of the card, especially a card enclosed in plastic (laminated) – wrinkles, bumps and air bubbles could mean the document has been altered;
- calculate that the date of birth on the document does in fact confirm the person is at least 18.

(Remember: photo cards, driver licences and passports can be issued to under 18s).

What happens if a minor attempts to unlawfully enter a licensed venue or purchase alcohol?

By law, licensees, staff, police and OLGR compliance officers can require a young person to produce identification, as outlined above, to verify their age. A young person can also be required to provide their particulars ie. their name, address and date of birth.

A person commits an offence where they fail to produce prescribed evidence of age or refuses to provide their details in this situation.

Saying NO to underage drinkers

Here are four basic steps that licensed premises can take to stop minors getting access to alcohol.

Step 1 – Be Alert and Proactive

Experienced staff always monitors their premises inside and out, because they know prevention is better than cure. If there's a group of youngsters hanging around outside, a quiet word early on will often be enough to send them on their way. Make sure all required statutory signs are clearly displayed – this will make under 18s think twice before attempting to buy alcohol.

Step 2 – Stand Your Ground

Troublemakers can be persistent – but you have to make it clear that you won't serve someone who is under 18. Tell the customer that you'd be putting your licence at risk if you serve them alcohol. A refusal can embarrass a customer, so be tactful and maintain a professional tone. If faced with a group, move the person you're talking to away from the rest – this lessens the chance of them playing to the crowd.

Step 3 – Avoid Blame

Politely stress your legal obligations when refusing to serve someone or to allow them on your premises. If you're asking for identification for proof of age, emphasise it's nothing personal, but the law requires it. Confirm it's the policy of the premises to make this request of anyone where a person's age is in doubt.

Step 4 – Ask for Evidence of Age

If you suspect someone of being underage, politely ask for identification – such as a Photo Card a driver's licence or a passport.

Other complementary initiatives

As well as dealing with under 18s on your premises, there are other ways in which licensees and registered clubs can send a responsible serving message out to young people and the broader community. One way is to include an appropriately worded message in newspaper advertisements and other printed material – for example, “you must be 18 years or over to obtain cigarettes or alcohol from ... (insert the premises name)”. This type of message lets the community know you are serious about reducing underage drinking.

Ways to Develop and Implement House Policies

A house policy provides a framework for both patrons and staff in understanding the responsible serving principles adopted by venue management. It can also be used to reinforce what is acceptable and unacceptable when it comes to patron behaviour and the serving practices of the venue.

A good house policy is a simple statement, or series of statements that reflect the principles implemented by the venue and can cover such things as:

- not serving minors or intoxicated patrons;
- not conducting irresponsible liquor promotions;
- ensuring quality food is always available;
- promoting safe transport options to patrons;
- offering discounted non alcoholic drinks; and
- the venue's approach to dealing with problem patrons.

Safe Transport Options

Providing safe transport options for patrons is an important part of the harm minimisation matrix. Safe transport options, particularly late at night, should be promoted to patrons to reduce the potential for drink driving and road accidents.

Depending on the nature and location of the venue, safe transport options can also reduce the potential for noise disturbances when patrons leave the premises. Getting patrons home safely and quietly are two key objectives in offering safe transport from a venue.

Many liquor accords have successfully implemented transport options for patrons of participating venues. This approach has the advantage of sharing limited resources, such as taxis, and reducing operating costs for venues.

Some safe transport options include:

Taxis

- making taxis as available and easy to use as possible
- offer to call a taxi for your customers
- have a free phone available for customer usage to call a taxi
- taxi signage
- discount taxi schemes
- take part in taxi voucher schemes – these are sometimes introduced as a local liquor accord strategy

Dial-a-driver

- taxi system that delivers a driver to take the customer home in their car
- signage in a visible spot

Courtesy bus

- this can be used to pick up and drop off customers providing a further service to promote your venue's responsible serving commitment

Designated driver

- encourage groups to designate a sober driver and provide that driver with free non-alcoholic drinks

Promoting Public Transport

Making available details of public transport available near the venue. This can range from making details of bus/train/ferry timetables available to making announcements when the last scheduled bus/train/ferry is about to depart nearby.

Liquor Accords and RSA

A liquor accord is simply an agreement – or arrangement – reached between local stakeholders including licensees, police and local councils who are committed to minimising harm associated with liquor abuse ie. Improving safety and reducing alcohol-related violence and anti-social behaviour.

Accords operate to find practical solutions at the local level for local liquor-related problems. They are underpinned by the responsible serving principles of the liquor laws and are a major plank of the Government's harm minimisation program.

Liquor accords provide another means, beyond regulatory measures, of addressing alcohol-related problems in a community.

