



It's in everybody's interest.

The Commissioner for Licensing
presents a program to create a better
hospitality industry for Tasmania

Responsible Serving of Alcohol

Developed and written by *mischief business engineering pty ltd* and published by the Department of Treasury and Finance.

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Responsible Serving of Alcohol

Welcome to the Responsible Serving of Alcohol Program

This workbook aims to provide staff and management with the knowledge and ability to make sure that their responsibilities regarding the service of alcohol are met with due care and with an understanding of the law that controls the service of alcohol.

Service of alcohol is a serious business and although it is often thought of as part of a social, enjoyable pastime it demands attention and recognition of the responsibilities it brings.

All people working in the service of alcohol are required to have completed this program (permit applicants and permit holders must successfully complete the program when, or if, directed by the Commissioner for Licensing). This program aims to give participants an understanding of the responsibilities involved in the service of alcohol to others.

We hope that you enjoy the course and encourage you to ask questions, share your stories and participate fully in activities.

Note: References to the maximum amounts payable for offences breaching the law are based on the value of a penalty unit for 2016–17. (Fines are expressed in the legislation as penalty units. The dollar value of a penalty unit is adjusted each year based on the consumer price index.) The latest fee units can be found on the Liquor and Gaming website at www.liquorlicensing.tas.gov.au > Liquor > Industry Requirements > Penalties.

*It's more than the law –
it's creating a better
industry for Tasmania.*



Responsible Serving of Alcohol

Overview of the National Unit

Completion of this unit and any required assessment may provide evidence or credit toward a statement of attainment for the nationally accredited unit *Provide responsible service of alcohol*.¹

Assessment activities will need to be completed as required by the Registered Training Organisation delivering this program. Any questions regarding certification should be directed to your course facilitator.

The unit and assessment methods/activities will be explained by the course facilitator. You should read the unit outline to find out the requirements of the unit. This will be given to you by the facilitator at the beginning of the course.

If there is any reason that may prevent you from completing a written assessment, please contact your facilitator (in confidence) who will consider your circumstances and *may* arrange for you to undertake another form of assessment.



¹ For information on the nationally accredited unit, visit <http://training.gov.au/Home/Tga>.

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The concept of duty of care

Each state and territory in Australia has its own law surrounding the sale and service of liquor and underpinning each is the concept of **Duty of Care**.

The concept of Duty of Care has been around for a long time.

It means that we all have to keep in mind that our actions can have an effect on others and that this effect may be negative or cause them harm.

We all have a duty of care to keep in mind that what we do, or what we don't do can have an effect on others.

In this situation, managers and staff have a duty of care to make sure that all people are safe from harm when on the premises as well as when they leave.

A simple definition of duty of care

"We all have a duty of care to take reasonable care not to cause foreseeable harm to other people or their property."

www.legaid.qld.gov.au

Case in point

In December 1998, a Melbourne publican was ordered to pay \$25,000 in damages for failing to protect one of his customers. The publican broke up a fight in his hotel and ordered both customers to leave. The second protested that the first would assault him when he left but the publican ignored the customer and forcibly ejected him. The second customer was then assaulted by the first in the street. The second customer sued the publican for failing to protect his welfare under a duty of care.

What would you have done?

Why is this a breach of the publican's duty of care to his customers?



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In the case of the service of alcohol, this concept of duty of care goes even further.

Vicarious liability (see the box opposite) is also a consideration to be made — especially by licensees and management.

Also, licensees and managers have a duty of care to their staff under the State's Work Health and Safety Law.

This means that employers have the responsibility to ensure a safe workplace as well as safe systems of work in their workplace. Not serving alcohol responsibly may put your staff at risk.

Employers are responsible for all people on the premises.

This includes:

- The customer who is served alcohol
- Other customers who are present
- Staff
- Anyone else who might be affected by the service of alcohol in or around the premises.

The concept of duty of care is important.

This program is designed to give you a better understanding of the responsibilities of serving alcohol to customers to minimise the possibility of harm.

Did you know?

Vicarious Liability means that as a licensee or manager, you may be held to be legally responsible for the actions of those under your supervision.

That is, if your staff commit an offence under the Licensing Act, you may be deemed to have committed the same offence.

It makes sense then to ensure that your staff are properly trained and fully aware of their responsibilities.



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The legal framework

In Tasmania, the sale of liquor is regulated under the *Liquor Licensing Act 1990*. The Act has a strong harm minimisation focus, prohibiting the sale of liquor except as authorised by a licence, permit or general liquor exemption². In particular, it also includes provisions that prohibit the sale of liquor to young people and to intoxicated persons, and the sale of undesirable products.

The object of the Act is to regulate the sale, supply, promotion and consumption of liquor so as to-

- (a) minimise harm arising from the misuse of liquor by –
 - (i) ensuring that the supply of liquor is carried out in a way that is in the best interests of the community and does not, as far as practicable, detract from public amenity; and
 - (ii) restricting undesirable liquor promotion and advertising and the supply of certain liquor products; and
 - (iii) encouraging a culture of responsible consumption of liquor; and
- (b) facilitate the responsible development of the liquor and hospitality industries in a way that is consistent with the best interests of the community.

