

Module 3

Intoxicated People and Alcohol Sales

Know the Law

Intoxication Laws

- Under Texas law, it is illegal for a person to appear in a public place while intoxicated to the degree that the person may endanger the person or another.
- A business that is licensed or permitted to sell or serve alcoholic beverages is considered a public place. [Texas Penal Code §49.02]

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

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

Know the Law

Penalties

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 \$1000
- Confinement in jail for not more than one year
- Both a fine and confinement

Dram Shop Laws

Dram Shop Act

- Dram Shop Act refers to the law governing the civil liability of a provider who sells/serves/provides alcohol beverages; including, but not limited to licensees or permittees.
- Civil liability allows a person(s) who is injured or suffers property damage to sue the provider in civil court.
- Texas Legislature enacted the Dram Shop Act on June 1, 1987 in Chapter 2 of the Texas Alcoholic Beverage Code.

Dram Shop Laws

Dram Shop Act

- The Act establishes that providers including licensees/permittees are liable for actions of their employees, customers, members or guests who are or become intoxicated and cause injury or property damage to themselves or a third party.
- Establishments can be held liable in civil court when an employee sells/serves/provides alcohol to an obviously intoxicated person (including minors) who presents a clear danger to him/herself or others and who subsequently causes injury or damage.
- The licensee/permittee is subject to revocation of their license/permit for violating the Dram Shop Act. Liability for damages caused would be determined in a civil court.
- Do you want to take responsibility for the actions of an intoxicated person?

Know Your Customers



Keys To Customer Observation - For Intoxication

To decide if a sale of alcohol is legal, watch your customers to:

- **See How They Look**
 - Look at your customer and notice their general appearance.
- **See What They Do**
 - Watch your customer's movements and behaviors.
- **See How They React**
 - Watch how your customer interacts with you and others.
 - Watch the tab and See How Much Alcohol Has Been Purchased or Consumed

Observing Your Customers

Observe your customer's

- Appearance
- Behavior
- Reactions and Interactions

For off-premise sales, you may only have a few moments to determine if a customer is intoxicated.

On-premise servers may be able to keep a count of the drinks served to the customer and periodically reassess the customer for signs of intoxication.

Observing Your Customers

Observe your customer's appearance.

- They may become flushed in the face.
- They may not be aware of their appearance and have mussed hair or disheveled clothing.
- What other things might you observe?

Observing Your Customers

Observe your customer's behavior

- Talk to the customer when they first enter your establishment and use this to establish a baseline.
- They may be clumsy and less able to perform ordinary tasks, such as lighting a cigarette or picking up change.
- They may feel invincible and take more risks than when sober.
- What other behaviors may be exhibited?

Observing Your Customers

Reactions and Interactions

- An intoxicated person may not be able to speak coherently;
- An intoxicated person may be argumentative;
- An intoxicated person can lose their inhibitions while drinking alcohol; they can say and do things they would not ordinarily do.

See how they are reacting to you and others in their party.

Observing Your Customers

Blood Alcohol Concentration (BAC)

- Blood alcohol concentration (BAC) is a measurement of the amount of alcohol in the bloodstream expressed as a percentage. For example, if someone has a BAC of 0.10 percent this means that the person has one part chemical alcohol with 1000 parts blood fluids.

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Intoxicated People & Alcohol Sales

**MEN
KNOW YOUR LIMIT**

Approximate Blood Alcohol Content (BAC) In One Hour
Source: National Highway Traffic Safety Administration

Drinks	Body Weight In Pounds								Influenced
	100	120	140	160	180	200	220	240	
1	.04	.03	.03	.02	.02	.02	.02	.02	Possibly
2	.08	.06	.05	.05	.04	.04	.03	.03	Possibly
3	.11	.09	.08	.07	.06	.06	.05	.05	Impaired
4	.15	.12	.11	.09	.08	.08	.07	.06	Impaired
5	.19	.16	.13	.12	.11	.09	.09	.08	Legally Intoxicated
6	.23	.19	.16	.14	.13	.11	.10	.09	Legally Intoxicated
7	.26	.22	.19	.16	.15	.13	.12	.11	Legally Intoxicated
8	.30	.25	.21	.19	.17	.15	.14	.13	Legally Intoxicated
9	.34	.28	.24	.21	.19	.17	.15	.14	Legally Intoxicated
10	.38	.31	.27	.23	.21	.19	.17	.16	Legally Intoxicated

SUBTRACT .015 FOR EACH HOUR AFTER DRINKING.






One drink equals 1.5 oz. of 80 proof liquor (40%), 12 oz. beer (5%), or 5 oz. wine (12%).

Note: The figures are averages and may vary based on the amount of food in your stomach.

INTOXICATION:

- Not having normal use of mental or physical faculties by reason of the introduction of:
 - Alcohol;
 - A controlled substance; or
 - A combination.
- Having a BAC of 0.08 or more.

Texas Penal Code §40.01

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**WOMEN
KNOW YOUR LIMIT**

Approximate Blood Alcohol Content (BAC) In One Hour
Source: National Highway Traffic Safety Administration

Drinks	Body Weight In Pounds								Influenced
	100	120	140	160	180	200	220	240	
1	.05	.04	.03	.03	.03	.02	.02	.02	Possibly
2	.09	.08	.07	.06	.05	.05	.04	.04	Possibly
3	.14	.11	.11	.09	.08	.07	.06	.06	Impaired
4	.18	.15	.13	.11	.10	.09	.08	.08	Impaired
5	.23	.19	.16	.14	.13	.11	.10	.09	Legally Intoxicated
6	.27	.23	.19	.17	.15	.14	.12	.11	Legally Intoxicated
7	.32	.27	.23	.20	.18	.16	.14	.13	Legally Intoxicated
8	.36	.30	.26	.23	.20	.18	.17	.15	Legally Intoxicated
9	.41	.34	.29	.26	.23	.20	.19	.17	Legally Intoxicated
10	.45	.38	.32	.28	.25	.23	.21	.19	Legally Intoxicated

SUBTRACT .015 FOR EACH HOUR AFTER DRINKING.