While some accords simply reflect a commitment to requirements contained in the liquor laws – such as preventing intoxication and underage drinking – others add value by adopting measures to deal with local problems and issues.

This can include programs:

- to improve patron awareness of the responsible serving laws,
- to prevent underage drinking, and in particular, second party sales,
- provide a coordinated approach for patron transport from local venues late at night.

Well run accords can bring about genuine benefits for everyone involved including:

- safer and more welcoming local neighbourhoods;
- enhanced local reputations for concerned and active licensees;
- an improved business environment;
- constructive working relationships between licensees, councils, patrons, residents and police;
- improved compliance with the liquor laws;
- reduced under-age drinking;
- reduced anti-social behaviour and crime; and
- reduced alcohol-related violence.

Drink Spiking

What is drink spiking?

Drink spiking is a crime that occurs when alcohol or another drug is added to a person's drink without their knowledge or consent.

A person who spikes a drink may be the victim's friend, acquaintance, work colleague, date or a stranger. Drinks can be spiked in any setting – nightclubs, bars, dance parties, private residences, BBQs, community celebrations and restaurants.

The drug most commonly used to spike drinks is alcohol which is relatively cheap, legal and easily available. In many instances, alcohol can be added to drinks without arousing suspicion. Relatively tasteless alcohol, such as vodka, may not be easily detected by someone when it is added to a drink.

The most common physiological effects attributed to drink spiking are vomiting, unconsciousness, poor coordination and balance, slurred speech, lowered inhibitions, drowsiness, dizziness, loss of motor skills, impaired judgment, visual problems and nausea. These symptoms are also commonly associated with intoxication.

Drink Spiking Facts

- Most victims are female but drink spiking also happens to males.
- Prank spiking is the most prevalent form of drink spiking with most perpetrators having no criminal intent.
- Extra unrequested alcohol is the most commonly used drug in drink spiking.
- It is suspected that drink spiking with alcohol may occur frequently but goes unreported.
- Research suggests that two thirds of drink spiking incidents occur in licensed premises.

Preventing Drink Spiking in Venues

- Do not encourage or promote irresponsible behaviour
- Remove unattended glasses
- Report suspicious behaviour
- Follow RSA principles
- Do not sell or promote alcohol in a way that leads to rapid consumption
- Be aware of unusual requests, such as beer with a shot of vodka, and
- Decline patron requests to add alcohol to a person's drink

Response

Duty Managers and licensees should follow the response steps below:

- Treat drink spiking incidents seriously and take action
- Call an ambulance if the victim is unconscious or ill
- Advise the victim to seek medical attention if an ambulance is not called
- Do not leave the person alone

- Make sure the victim is in a safe place, such as a staff area or a quiet place in the venue
- Preserve the table with glasses and drink/s as if it was a crime scene. If possible, appoint a senior staff member to stay next to the table and make sure nothing is touched
- Contact the police on 000 or 112 on mobiles
- Write up straight away in your incident register
- Preserve CCTV footage

Apparent drink spiking incidents should be reported to police.

An incident register can be used to record details of drink spiking and can be useful to police and others for reference.

Remember the the best way to prevent drink spiking is to follow RSA principles.

APPENDICES

Schedule A

The Culture and Context of Alcohol Use in Community Sporting Clubs in Australia:

Research into 'Attitudes' and 'Behaviour'

Conducted by the Centre for Youth Drug Studies, of the Australian Drug Foundation, this study focussed on the relationship between alcohol and sport in Australian society. It sought to systematically conduct an audit of alcohol use in community level sporting clubs, as well as the various attitudes that club members held in relation to that use. The study was conducted over a nine month period in 2003-2004.

The research showed nearly 80 per cent of respondents thought that alcohol was an "important part of club camaraderie". Just over three quarters indicated that drinking was "an important part of celebrating after the match" while just under three quarters indicated that "drinking at my club is an important tradition".

For men aged 18-30 drinking at sporting clubs, the research showed:

- one in five is consuming 10 or more drinks in a night;
- the average number of drinks consumed is five a night;
- 45 per cent are drinking at a level which will harm their long term health leading to conditions such as heart disease, cancer and mental health problems;
- the average time spent drinking is just over two hours; and
- over three quarters drive home from their sports club and 30per cent have had too much to drink to drive.

For women aged 18-30 drinking at sporting clubs, the research showed:

- 6 per cent are consuming 10 or more drinks in a night;
- the average number of drinks consumed is three a night;
- the average time drinking is about one and three quarter hours; and
- 80 per cent drive home from their sports club and 30 per cent have had too much to drink and drive.