In addition, the Act is supported by the:

- *Liquor Licensing Regulations 2016*, which prescribe various matters for the purposes of the Act including minimum age requirements for the sale and service of liquor on licensed and permit premises, certain matters relating to barring orders and evidence of age documents;
- *Liquor Licensing (Fees) Regulations 2015*, which prescribe fees for liquor licences and permits; and
- *Liquor Licensing (Infringement Notices) Regulations 2008*, which provide the ability to issue infringement notices and specify the prescribed offences and penalties for breaches of the Act.

² General liquor exemptions, as approved by the Commissioner for Licensing, authorise the sale of liquor under certain conditions without the need for a licence or permit. Further details are available at www.liquorlicensing.tas.gov.au

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The responsibilities of serving alcohol in practice

Each person who is employed to serve alcohol has a range of obligations to their patrons. This includes both staff, licensees of licensed premises and permit holders.

Some of these obligations are required by the law covering the sale and supply of liquor. Most obligations carry a fine if breached. In some instances, a breach of an obligation can escalate to a case being brought against the licensee or permit holder and his/her staff, and a determination of liability made in court.

When this happens the courts recognise previous cases in which similar circumstances have occurred in order to make a judgement. This is called precedent and can be binding (where courts have to follow the decisions made in higher courts) or persuasive (where courts take previous decisions into consideration, but may make their own judgement about the current case).

The case of the Tandara Motor Inn was taken all the way to the High Court of Australia and therefore creates a binding precedent on subsequent cases where there are very similar circumstances. The most famous previous case regarding the obligations of licensees and people involved in the sale of liquor was known as the Cole Case.

The Cole Case – a summary

Rosalie Cole was hit by a car and seriously injured after leaving the South Tweed Heads Rugby League Football Club at 6:20pm on 24 June 1994. She had been at the club since attending a breakfast where she consumed free Spumante that was provided on a 'self serve' basis. She continued to drink wine with a friend when she was observed to be drunk at 12:30pm. Despite this, she remained on the premises and continued to drink alcohol purchased by other people.

At about 6:00pm she refused an offer of a lift home in the Club's courtesy bus or taxi. Two male companions told staff they would "look after her" and they left the Club. She was hit by a four wheel drive as she walked alone about 100m from the Club.

Ms Cole issued proceedings against the Club and the driver of the vehicle. At first the case was heard in the NSW Supreme Court and Ms Cole was awarded damages of \$450 000 and the Club was found to have breached its duty of care to her by facilitating her intoxication.

However, on appeal to the NSW Court of Appeal the judgement was overturned where it was found that Ms Cole should have been responsible for her own actions and therefore must bear the consequences of her intoxication.

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Again, the decision regarding the liability of the club was appealed, and went to the High Court. There a majority bench decision found that the common law or statutory duty had not been breached. However, in coming to a determination on the case the judges found that servers of alcohol could be in breach of their duty of care if they took no reasonable steps to arrange safe transport home for intoxicated patrons, for example.

The Cole case is an important case as it identified the following considerations -

- Each case is decided on its own merits. As each situation will have differing circumstances it is impossible to predict outcomes without taking into consideration each and every important fact of the matter.
- The duty of care issue is complex and very important. Licensees, staff and management must be aware of their obligations and meet them to the highest level to try to reduce possible risk to patrons.
- Although people should take responsibility for their own actions, sometimes they are incapable of doing so. Sellers of alcohol should take on that responsibility as far as is reasonably practical.
- The application of the principle of duty of care is sometimes difficult to put into practise. That's why the sale of alcohol is restricted to people/businesses that are licensed. Those holding a licence are supposed to be able to put RSA principles into practice to keep patrons safe.

The Cole v Tweed Heads Rugby League Football Club case has been a highly influential case in the determination of licensee liability and the practice of responsible service of alcohol. However, the 'Tandara' case adds new considerations to the obligations of meeting a duty of care when serving alcohol.

Consider the following case

Tandara Motor Inn v Scott

Tandara Motor Inn v Motor Accidents Insurance Board

On 24 January 2002 at 5:15pm Shane Scott met a friend and was drinking at the Tandara Motor Inn. It was suggested that there was a police breathalyser in the area near Mr Scott's home. Mr Scott had ridden his wife's motorcycle to the premises and in order to prevent him from riding home and risk being breathalysed he handed his keys to the licensee and made an informal agreement with the licensee to store the motorcycle at the premises. It was agreed that the licensee would call Mrs Scott to collect Mr Scott when he wanted to go home.

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However, at around 7:30pm Mr Scott was refused service as the licensee believed him to have had enough alcohol (8 or so bourbon and cola drinks). Mr Scott responded by swearing at the licensee and rejected the offer to call Mrs Scott to come and get him as agreed.

Mr Scott asked for the keys to the motorcycle and said that he was “fine” in response to three separate enquiries as to his capacity to ride home. Mr Scott became aggressive and the licensee handed over the motorbike and the keys at around 8:15pm. Mr Scott rode away. He was fatally injured when he ran off the road and collided with a guardrail on a bridge some seven hundred meters from his home, which was about seven kilometres from the Tandara.

Mr Scott’s blood alcohol content was found to be 0.253g.

In the Tasmanian Supreme Court, Mrs Scott and the Motor Accidents Insurance Board of Tasmania (MAIB) alleged that the proprietor of the Tandara Motor Inn and the licensee both owed duties of care to Mr Scott and that they had both breached those duties by serving Mr Scott too much alcohol and allowing him to ride home.

On the facts of the case given, what do you think the outcome was?

