

Intoxication guidelines

These guidelines are published by the Director of Liquor and Gaming 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.

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.

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

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 0776

Email: info@olgr.nsw.gov.au

These guidelines are published by the Director of Liquor and Gaming 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.

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