Authors: Dr Cameron Duff, Marita Scealy, Bosco Rowland (December 2004). Centre for Youth Drug Studies

Crime and Justice Bulletin 89: Trends and patterns in domestic violence assaults

This study used data recorded by the NSW Police to provide information on the trends and patterns in domestic violence assaults in NSW. Using incidents recorded between 1 January and 31 December 2004 looked at, among other things, the involvement of alcohol in incidents of domestic violence assault.

There were 25,761 domestic assault incidents recorded in NSW in 2004, 36.2% of which were flagged by police as alcohol-related. A similar percentage (38.7%) of the 43,223 other assaults in NSW in 2004 were also flagged as alcohol-related. The greatest number of assaults for 2004 occurred on 1 January. On this day, 51.7% of domestic assaults and 72.8% of non-domestic assaults were flagged as alcohol-related.

When the five regions of NSW were considered separately, the Northern (average 46.05%), Southern (47.75%) and Western (52.35%) regions of the State had greater proportions of assaults that were flagged as alcohol related than the Sydney metropolitan regions (greater metro 22.85%; inner metro 32%). Within most of the regions, however, the proportions of alcohol-related domestic and non-domestic assaults were fairly similar. The exception is the Sydney inner metropolitan region, where the percentage of alcohol-related non-domestic assaults was considerably greater than the percentage of alcohol related domestic assaults (37.9% to 26.1%).

Author: Julie People. October 2005. BOCSAR. <http://www.lawlink.nsw.gov.au/bocsar>

The role of alcohol in injuries presenting to St Vincent's Hospital Emergency Department and the associated short-term costs.

This bulletin presents the results from research investigating the role of alcohol in injury presentations to an inner-city emergency department and the associated short-term economic costs. In this study injured patients attending St Vincent's Hospital Emergency Department during September 2004 and February 2005 were interviewed about their alcohol consumption prior to the injury event and where possible, administered a breathalyser test.

One-third of the injured patients interviewed reported consuming alcohol prior to the injury and almost two-thirds of these patients stated that they had been drinking at licensed premises. One in five patients interviewed recorded a BAC of over 0.05g/100ml and almost one in ten recorded a BAC of over 0.15/100ml.

Alcohol consumption was found to be more prevalent amongst patients presenting with injuries resulting from interpersonal violence, with almost two-thirds of these patients reporting that they had been drinking prior to the injury. Over half of the assault patients were either at, or on the street outside a licensed premises when they were injured.

The study analysed those patients diagnosed as intoxicated separate from those who had suffered an alcohol related injury. It found that one-third of the intoxicated patients were aged under 25 and two-thirds of these were male. Over half of these patients recorded a BAC in excess of 0.20g/100ml and almost one-quarter recorded a BAC in excess of 0.30g/100ml.

The estimated annual cost of alcohol to St Vincent's Emergency Department was as much as \$1.38 million. While the overall economic cost of alcohol-related injuries is probably much greater than the research estimate indicates.

Authors: Suzanne Poynton, Neil Donelly, Don Weatherburn, Gordian Fulde and Linda Scott. December 2005. BOCSAR. <http://www.lawlink.nsw.gov.au/bocsar>

Young adults' experience of responsible service practice in NSW: An update

Following the NSW Alcohol Summit in 2003, the NSW Government amended the Liquor Act to require mandatory training for all licensed premises staff in an accredited responsible service of alcohol (RSA) course. The NSW Police also introduced the 'Linking Project', which enabled them to track alcohol-related crimes back to specific licensed premises.

The Bureau's evaluation of these initiatives was conducted in 2006 and funded by the Alcohol Education and Rehabilitation Foundation (AERF). The evaluation involved interviews with a representative sample of 2,427 young NSW adults. Respondents were asked a number of questions about their last drinking occasion at licensed premises.

Respondents were first asked whether on their last drinking occasion they showed any of five common signs of intoxication (staggering/falling over, slurred speech, loss of coordination, loud/quarrelsome, spilling drinks).

If they reported showing any of these five signs they were then asked whether they had experienced one or more of seven different responsible service (RSA) initiatives (refused another drink, asked to stop drinking, asked to leave the premises, called the police, suggested patron buy low or non-alcoholic drinks, suggested that the patron buy food, advised on/organised transport home).

A similar survey was conducted by the Bureau in 2002. When the Bureau compared results from the 2002 and 2006 surveys, it found licensed premises in 2006 were taking a tougher line toward those showing three or more signs of intoxication.