Why? What are the reasons for your conclusion?

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The case continues

At first...

The judge in the Supreme Court case, Justice Blow, held that, consistent with the precedent set by the 'Cole' case some years earlier, no such duty of care existed.

Then...

The case was appealed in the Full Court of the Supreme Court of Tasmania where a majority held that, contrary to the previous ruling, both the licensee and the proprietor did breach a duty of care owed to Mr Scott and that their actions in breaching their duties had caused his death.

According to Justice Evans, the licensee must have known that Mr Scott, a regular customer at the hotel, was at risk of injury by riding the motorbike home because he was intoxicated enough to be refused service.

His honour also indicated that the licensee could have reasonably prevented Mr Scott from riding home and it was reasonable that Mrs Scott should have been requested to collect Mr Scott as it could have been foreseen that riding home that night might lead to Mr Scott being injured.

It was also found that the licensee consciously returned the keys and the motorbike to Mr Scott knowing that Mr Scott was intoxicated and the reason for storing the motorbike was to prevent him from riding home in an intoxicated state.

Now what do you think? Why?

Was the licensee in breach of his duty of care in this case?

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And continues...

Again, the decision was appealed and the High Court granted special leave to appeal the Full Court's decision.

MAIB and Mrs Scott argued in the High Court that the licensee had a duty to comply with the informal agreement made between him and Mr Scott to call Mrs Scott to collect Mr Scott when he was ready to go home. It was argued that Mr Scott's death was caused by the licensee's failure to uphold this duty of care. However, the High Court rejected the argument suggesting that, based on the evidence, it was impossible to conclude that Mr Scott's death would have been prevented by making a call to Mrs Scott. The Court also considered that if a duty was owed, that the licensee had complied with that duty by offering to call Mrs Scott at 8:15pm. The deceased aggressively refused the offer, instead suggesting that he was "fine" to ride home.

The High Court held that no relevant duty of care was owed to Mr Scott and that the informal arrangement to store the motorbike was one of convenience. It did not provide the licensee with the power to deny Mr Scott's right to have the keys and the motorbike returned to him upon request. The Court also held that the duty argued by Mrs Scott and MAIB conflicted with Mr Scott's right and capacity to act upon his own wishes and would have conflicted with other legal duties that the licensee was bound to abide by. The licensee was not at liberty to retain Mr Scott's property if requested to return it.

In considering the case, the High Court held that outside exceptional cases (such as an unconscious patron) a licensee and proprietor will not owe a general duty of care to monitor or protect patrons from the consequences of the alcohol that they choose to drink.

The High Court found in favour of the proprietor and licensee and in doing so moved towards placing a greater level of importance on personal responsibility in regard to claims of negligence against licensees and proprietors of licensed premises.

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Reduce your liability

The first and most common sense way of reducing your liability and recognising your duty of care is the refusal of service.

However, sometimes it's not as easy as it sounds!

Follow these three steps to successfully refuse service:

- Offer an alternative
- Refuse to serve more alcohol
- Ask the customer to leave the premises

There is more detail on this later.

There are other preventative ways to reduce your liability other than refusing service.

Common sense approaches like the following should be put into place in all premises serving liquor.

- Always keep records of incidents, events and problems in an incident register.
- *Hold regular staff meetings to discuss RSA issues.*
- Ensure that staff have a good understanding of RSA issues and are able and willing to refuse service.
- *Always support your staff and colleagues in implementing RSA.*
- Lead by example; be visibly **committed** to the principles of RSA.
- *Maintain signage and public displays of support for RSA and include this information on your website and social media channels where applicable.*
- Make sure staff are properly trained and **consistently** apply their training/knowledge of RSA in the workplace.
- *Ensure that all new staff are properly inducted with an understanding of their responsibilities.*

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The 'House Policy'

One of the most powerful ways of reducing the risks of a breach of your duty of care or of the *Liquor Licensing Act 1990* (the Liquor Act) is to have a House Policy that is visible and **always** applied in the premises.

The House Policy clearly states your commitment to harm minimisation and the responsible serving of alcohol. It should be known by both customers and staff.

Although general policies are available, the best are those that fit the premises because they are written by and unique to the premises.

The following should be included in a House Policy:

- Expected standards of behaviour of customers.
- A list of those not to be served alcohol.
- Limits for cocktails and shooters (eg no more than two shooters to be served at a time).

It's a good idea to get input from your staff when putting a House Policy together.

If staff are asked to give their ideas, they are more likely to always apply the principles of RSA in the premises.

Publish the House Policy on your website and send out a copy of your House Policy with each function confirmation. Let customers know what you expect before they arrive.

The following page contains an example of a House Policy for use in a licensed premises. It can be adapted for use on permit premises as appropriate.

As part of an induction program or code of conduct, staff should be provided with guidelines on acceptable behaviour whilst on the premises and particularly, when providing service to patrons.

Did you know?

The mean volume of alcohol consumed in Australia has remained stable since 1991.

However, the type of beverage consumed has shifted toward spirits and pre-mixed drinks, especially among younger drinkers.

(Source. *Australian Guidelines to Reduce Health Risks from Drinking Alcohol*, 2009)

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Example House Policy

This is a controlled, safe and secure environment which observes the principles of the

Responsible Serving of Alcohol Program.

We stock a range of low alcohol and non alcoholic products. The bar staff will happily advise you and serve you in a responsible, friendly and professional manner.

