



Module 3 – Part I

Intoxicated People and Alcohol Sales

In this module, we will focus on preventing illegal alcohol sales to people that are intoxicated. This module will take 10 minutes.



Module Objectives

When you complete this module, you will be able to:



Describe how seller-servers are responsible for the acts of their customers (Dram Shop Act).



Given a scenario, state if a sale of alcohol is legal or illegal with regards to an intoxicated person.



Define blood alcohol concentration (BAC) and list factors that affect BAC in individuals



Use observations to detect if a person is intoxicated



Given a scenario, select appropriate intervention techniques for preventing sales to intoxicated persons.

TOPICS IN THIS MODULE



✓ **KEY #1 – Know the Law**

- *Intoxication Laws*
- *Dram Shop Act*
- *Driving and Alcohol*

✓ **KEY #2 – Use Observations to Know Your Customers**

- *Signs of Intoxication*
- *Other methods of determining intoxication*

✓ **KEY #3 – Know When and How to Say “No”**

KEY # 1: Know the Law

- ✓ This section describes the laws intended to prevent the sale of alcoholic beverages to intoxicated persons.
- ✓ According to the Texas Penal Code §49.01, intoxicated is defined as: not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body; or having an alcohol concentration of 0.08 or more.
- ✓ The definition of public intoxication is if the person appears in a public place while intoxicated to the degree that the person may endanger the person or another

Codes and Rules



Sec. 49.02 – Public Intoxication (Texas Penal Code)

(a) A person commits an offense if the person appears in a public place while intoxicated to the degree that the person may endanger the person or another.

(a-1) For the purposes of this section, a premises licensed or permitted under the Alcoholic Beverage Code is a public place.

(b) It is a defense to prosecution under this section that the alcohol or other substance was administered for therapeutic purposes and as a part of the person's professional medical treatment by a licensed physician.

Codes and Rules



Sec. 49.02 – Continued

(c) Except as provided by Subsection (e), an offense under this section is a Class C misdemeanor.

(d) An offense under this section is not a lesser included offense under Section 49.04.

(e) An offense under this section committed by a person younger than 21 years of age is punishable in the same manner as if the minor committed an offense to which Section 106.071, Alcoholic Beverage Code, applies.

A close-up, shallow depth-of-field photograph of a silver fountain pen resting on a white document. The pen's nib is visible, and the background is blurred, showing hints of other documents and a desk.

What It Means & Key Points



Under Texas law, it is illegal for a person to be intoxicated in a public place to the degree that they might be a danger to themselves or others.



A business that is licensed or permitted to sell or serve alcoholic beverages is considered a public place. [Texas Penal Code §49.02]

Codes and Rules



Sec. 101.63 – Sale to Certain Persons (Texas Alcoholic Beverage Code)

(a) A person commits an offense if the person with criminal negligence sells an alcoholic beverage to a habitual drunkard or an intoxicated or insane person.

(b) Except as provided in Subsection (c) of this section, a violation of this section is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500, by confinement in jail for not more than one year, or by both.

Codes and Rules



Sec. 101.63 – Continued

(c) If a person has been previously convicted of a violation of this section or of Section 106.03 of this code, a violation is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000, by confinement in jail for not more than one year, or by both.

A close-up, shallow depth-of-field photograph of a silver fountain pen resting on a white sheet of paper. The pen's nib is visible, and the background is softly blurred, showing hints of other papers and possibly a desk lamp.

What It Means & Key Points



It is illegal to sell an alcoholic beverage to a person that you know is intoxicated. [*Texas Alcoholic Beverage Code Sec. 101.63 (a)*]



The penalties are:

First offense

- A fine of not less than \$100 nor more than \$500;
- Confinement in jail for not more than one year;
- Both a fine and confinement.

Second offense

- A fine of not less than \$500 nor more than \$1,000;
- Confinement in jail for not more than one year;
- Both a fine and confinement.

Codes and Rules



Sec. 104.01. Lewd, Immoral, Indecent Conduct (Texas Alcoholic Beverage Code)

No person authorized to sell beer at retail, nor his agent, servant, or employee, may engage in or permit conduct on the premises of the retailer which is lewd, immoral, or offensive to public decency, including, but not limited to, any of the following acts:

- (1) the use of loud and vociferous or obscene, vulgar, or indecent language, or permitting its use;
- (2) the exposure of person or permitting a person to expose his person;

A close-up, shallow depth-of-field photograph of a silver fountain pen resting on a white document. The pen's nib is visible, and the background is blurred, showing hints of other documents and a green plant.

Codes and Rules



Sec. 104.01 – Continued

(3) rudely displaying or permitting a person to rudely display a pistol or other deadly weapon in a manner calculated to disturb persons in the retail establishment;

(4) solicitation of any person to buy drinks for consumption by the retailer or any of his employees;

(5) being intoxicated on the licensed premises;

(6) permitting lewd or vulgar entertainment or acts;

(7) permitting solicitations of persons for immoral or sexual purposes;

Codes and Rules



Sec. 104.01 - Continued

(8) failing or refusing to comply with state or municipal health or sanitary laws or ordinances; or

(9) possession of a narcotic or any equipment used or designed for the administering of a narcotic or permitting a person on the licensed premises to do so.

What It Means & Key Points



It is illegal for an employee to ask a customer to buy them a drink, or to be intoxicated on the premise where they work as a seller-server. [*Texas Alcoholic Beverage Code Sec.104.01*]