In the 2002 survey, only 12 per cent of respondents who reported showing three or more signs of intoxication said they had experienced some form of RSA intervention. By 2006, this percentage had more than doubled; to 28 per cent. The Bureau also found significant increases in the percentage of respondents showing three or more signs of intoxication that were either:

- refused service (up from 3.8 per cent to 11.7 per cent),
- asked to stop drinking (up from 3.8 per cent to 15.0 per cent) or
- had transport home arranged for them (up from 6.4 per cent to 9.2 per cent)

The percentage of intoxicated respondents who reported that they continued to be served alcoholic drinks fell (from 65 per cent to 54 per cent) but the difference was not statistically significant.

Authors: *Linda Scott, Neil Donnelly, Suzanne Poynton and Don Weatherburn, BOCSAR January 2007* <http://www.lawlink.nsw.gov.au/bocsar>

INTOXICATION GUIDELINES

These Guidelines are published by the Director-General of Communities NSW under section 5 of the Liquor Act 2007. They are designed to assist you to determine whether or not a person is intoxicated.

You must always have due regard to the following objectives of the liquor laws:

- **Need to minimise harm associated with the misuse and abuse of liquor**
- **Encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor**
- **Ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.**

WHAT IS THE LAW?

The NSW *Liquor Act 2007* (section 5) states that a person is **intoxicated** if:

(a) *the person's speech, balance, co-ordination or behaviour is noticeably affected, and*

(b) *it is reasonable in the circumstances to believe that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor.*

Under the NSW liquor laws licensees and staff must ensure that patrons do not become intoxicated. Intoxicated persons are to be removed from the premises immediately or refused entry onto the licensed premises.

WHAT ARE THE NOTICEABLE SIGNS OF INTOXICATION			
These symptoms or signs are not exhaustive, and not necessarily conclusive of intoxication			
Speech	Balance	Co-ordination	Behaviour
<ul style="list-style-type: none"> • slurring words • rambling or unintelligible conversation • incoherent or muddled speech • loss of train of thought • not understanding normal conversation • difficulty in paying attention 	<ul style="list-style-type: none"> • unsteady on feet • swaying uncontrollably • staggering • difficulty walking straight • cannot stand or falling down • stumbling • bumping into or knocking over furniture and people 	<ul style="list-style-type: none"> • lack of coordination • spilling drinks • dropping drinks • fumbling change • difficulty counting money or paying • difficulty opening or closing doors • inability to find one's mouth with a glass 	<ul style="list-style-type: none"> • rudeness • aggression • belligerent • argumentative • offensive • bad tempered • physically violent • loud /boisterous • confused • disorderly • exuberance • using offensive language • annoying / pestering others • overly friendly • loss of inhibition • inappropriate sexual advances • drowsiness or sleeping at a bar or table • vomiting • drinking rapidly

A licensee is liable for permitting intoxication if an intoxicated person is detected by authorised officers (police officer, OLGR inspector) on the premises. This offence applies regardless of whether the intoxicated person is still drinking on the licensed premises.

Licensees are deemed to have permitted intoxication unless they prove:

- They took the following steps:
 - asked the intoxicated person to leave the premises
 - contacted, or attempted to contact, police for assistance in removing the person from the premises
 - refused to serve the intoxicated person any more alcohol.
- They took other reasonable steps to prevent intoxication on the licensed premises.
- The intoxicated person did not consume alcohol on the licensed premises.

Anyone, including staff and other patrons, can be prosecuted if they are found supplying liquor to an intoxicated patron. Fines of up to \$11,000 apply.

STANDARD DRINK

The concept of a standard drink enables people to keep track of how much alcohol they are consuming. A standard drink contains 10 grams of pure alcohol.

The Standard Drink Guide can be used to help identify how many standard drinks have been consumed.

The Standard Drink Guide is available from: <http://www.alcohol.gov.au>

HOW ELSE TO DETERMINE IF SOMEONE IS INTOXICATED

Make observations:

- Does the person smell of alcohol?
- How long has the person been drinking?
- When did the person enter the premises?
- Was the person affected by alcohol when they arrived?
- What type of alcohol has been consumed?
- How much alcohol have you seen the person drink?

Your observations will help you form a reasonable belief as to whether the person is intoxicated as a result of alcohol consumption.

Talk to the person and their friends to help determine whether the person is intoxicated or becoming intoxicated.

REASONABLE BELIEF THAT A PERSON IS INTOXICATED

The law requires you to form a reasonable belief that the person is intoxicated as a result of alcohol consumption. It is all right if you refuse service to a person on the basis of this belief, even if you are wrong.

Reasonable grounds for a belief that a person is intoxicated are what a reasonable person would believe in the circumstances, taking into account the relevant knowledge and facts presented.

You should be sure of your reasons for refusal of service and these reasons should not be discriminatory, for example race, sex, disability.