You can enjoy yourself on our premises — but not at the expense of others.

- We will not serve liquor or allow the provision of liquor to any person under the age of 18 years. (We will ask you for proof of age if you look under 25 years of age.)
➤ (Sections 70-77 Liquor Licensing Act 1990)
- We will recognise the signs of intoxication and we will discourage service to the point of intoxication.
- We will not admit, service, supply or allow the supply of alcohol to anyone who is intoxicated.
➤ (Section 78-79 Liquor Licensing Act 1990)
- We will discourage people from harming themselves or others.
- We will not permit drunkenness, fighting, abusive or obscene language or suggestions, unwelcome advances or physical contact directed at customers or staff.
- Unattended drinks will be removed to prevent drink spiking.

Failure to observe these principles may lead to refusal of service and a request to leave the premises.

We will actively discourage patrons from drinking and driving.

Please respect our neighbours and leave quietly.

Failure to leave licensed premises when requested to do so may incur a fine.
(Section 80 Liquor Licensing Act 1990)

Licensee Signature

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Young persons

Section 70 of the Liquor Act states that liquor must not be sold or served to young persons and **section 71** of the Liquor Act states liquor must not be supplied to young persons on licensed premises or permit premises (see page 41).

This means that -

- You **must not** serve/sell/supply alcohol to people under the age of 18 years.
- If in doubt — check it out!! Always ask for proof of age. As a general rule, if a person looks under 25 years of age they should be asked to show proof of age.
- *It is an offence to sell or serve alcohol to an underage person and the law allows for a personal fine of up to \$7 850 (50 penalty units) for the employee and a fine of up to \$15 700 (100 penalty units) for the licensee or permit holder. It is also an offence for anyone (including patrons) to supply alcohol to an underage person and a fine up to \$7 850 (50 penalty units) can apply.*
- The responsibility rests with the person serving — not security or door staff.
- *You must be presented with acceptable identification on request (more on this later).*
- Even alcohol in desserts must be considered.
- *Reduce your liability by being alert and consistent.*

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Requesting identification

Where the Liquor Act is concerned, the responsibility of checking ID falls to those physically serving alcohol.

This means that if you are in any doubt about a person's age, whether or not security, door staff or other staff have been convinced, each server should make up their own mind.

All proof of age documents must include a **photo** and be **current**. Acceptable documents prescribed in the *Liquor Licensing Regulations 2016* are:

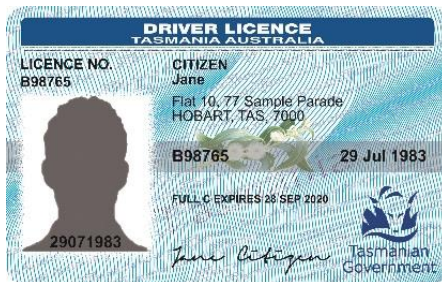
- driver licence issued in Australia
- firearms licence
- passport
- Keypass identity card (issued by Australia Post)
- a document issued by a Commonwealth, state or territory government department that shows the holder's name, photograph and age

Useful tips

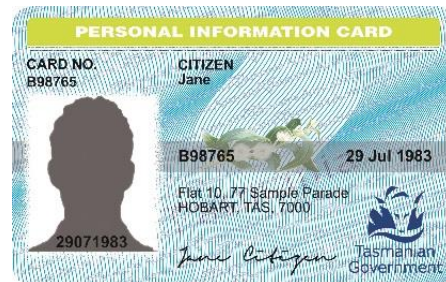
Tape the 'critical date' (the date on which a person must have been born to be at least 18 years of age today) to the cash register (or somewhere visible to staff but not to customers) each day. Crowd controllers can write it on their hand at the start of the shift

Look for suspicious behaviour like groups just hanging around or one person buying multiple drinks in a group.

Current Drivers Licence



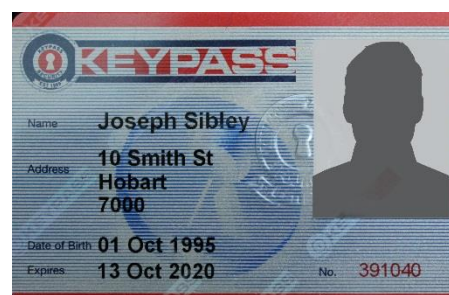
Current Proof of Age Card



Current Passport



Current Keypass Card



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If you are ever in any doubt about the authenticity of the identification provided to you or if identification provided cannot verify the age of the person consuming or purchasing alcohol, get help from your supervisor or refuse service.

Heavy penalties apply for allowing minors access to alcohol.

Consider the following when asking for identification.

- Those who appear under age and who have no ID are generally under age.
- *Expired licences are not acceptable forms of identification (over 50% of licences seized as false ID are expired at the time of seizure).*
- Ask the customer to take their ID out of any protective casing for you to inspect.
- *Consider body language. Those who look under 18 expect to be asked, those under 18 years of age fear being asked.*
- When you make a decision stick to it.
- *Support staff when they make a decision not to serve unless proof of age can be produced.*
- Make sure all staff are consistent in their judgements.

Fake/fraudulent identification

It is an offence under section 72A of the Act for a young person under the age of 18 to produce false identification, and it carries a fine of up to \$1 570 (10 penalty units). However, some young people will still try to use fake ID and are very clever at producing genuine looking ID. If you are provided with fake ID and do not perform reasonable checks you may still be found to be legally responsible if that person turns out to be under 18 years old and you have sold or served them alcohol.