One drink equals 1.5 oz. of 80 proof liquor (40%), 12 oz. beer (5%), or 5 oz. wine (12%).

Note: The figures are averages and may vary based on the amount of food in your stomach.

INTOXICATION:

- Not having normal use of mental or physical faculties by reason of the introduction of:
 - Alcohol;
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Subtract .015 for each hour after drinking. One drink is based on 1.5 oz of 80 proof liquor (40%), 12 oz. beer (4.5%), or 5 oz. wine (12%). The figures are averages and may vary based on the amount of food in the stomach. **NOTE:** At a BAC of 0.40% a person may become comatose and will be in danger of dying.








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Observing Your Customers

What is a Standard Drink?

- Remember not all drinks are equal when counting drinks. Multi-liquor drinks or over sized drinks have more alcohol than a single shot drink or a regular 12-ounce beer.

12 oz. regular beer	8-9 oz. malt liquor	5 oz. table wine	3-4 oz. fortified wine	2-3 oz. cordial, liqueur, or aperitif	1.5 oz. brandy	1.5 oz. 80-proof spirits
						
about 5% alcohol	about 7% alcohol	about 12% alcohol	about 17% alcohol	about 24% alcohol	about 40 % alcohol	about 40% alcohol

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regular beer (5% alc/vol)	malt liquor (7% alc/vol)	table wine (12% alc/vol)	80-proof spirits or "hard liquor" (40% alc/vol)
12 oz = 1	12 oz = 1½	750 ml (a regular wine bottle) = 5	A shot (1.5-oz glass/50-ml bottle) = 1
16 oz = 1.3	16 oz = 2		A mixed drink or cocktail = 1 or more
22 oz = 2	22 oz = 2½		200 ml (a "half pint") = 4 ½
40 oz = 3⅓	40 oz = 4½		375 ml (a "pint" or "half bottle") = 8 ½
			750 ml (a "fifth") = 17

Other Factors Related to Intoxication

The following can affect BAC and intoxication; therefore, always consider whether the person appears to be intoxicated.

- Gender
- Body weight and type
- Muscle/fat ratio
- Type and timing of food
- Fatigue

Other Factors of Intoxication

Prescription, Over the Counter, or Illegal Drugs

- If a person is taking prescription, over the counter, or illegal drugs it will not change their BAC.
- However, the person's reaction to the alcohol may increase, and they may become intoxicated more quickly.

Other Factors of Intoxication

Drink Tampering

- Be aware that drink tampering does occur.

Rohypnol and Gammahydroxybutyrate (GHB)

- There is no unusual taste or look to a drink contaminated by either of these drugs.
- Rohypnol turns drinks blue.
- GHB turns drink cloudy.

Be aware of any suspicious activities where someone might have placed a drug in an unattended drink.

If you suspect drink tampering, remove the tampered drink with the pretext of bringing a fresh drink, alert management, and offer assistance.

Alcohol Poisoning

Alcohol Poisoning is a dangerous consequence of excessive drinking

- Signs and symptoms of alcohol poisoning:
 - Mental confusion, stupor, coma, or person cannot be roused
 - Vomiting
 - Slow breathing (fewer than eight breaths per minute)
 - Irregular breathing (10 seconds or more between breaths)
 - Hypothermia (low body temperature), bluish skin color, paleness

Know When and How to Say “No”

Be Quick

- Preventing Intoxication - If you see that a customer is drinking quickly, they may become intoxicated quickly as well. In this case, you can:
 - Slow down service
 - Avoid going to the table as often
 - Offer food or non-alcoholic beverages
 - Suggest other activities

NOTE: Remember, a customer may have had one or more drinks elsewhere, so it is important to establish a customer's current state before serving alcoholic beverages.

Know When and How to Say “No”

Be Clear and Firm

- If a person is intoxicated in your establishment, refuse to serve/sell or continue to serve/sell them alcohol, and state the law and/or your company policy. Make sure that you are firm, fair, and friendly.
- Keep your temper under control, even if the situation is annoying. Show the customer you won't change your mind.
- Remove the alcohol out of reach of the customer and offer to call a friend or cab to take them home.
- Express your concern for their safety and let them know you would like to see them return to your establishment.
- Don't make judgmental statements such as “you're drunk.” Be courteous and firm about your refusal to serve them any more alcohol and walk away.

Know When and How to Say “No”

Be Consistent

- Do not stay and argue and do not bargain or back down once you make the decision to stop service. The intoxicated person does not have normal use of their mental faculties and arguing will escalate the situation.
- Make sure other servers and management know and will back up your decision to stop service.

Illness Masquerading as Intoxication

Some illnesses may be mistaken for or have affects that mimic intoxication.

Look for Medic Alert* jewelry if you think someone may have a condition that may be mimicking intoxication. A medic alert foundation bracelet or emblem indicates a possible life-threatening medical problem.



Know When and How to Say “No”

Designated Drivers

- A designated driver is a person in a group who chooses not to drink alcohol to provide a safe and sober ride for the group. Some establishments offer safe-ride programs. Check with your manager for your company's policy.
- Having a designated driver for a group does not mean the group may legally become intoxicated. Public intoxication is still illegal even if you do not drive.
- If the customer refuses a cab or to allow a friend to pick them up, you have no choice but to call law enforcement.