A person has the right to take the matter to the Anti-Discrimination Board if they feel they have been subjected to discrimination.

ARE THERE CONDITIONS THAT EXHIBIT SIMILAR SYMPTOMS/SIGNS TO INTOXICATION?

Some medical conditions, disabilities or the use of drugs may cause similar behaviours without the person being intoxicated as a result of alcohol consumption.

Prior to refusing service on the basis that a person is intoxicated, you should endeavour to determine whether the person has a medical condition or disability which may cause signs or symptoms similar to intoxication.

If the person has a medical condition or disability, it is likely that their friends will be able to tell you. Be sensitive to a person's right to privacy.

Examples only:

- acute infections
- Acquired Brain Injury
- brain trauma / tumours
- delirium
- diabetes / hypoglycaemia
- epilepsy
- head injuries
- pneumonia
- seizures and post seizure states
- stroke

Even though a person has a pre-existing condition, if you have observed the person consuming alcohol and the person has been drinking for some time, then it would be reasonable to form a belief that the person is intoxicated as a result of alcohol consumption.

HOW TO PREVENT INTOXICATION

It is your responsibility to prevent patrons from becoming intoxicated. There are things you can do including:

- Talk to your patrons and get to know their drinking patterns and intentions.
- Alert other staff.
- Serve free water and keep water available.
- Promote low or mid-strength alcoholic drinks, non-alcoholic drinks and food.
- Provide free snack food.
- Slow service down for the patron.
- Wait for the patron to re-order, don't automatically top up drinks.
- Do not conduct an activity or promotion that will result in patrons engaging in irresponsible, rapid or excessive consumption of liquor or unsafe activities.

WHAT TO DO IF SOMEONE IS INTOXICATED

If you have reasonable grounds for the belief that someone is intoxicated as a result of alcohol consumption you must refuse service to that person. Under the law the person must also be asked to leave the premises.

Procedures for dealing with intoxication incidents should be in place and your staff should be trained in these procedures. The OLGR's *Alcohol Management Operations Register* (AMOR) is a tool that could be used for this purpose. For more information about AMOR: http://www.olgr.nsw.gov.au/gaming_info_compliance_tools.asp

When refusing service to a person:

- Introduce yourself to the person and tell them your name and your role, and ask their name.
- Approach the person in a friendly and respectful manner. Patronising or authoritarian attitudes can often evoke anger and make the person aggressive – this is a common response to threats to one's dignity and self-respect. Try not to speak to the person in front of others.
- When talking to the person: use their name; use slow, distinct speech; use short, simple sentences; avoid emotion and involved discussions; use appropriate eye contact (limit for cultural reasons); and adjust speaking pace to match the patron's.
- Give a clear, concrete statement that by law they cannot be served another drink.
- Notify the manager/licensee/supervisor or security. Also notify other bar staff that you have refused service to the person. If a shift change is nearing, notify the new staff.
- Give a clear instruction that the person must leave the premises. If necessary, guide them to the exit, ensuring that they have all their personal possessions with them.
- If considered necessary, management may consider imposing a short term ban.

PENALTIES

Supplying alcohol to an intoxicated person can be very expensive. The licensee or staff can be fined up to \$11,000 or be issued with an on-the spot fine by way of a Penalty Notice. It is also an offence for other patrons to supply alcohol to an intoxicated person, with a maximum fine of \$1,100 applying.

MORE INFORMATION

Phone: (02) 9995 0333

Email: info@olgr.nsw.gov.au

These guidelines are published by the Director-General of Communities NSW under section 5 of the Liquor Act 2007 and are subject to periodic review. Please go to www.olgr.nsw.gov.au to ensure you are using the latest guidelines.

Published 1 July 2008

LIQUOR PROMOTION GUIDELINES

This guideline is published by the Director-General of Communities NSW under section 102 of the Liquor Act 2007, and indicates the kinds of activities or promotions that the Director would restrict or prohibit.

You must always have due regard to the following objectives of the liquor laws:

- **Need to minimise harm associated with the misuse and abuse of liquor**
- **Encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor**
- **Ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.**

PURPOSE

To ensure that licensees sell and supply liquor responsibly, the Director-General of Communities NSW has developed this guideline for the responsible promotion of liquor.

This guide describes the circumstances upon which the Director may, by notice in writing given to a licensee, restrict or prohibit the licensee carrying on, or being involved in, activities or promotions involving the sale or supply of liquor.

This guideline applies to all liquor licensed premises. All the matters mentioned in this guide are of high relevance to hotels, clubs and restaurants; lesser relevance to package liquor premises (takeaway sales through a bottleshop or home delivery); and lower relevance to producer wholesalers (winemakers / brewers).