Follow some rules to reduce the risk.

- *Always check ID in well lit areas where alterations will be more obvious (have an initial checkpoint at the front door).*
- Hold the ID and take your time examining it - be sure.
- *Feel around the edges of the photo, birth date and the edges of the card. Look for bubbles, wrinkles, and bumps - these may show the card has been tampered with.*
- Young people are altering the dates of birth by either scratching and/or using nail polish remover to change the dates both front and back of a licence.

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- *Check the photo matches the person (do distinguishing facial features match? This can be difficult at times, if in doubt ask for supporting ID).*
- Check the birth date on the ID confirms the patron is over 18 years (as driver licences and other forms of ID can be issued to young people).
- *Ensure the ID includes a hologram or other security feature. Be aware security features are constantly improving and as a result not all licences will look the same.*
- Ask the customer to sign a piece of paper to verify signatures.

If you suspect that a person's ID is fake then section 92A of the Act grants you the power to seize the fake ID. This also applies to police officers and crowd controllers. The suspected fake ID must be handed into a police station together with written notice within 72 hours after the time it was seized. The written notice must include:

- the time and date of seizure;
- the place of seizure;
- the nature of the reasonable suspicion that prompted the seizure;
- the responsible entity's name and address; and
- (b) give any police officer such information concerning the seizure of the document as the police officer may require.

Failure to meet this requirement may result in a maximum fine of \$1 570 (10 penalty units). People presenting fake ID can also be fined up to \$1 570 (10 penalty units).

Restricted areas

Section 61

Licensee to prohibit or restrict entry of young people to certain parts of licensed premises. Licensees that breach this obligation can be fined up to \$3 140 (20 penalty units).

Section 84

Areas of licensed premises may be designated to prohibit or restrict entry of young people

Section 84 provides for the Commissioner for Licensing to prohibit or restrict entry of underage persons to areas of licensed premises.

Use the following as a guide, but consult the Liquor Act for more detail.

(***Section 72** of the Liquor Act allows people under the age of 18 to be permitted to remain on licensed premises to have a meal or when in the company of a responsible adult.)

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<i>Hotels</i>	<i>Under age access</i>
Not Designated	Permitted at all times
Restricted	Under certain conditions (eg lounge bar and dining areas to have a meal or otherwise only with a responsible adult ^{3*})
Prohibited	Not permitted at any time (eg public bar and gaming lounge ⁴)
Clubs	Underage signed in by a member or can be a member in their own right. No access to gaming areas ⁵

Minimum employment age and restrictions

Section 75 of the Liquor Act makes it an offense for a young person under the age of 18 to have possession or control of liquor on a permit or licensed premises. However, section 75(2) allows persons under the age of 18 to be employed and have 'possession or charge of liquor' provided they are under the '**direct and personal supervision**' of a person who is 18 years of age or over. **Regulation 10**⁶ of the *Liquor Licensing Regulations 2016* prohibits a person under 18 years to sell or serve liquor in an area designated as a prohibited area under section 84(1) of the Act.

Section 46B of the Act and **regulation 9** of the *Liquor Licensing Regulations 2016* require licensees and permit holders to ensure employees selling and serving alcohol meet the minimum age requirement of 16 years⁷, unless an exemption has been granted by the Commissioner to allow a person under 16 years to serve liquor as part of their employment. Licensees and permit holders that breach this obligation can be fined up to \$7 850 (50 penalty units).

³ A responsible adult is a person of 18 years or older who is: the parent, step-parent or guardian of the minor; or is the spouse or partner of the minor; or who has parental responsibility for the minor.

⁴ Under age restriction in gaming areas falls under the *Gaming Control Act 1993*.

⁵ Under age restriction in gaming areas falls under the *Gaming Control Act 1993*.

⁶ Regulation 10 applies from 1 December 2016, providing a transitional period for existing employees who do not meet the new age restriction of 16 years at the time the Regulations took effect.

Regulation 9 applies as above.

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This means that:

- licensees, permit holders and staff **MUST NEVER** allow underage employees to be left alone to sell or serve alcohol. If breached, the licensee, permit holder and their staff face a maximum fine of \$7 850 (50 penalty units) and the underage person can face a maximum fine of \$1 570 (10 penalty units) under section 77; and
- licensees and permit holders **MUST NEVER** allow underage employees to sell or serve liquor in a prohibited area. A maximum fine of \$1 570 (10 penalty units) applies for both the underage employee and the licensee or permit holder.

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Signage

The Liquor Act (**section 60**) states that licensed areas must have the right signage, stating whether an area is restricted or prohibited, placed in a conspicuous position. Licensees that breach this obligation can be fined up to \$3 140 (20 penalty units). Other signs, such as the 'Prove It' signs are not mandatory, but can be very helpful for staff and send a clear message to patrons that they will be asked for identification.

These notices are to be provided or approved by the Commissioner for that purpose.

It's in your best interest to make sure that all staff and patrons understand the type of restrictions and/or prohibitions of young persons that apply to your premises.

All licensed premises must have the liquor licence and any permits on display in a conspicuous position in the premises so that customers can see it. Special permits and small producers permits must also be displayed on the premises associated with that permit.

See the back of this handbook for a flyer on all the signage available from the Liquor and Gaming Branch.