All licensees should have a good understanding of this guideline. Using this guide will help you determine the risks associated with a proposed activity or promotion involving the sale and supply of liquor. If any unacceptable risks are associated with the activity or promotion, it should not be conducted.

WHAT IS THE LAW?

The *Liquor Act 2007* (section 102) requires the Director-General of Communities NSW to issue publicly available guidelines that indicate the kinds of activities or promotions that the Director would restrict or prohibit.

What are the circumstances for the issue of a notice that would restrict or prohibit activities or promotions?

The Director-General of Communities NSW may restrict or prohibit an activity or promotion in a specific venue if the Director believes that the activity or promotion:

- | | |
|---|--|
| <ul style="list-style-type: none"> • uses designs, names, motifs and characters that have special appeal to minors • is indecent or offensive • involves the provision of liquor in non-standard measures that encourages irresponsible drinking and is likely to result in intoxication • uses emotive descriptions that encourages irresponsible drinking and is likely to result in intoxication • involves free drinks, or extreme discounts or discounts of a limited duration, that creates an | <ul style="list-style-type: none"> incentive for patrons to consume liquor more rapidly than they otherwise might • encourages irresponsible, rapid or excessive consumption of liquor • is not in the public interest. |
|---|--|

The table on page 3 lists unacceptable liquor activities and promotions that will be subject to the issue of a notice. Whether or not other activities or promotions will be subject to the issue of a notice will depend on how the promotion is conducted, whether the risks have been satisfactorily controlled, and the response of patrons.

Failure to comply with the notice may result in fines of up to \$5,500.

Are there any other actions that the Director can initiate?

Yes, if problems have arisen with the conduct of liquor activities and promotions, the Director may:

- give a written direction, which can take effect immediately or on a later date stopping the activity or promotion (section 75). Failure to comply with the direction may result in fines of up to \$5,500
- make a complaint to the Authority to take disciplinary action (section 139) — this would be on the grounds that the licensee or manager has engaged in conduct or activities that are likely to encourage misuse or abuse of liquor (such as binge drinking or excessive consumption).

MORE INFORMATION

Phone: (02) 9995 0333 Email: info@olgr.nsw.gov.au

Complaints about inappropriate liquor promotions should be made to the complaints manager: telephone: 9995 0776 email: robert.hanns@olgr.nsw.gov.au

These guidelines are subject to periodic review. Please go to www.olgr.nsw.gov.au to ensure you are using the latest guidelines.

LIQUOR ACTIVITY OR PROMOTION RISK ASSESSMENT GUIDE

The following is a useful tool to help you determine whether the activity or promotion is acceptable.

1. Assess the risk	Assess the risk in accordance with the risk assessment table below before commencing the activity or promotion
2. Develop a management plan	If the risk assessment indicates that the promotion is a medium risk – identify whether the risks can be properly managed
3. Do not conduct the promotion	Do not conduct the promotion if the risk assessment identifies the proposed promotion: <ul style="list-style-type: none"> • is an unacceptable risk • is a medium risk and you are unable to properly manage the risk
4. Immediately cease	Immediately cease an activity or promotion when you identify that patrons are engaging in irresponsible, rapid or excessive consumption of liquor or unsafe activities

Unacceptable Risk	Medium Risk	Low Risk
-------------------	-------------	----------

Service and consumption	<ul style="list-style-type: none"> • Competitions, games of skill, challenges, lotteries, games of chance, promotions and similar which involve the following attributes: <ul style="list-style-type: none"> ○ entry, participation or outcome is dependent on the consumption of more than one alcoholic beverage¹ on the premises², and/or ○ prizes of alcoholic beverages are awarded and which involve their consumption on the premises • Labelling or titling that is likely to promote irresponsible consumption • Non-standard containers that are likely to result in rapid intoxication • Holding a person's financial institution card³ • Providing alcohol on credit / pay later basis⁴ • Undercover (stealth) and viral marketing⁵ 	<ul style="list-style-type: none"> • Bulk pre-mix • Multiple drinks • Non-standard measures • Mid-strength alcoholic (not greater than 3.5%) promotions 	<ul style="list-style-type: none"> • Standard measures • Half-measures • Low alcoholic drink (not greater than 3%) promotions • Liquor prizes not consumed on the premises • Traditional tasting measures in connection with brewers, winemakers, retailers
--------------------------------	---	---	--

Price	<ul style="list-style-type: none"> • 50% or higher discount for consumption on the premises • Potential for patrons to stockpile drinks to take advantage of offer • All you can drink offers for a set price • Two for the price of one offers • More than one free drink⁶ 	<ul style="list-style-type: none"> • 25% to 49% discount for consumption on the premises • Mid-strength alcoholic drinks (not greater than 3.5%) 	<ul style="list-style-type: none"> • Less than 25% discount for consumption on the premise • One free drink • Low alcoholic drinks
--------------	---	--	---

¹ A method must be adopted to ensure a person does not acquire any more than one alcoholic beverage

² This does not stop promotions or activities where consumption will occur at private homes, etc.