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Recognising the signs of Intoxication

Section 78 of the Liquor Act prohibits the serving or sale of liquor to any person who is intoxicated and **section 79** prohibits the supply of liquor on licensed or permit premises to people who are intoxicated.

But what does the law mean when it uses the term “intoxicated”? How does a server know when a patron is “intoxicated”?

This is a difficult issue and one that highlights the serious responsibility that people take on when serving alcohol to patrons. Furthermore, the changes to the Act have extended the meaning of intoxicated to include someone affected **by alcohol or some other substance**.

The Act defines a person is intoxicated if:

- (a) the person’s speech, balance, coordination or behaviour is noticeably affected; and
- (b) it is reasonable in the circumstances to believe that the affected speech, balance, coordination or behaviour is the result of the consumption of liquor or other substances.

What is a reasonable belief?

A reasonable belief must be one that a reasonable person would have in that particular situation, taking into account the relevant facts and circumstances. Be aware and sensitive when informing your belief.

So, what are the signs to look for?

The following signs can give you an idea of whether or not a person is intoxicated.

Speech

- slurred speech
- rambling/unintelligible conversation
- incoherent/muddled speech
- loss of train of thought
- not understanding normal conversation
- repeating oneself
- difficulty paying attention

Balance

- unsteady on feet
- swaying uncontrollably
- staggering
- difficulty walking straight
- falling down/cannot stand
- stumbling
- bumping into or knocking over furniture or people

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Coordination

- 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
- difficulty lighting cigarettes
- glassy eyes and lack of focus

Behaviour

- rude
- aggressive
- belligerent
- argumentative
- offensive
- bad tempered
- physically violent
- loud/boisterous
- confused
- disorderly
- exuberant
- using offensive language
- annoying/pestering others
- over friendly
- loss of inhibition
- inappropriate sexual advances
- drowsiness or sleeping at a bar/table

How do you recognise a person who is 'intoxicated'?

Following are some things you can do to help you decide whether someone is intoxicated and their level of intoxication.

Forming a reasonable belief can come from many sources, such as:

- observing the amount and type of alcohol consumed;
- observing behaviour;
- talking to the person and/or their friends; and
- getting a second opinion from your workmates and/or supervisor.

Here are some questions that you could ask and observations that could make to help decide whether someone is intoxicated.

Questions

How much alcohol have they consumed?

Important note

Some physical, intellectual, psychiatric, sensory, neurological or learning disabilities, or acquired brain injury, can produce similar looking behaviour to that of a person who is intoxicated.

Anti-discrimination laws require that people with disabilities have equal and full access to the social activities offered by a premises.

Be aware and sensitive when making a judgement call on whether to refuse service of alcohol. If you need to, get a second opinion from your workmates or supervisor and use other signals such as smell.

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- When did they last eat and how much?
- Do they consider themselves intoxicated?
- Is there another reason they are showing signs of intoxication?

Observations

- Does the person show any signs of intoxication?
- Does the person smell of liquor?
- When did the person enter the premises?
- What type of liquor has been consumed?
- How much liquor has the person been witnessed drinking - remember a patron may have already consumed liquor (or other intoxicating substances) before they arrive at the premises or you may not have seen all their previous consumption at the premises.
- Is the person drinking rapidly?
- Has the person been vomiting?

Learn this -

This simple tool can help you to notice the appearance of those that may be intoxicated:

Coordination

Alcohol Smell

Unsteady

Slurred Speech

Eyes Glazed

Tips for preventing intoxication

- Make sure you are familiar with and follow your house policy on the responsible service of alcohol.
- Promote low or mid-strength alcoholic drinks, non-alcoholic drinks and food.
- Serve free water with drinks and ensure free water is constantly available for patrons.
- Provide free snack food to slow the absorption of alcohol into the body, giving more time for the body to remove it.
- Do not automatically fill up drinks, wait for the patron to re-order.
- Slow service down for the patron.

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- Alert other staff to a patron showing signs of intoxication.
- Talk to patrons to gauge the level of intoxication.
- Do not conduct an activity or promotion that will result in patrons engaging in irresponsible, rapid or excessive consumption of liquor.

Responsible Serving of Alcohol

Refusal of service – it's the law

The refusal of sale or service to people who are intoxicated is a requirement of law. It is a responsibility that all people who serve alcohol must accept as part of their job and their duty of care to patrons, their workmates and themselves.

This is not a grey area.

Section 78 of the Liquor Act clearly states that “a person must not sell or serve liquor on licensed premises or permit premises to a person who is intoxicated” and **section 79**, “a person must not supply liquor to a person who is intoxicated.”

Employees selling or serving alcohol to people who are intoxicated can be fined up to \$7 850 (50 penalty units), and licensees and permit holders can be fined up to \$15 700 (100 penalty units). Anyone supplying alcohol to an intoxicated person can be fined up to \$7 850 (50 penalty units).

Also, patrons/customers who supply alcohol to people intoxicated can be fined up to \$7 850 (50 penalty units).

There's no two ways about it; refusal of sale or service is a fact of life and will be required of most people involved in the service of alcohol at some point.

How do you do it?

At some time or another, every person serving alcohol will be required to refuse service. It is an inevitable part of the job. It doesn't need to be difficult.