³ Does not apply to the holding of a person's corporate / business card for a corporate function. Does not apply to a person's card if the account is settled before the conclusion of trade in which the consumption occurred

⁴ Does not apply to an account held on behalf by a corporation for a corporate function. Does not apply to the holding of a person's corporate, business or person financial institution card if the account is settled before the conclusion of trade in which the consumption occurred. Does not apply to guests staying in-house.

⁵ Note. For the purposes of clarification, this does not apply to persons employed to promote a brand, who are clearly identified as promoting a brand and who have undergone RSA training

<ul style="list-style-type: none"> • A meal deal with more than one drink included in the price or a dinner for two people deal with more than one bottle of wine • Promotional cards, vouchers or incentives providing free or discounted drinks for consumption on the premises which are distributed away from the premises⁷ 	(not greater than 3%)
--	-----------------------

Time frame⁸	<ul style="list-style-type: none"> • More than 2 hours • Anytime after 9 pm⁹ if it involves alcoholic beverages with an alcoholic content greater than 3.5% • Separation between events is less than 4 hours 	<ul style="list-style-type: none"> • 1 to 2 hours • Anytime after 9 pm if it involves mid-strength alcoholic drinks (alcoholic content not greater than 3.5%) 	<ul style="list-style-type: none"> • Less than 1 hour • Anytime after midnight if it involves low alcoholic drinks (alcoholic content not greater than 3%)
-------------------------------	--	---	--

Patron safety and amenity	<ul style="list-style-type: none"> • Dangerous or unsafe behaviour • Sexually provocative • Lewd and indecent behaviour 	<ul style="list-style-type: none"> • Slip / trip / fall risks 	<ul style="list-style-type: none"> • Non-threatening • Reasonable physical activity
----------------------------------	--	--	---

Legality	<ul style="list-style-type: none"> • Any promotion or activity that promotes an illegal / unlawful activity
-----------------	--

⁶ One free drink is acceptable – a distribution method must be adopted to ensure a person does not acquire any more than one free drink. This does not apply to non-commercial activities such as where free drink(s) are provided in conjunction with bona fide meetings - annual general meetings of members of a registered club, attendance at regular meetings of a community group (eg. RSL sub-branch)

⁷ Drink cards, promotional cards, vouchers or incentives distributed on the premises are acceptable, however, they must only entitle the person to one free drink per person per day – a distribution method must be adopted to ensure a person does not acquire any more than one free drink or more than one drink card

⁸ Applies to ‘happy hour’ and similar time-based activities and promotions conducted over a lengthy period of time

⁹ From 9pm until closing time or 5am which ever comes sooner

LIQUOR ACTIVITIES AND PROMOTIONS SUBJECT TO A NOTICE UNDER SECTION 102

Activity or promotion	Indicative examples
<ul style="list-style-type: none"> • Any activity or promotion likely to cause people to drink excessively 	<ul style="list-style-type: none"> • promotional cards, vouchers or incentives providing free or discounted drinks which are distributed away from the licensed premises and which involves consumption on the premises¹⁰ • external advertising of a complimentary drink unless drink is provided ancillary to another service – accommodation, food • promotions, events or festivals which focus principally upon the consumption of alcohol, e.g. Mad Monday • only selling liquor in a container of one size (e.g. schooner glasses only available – patron not able to order a middy)
<ul style="list-style-type: none"> • Competitions, games of skill, challenges, lotteries, games of chance, promotions and similar which involve the following attributes: <ul style="list-style-type: none"> ○ entry, participation or outcome is dependent on the consumption of more than one alcoholic beverage¹¹ on the premises¹², and/or ○ prizes of alcoholic beverages are awarded and which involve their consumption on the premises¹³ 	<ul style="list-style-type: none"> • skolling games, boat races • consumption of liquor from a water pistol • 'beer pong' • toss the boss competitions • flip and win • schooner draws • joker poker • 'Around the world' • '60 shots in 60 seconds' • pub golf
<ul style="list-style-type: none"> • Labelling or titling of promotions that suggest irresponsible or excessive consumption of liquor 	<ul style="list-style-type: none"> • laybacks, slammers, blasters, bombs and similar • 'Beat the clock', 'Drink like a fish'
<ul style="list-style-type: none"> • Drink cards and similar that cause people to drink excessively¹⁴ 	<ul style="list-style-type: none"> • drinks cards that provide multiple free drinks¹⁵, extreme discounts or discounts of limited duration on a given day or night and / or have the capacity to be stockpiled by patrons or given to other patrons
<ul style="list-style-type: none"> • Non-standard containers that are likely to result in rapid intoxication 	<ul style="list-style-type: none"> • serving liquor in a yard glass for skolling • multiple supply of shooters to a person • vodka served in a schooner glass • consumption of liquor from a water pistol • laybacks, slammers, blasters, bombs and similar