Follow the three stages of refusal as a guide:

- **Offer an alternative to the drink ordered.**
- **Refuse to serve more alcohol.**
- **Ask the patron to leave the premises.**

A simple guide to the refusal of alcohol service

Sometimes it's hard to make the decision to refuse service and for some people it's even harder to actually do it.

A simple plan can be useful; especially to people new to the industry. Have a procedure such as this displayed in an obvious place back of house to help staff on the front line cope better.

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Early intervention

- Take notice of the customer's behaviour early before it becomes a problem. Give early warnings so the customer knows where they stand and has an opportunity to behave better.

Offer an alternative

- Refusal to serve alcohol is not a total ban on service if caught early enough. Offer a soft drink, a coffee or a break from drinking altogether.

Deliver the message to the patron without an audience

- Refusing service in front of a patron's friends, or a crowd, can humiliate the patron and create an aggressive or emotional situation. Doing it in private can 'save face' for the patron and mitigate the opportunity for a patron to 'make a scene'.

Use open body language

- Be aware of how you deliver the message. Avoid getting aggressive. Use open body language such as showing open palms and keeping a passive attitude. Never put the person down (eg by calling them a drunk or waving a finger at them).

Explain your concern without prejudice

- Let them know that their welfare and the welfare of others is your first concern; it's not a power trip for you. Be courteous. Refusal today does not mean refusal forever. They may still be welcome as a customer tomorrow.

Use the law as a defence and use the term "we"

- Take yourself out of the argument by letting them know you have no choice under law and that the licensee, staff and patrons expect you to take action. If needed, repeat firmly that by law you cannot serve them another drink.

Stay calm

- Some people may get aggressive. Stay cool. Fight fire with water, not more fire. And remember, no-one ever won an argument with a customer, even if you are right.

Get assistance

- Ensure you have backup from other staff and supervisors/management. If you feel the issue is getting out of hand, call in someone who can help you.

Consider a short term ban if necessary

- Management are able to impose a short-term ban where they believe it is required.

Responsible Serving of Alcohol

Avoid physical force

- If required, leave that to security and consider getting police help.

Report

- Make a note in the incident book and tell other staff and establishments if you/your supervisor think it is necessary.

Asking people to leave and issuing barring orders

Unfortunately, sometimes, the refusal of service leads to asking people to leave the premises and in serious circumstances, like violent behaviour and welfare concerns, barring a person from the premises is necessary.

Section 62 of the Liquor Act imposes an obligation on a licensee or permit holder to require people under certain circumstances to leave licensed or permit premises. Where people continue to cause problems, Barring Orders which are enforceable by law can be issued under **section 81**.

Removal of persons from the premises (Section 62)

- You must not allow a person who is *“acting in a violent, quarrelsome or disorderly manner or who is using disgusting, profane or foul language”* to remain on the premises.

Licensees and permit holders that breach this obligation can be fined up to \$3 140 (20 penalty units).

(See also section 93 of the Liquor Act for powers of staff and licensee to restrict entry and section 94 for powers of police to require people to leave licensed premises.)

- **Sections 80 and 80A** of the Liquor Act says that an offence has been committed if a person remains on licensed or permit premises when required to leave by the licensee, permit holder or his/her staff, or police officer.
- Penalties of up to \$7 850 (50 penalty units) can be imposed on the individual who has been asked to leave and they may be arrested without a warrant.
- It is also an offence for a person to re-enter the premises within 24 hours of being asked to leave or having been removed

Be prepared

Asking people to leave the premises is an unfortunate and often difficult exercise.

Therefore, you should understand that police are unable to remove patrons unless they have already been asked to leave by the licensee or staff.

It is a good idea to have a procedure in place to help staff manage these situations.

Police, especially in rural or remote areas, can be asked to be involved in developing a procedure.

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from the premises (fines of up to \$7 850 (50 penalty units) may be payable by the offender).

- The offender must not, without reasonable excuse, remain in the vicinity of the premises for six hours or until the premises is closed for the day (whichever is longer). The vicinity is the:
 - radius of 50 metres from any entry or exist point to the licensed or permit premises; or
 - the distance from the premises or area around it that is specified by a Police Officer.
- Reasonable excuses include (but are not limited to) residing within the vicinity, obtaining transport and safety concerns. A fine up to \$7 850 (50 penalty units) may be payable by an offender.

Barring orders (Section 81)

- Licensees, staff and permit holders may bar a person from the premises for up to six months if they:
 - are intoxicated, violent or quarrelsome on the premises;
 - put their safety or the safety of others on the premises at risk because of their consumption of alcohol; or
 - any other reasonable ground.
- A Barring Order must be given in writing using the approved form and must include the name and address of the person being barred, the duration of the barring period (which must not exceed six months) and detail the premises where the barring applies. The completed Barring Order must be given to the person by:
 - handing it to them; or
 - sending it by post to their last known place of residence; or
 - leaving it at their last known place of residence.

The Barring Order form can be downloaded from

www.liquorlicensing.tas.gov.au.