¹⁰ Does not include invitations to members of a club / reward system via a mailing list where persons have acknowledged their willingness to receive such invitations provided the list has not been compiled through a competition or similar activity

¹¹ A method must be adopted to ensure a person does not acquire any more than one alcoholic beverage

¹² This does not stop promotions or activities where consumption will occur at private homes, etc.

¹³ Liquor prizes not consumed on the premises are acceptable

¹⁴ Drink cards, promotional cards, vouchers or incentives distributed on the premises are acceptable provided they only entitle the person to one free drink per person per day – a distribution method must be adopted to ensure a person does not acquire any more than one free drink or more than one drink card

¹⁵ One free drink is acceptable – a distribution method must be adopted to ensure a person does not acquire any more than one free drink

LIQUOR ACTIVITIES AND PROMOTIONS SUBJECT TO A NOTICE UNDER SECTION 102

Activity or promotion	Indicative examples
	<ul style="list-style-type: none"> • jugs of mixed spirits
<ul style="list-style-type: none"> • 'Happy hour' and similar time-based activities and promotions conducted over a lengthy period of time 	<ul style="list-style-type: none"> • time frame for the promotion is more than 2 hours • time frame for promotion occurs after 9 pm¹⁶ and it involves alcoholic beverages with an alcoholic content greater than 3.5% • separation between each 'happy hour' less than 4 hours
<ul style="list-style-type: none"> • Extreme discounted drinks involving the consumption of alcohol on the licensed premises 	<ul style="list-style-type: none"> • discounts of more than 50% • all you can drink offers for a set price - 'all you can drink for \$10' • 'buy one get one free'
<ul style="list-style-type: none"> • More than one free drink¹⁷ • A meal deal with more than one drink included in the price or a dinner for two people deal with more than one bottle of wine 	<ul style="list-style-type: none"> • 'free drinks until first point scored' (e.g. in conjunction with televised sport event) • gender based discounts - 'free drinks for women' • 'free drinks for 2 hours' • Meal deals with 5 drinks included in the price
<ul style="list-style-type: none"> • Undercover (stealth) marketing (marketing where patrons do not realise they are being marketed to)¹⁸ • Viral marketing 	<ul style="list-style-type: none"> • persons engaged to talk up alcoholic beverage to patrons they befriend, even buying alcoholic beverages for the patron (handing out samples) - a consumer will not only begin using that product themselves, but will also tell their friends about it, inciting a viral marketing campaign • persons engaged to spontaneously and enthusiastically talk up consumption of alcoholic beverages
<ul style="list-style-type: none"> • Holding a patron's financial-institution card¹⁹ • Providing alcohol on a credit / pay later basis²⁰ 	<ul style="list-style-type: none"> • holding a patron's financial-institution card and selling liquor to the patron over several days pending payment when the patron receives their social security benefit
<ul style="list-style-type: none"> • Liquor activities or promotions in conjunction with competitions that could potentially result in harassment of patrons and staff 	<ul style="list-style-type: none"> • sexually provocative activities • dangerous or unsafe behaviour • lewd and indecent behaviour

¹⁶ From 9pm until closing time or 5am whichever ever comes sooner

¹⁷ One free drink is acceptable – a distribution method must be adopted to ensure a person does not acquire any more than one free drink. This does not apply to non-commercial activities such as where free drink(s) are provided in conjunction with bona fide meetings - annual general meetings of members of a registered club, attendance at regular meetings of a community group (eg. RSL sub-branch)

¹⁸ Note. For the purposes of clarification, this does not apply to persons employed to promote a brand, who are clearly identified as promoting a brand and who have undergone RSA training

¹⁹ Does not apply to an account held on behalf by a corporation for a corporate function. Does not apply to the holding of a person's corporate, business or person financial institution card if the account is settled before the conclusion of trade in which the consumption occurred. Does not apply to guests staying in-house.

²⁰ Does not apply to an account held for or on behalf by a corporation / business for a corporate function. Does not apply if the account is settled before the conclusion of trade in which the consumption occurred