- Information about a person must not be shared with staff at other premises⁸ and copies of Barring Orders should be kept on the premises

Barring Order – Licensed and Permit Premises
Issued under section 81 of the Liquor Licensing Act 1990

Part A – Barred Person Details (person who is barred)	
1. Name of Person *	
2. Address of Person *	Street Number: _____ Street: _____ Suburb/Town: _____ Postcode: _____
Part B – Licensed or Permit Premises Details (premises the person is barred from)	
3. Premises *	
4. Licence Number	
5. Premises Address	Street Number: _____ Street: _____ Suburb/Town: _____ Postcode: _____
Part C – Barring Details (how long the person is barred and why)	
6. Period of Barring *	From: Date / / To: Date / / (inclusive)
7. Reason(s) for the Order <small>Provide a brief description of the event. A person may be barred for:</small> <ul style="list-style-type: none">• being intoxicated; or• being violent or quarrelsome; or• putting their safety or the safety of others on the premises at risk because of their consumption of liquor; or• any other reasonable ground.	
8. Person serving the order <small>Licencee (or person acting with the authority of the Licencee) or Permit Holder</small>	Name: _____ Signature: _____ Date: / /

* Mandatory fields

*This page is to be provided to the barred person.
A copy is to be kept at the premises.*

*A licensee or permit holder must not share information about a person with staff at other premises
(Personal Information Protection Act 2004).*

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for 180 days after expiry.

- A police officer (acting with the authority of a senior police officer) may also bar a person if they:
 - put their welfare seriously at risk because of their consumption of alcohol;
 - commit an offence;
 - are offensive or disorderly on the premises, or in and around it; or
 - any other reasonable ground.

Additionally, police officers have the options of barring a person from premises of a specified class within a specified area (eg all nightclubs in a particular area) or all premises within a specified area.

- Once a person is served with a Barring Order, they cannot return to the premises until the barring order expires (being the time period specified on the Order). It is an offence for a barred person to enter or remain on licensed premises and can be fined up to \$7 850 (50 penalty units).
 - If a person is served with a Barring Order while on the premises, unless they have a reasonable excuse (as noted in the previous section), they must immediately leave the premises and vicinity for six hours or until the premises is closed for the day, whichever is longer (they may re-enter the vicinity after this time). The vicinity is the:
 - radius of 50 metres from any entry or exist point to the licensed or permit premises; or
 - the distance from the premises or area around it that is specified by a Police Officer giving a Barring Order.

A barred person that remains or returns early to the vicinity without a reasonable excuse can be fined up to \$7 850 (50 penalty units).
- Barring Orders given by licensees (or authorised persons) or permit holders may be varied or revoked by them of their own choosing or if agreed upon at the barred person's request. Barring Orders given by Police may also be varied or revoked by a police officer, and can also be appealed to the Commissioner of Police for review.

What other reasons are there for responsible service of alcohol?

OK. So we know it's the law. But there are some other really good reasons to make sure that alcohol is served in a responsible way.

- Reduces your own personal (civil) liability (remember, there are heavy fines for individuals serving alcohol to those who are underage and intoxicated).
- *Reduces the civil liability of the licensee or permit holder (there are even bigger fines for licensees and permit holders if people serve underage or people who are intoxicated).*

Responsible Serving of Alcohol

- Minimises the possibility of fines, cancellation or suspension of the licence.
- *Creates a safer and more pleasant workplace for you and other staff.*
- Improves job security. A comfortable, profitable premises is more likely to keep staff.
- *Minimises the harm to patrons and shows that the premises is a good corporate citizen that values the wellbeing of its patrons.*
- Reduces community problems such as noise, neighbourhood disruption, drink driving and violence.
- *Protects the reputation of the industry as one that recognises its responsibilities and complies with the relevant laws.*
- Increases the potential for profitability. Premises that are seen to be a safe, comfortable places to go will minimise turnover of customers as well as staff; increasing revenue and reducing running costs.
- *Premises with a good reputation as an employer, ensuring its staff are trained and supported in the workplace, will develop a positive 'first port of call' reputation among job seekers.*

Did you know?

Generally, the profit margin on post mix soft drink is much better than for alcoholic beverages.

The person who sits in your bar and drinks cola all night is, in fact, more profitable than those drinking boutique beers or top shelf spirits.

Responsible Serving of Alcohol

Alcohol and other drugs

It is important to understand that alcohol when used responsibly can be positive and pleasurable.

However, the mix of alcohol and other drugs (be they legal or illicit/illegal) can impact on the effect that alcohol has on the body and on behaviour.

If you think that someone has been affected by drugs, you should stop serving the person alcohol.

See the following chart for the possible results of a mix between common drugs and alcohol.

Drug	Possible effect of interaction with alcohol
Antibiotics	Reduced effectiveness of antibiotic Nausea/vomiting, headache and convulsions
Anti-depressants	Increased sedation effects May increase blood pressure May reduce the effectiveness of the anti-depressant drug
Cardio vascular medication	Dizziness and reduced drug effectiveness
Pain relievers (eg ibuprofen, aspirin)	Increased risks of bleeding in the stomach and failure of blood clotting Increased effects of alcohol
Pain relievers (eg morphine, codeine)	Sedation Increased possibility of overdose
Benzodiazepines (eg Valium and other sedatives)	Increased drowsiness Depressed heart and breathing function
Marijuana	Increased sedation effect with slowed reactions
Amphetamines	Increased drug effect (<i>10 foot tall and bullet-proof</i>) Anxiety, shortness of breath and racing heartbeat

Responsible Serving of Alcohol

Alcohol is a powerful drug

Alcohol is a depressant drug; it can be toxic, it can cause serious long term damage and may lead to problems such as violence, crime and antisocial behaviour.

Accidents, injury and social disorder can all be caused by the misuse of alcohol.

By taking on the responsibility of serving alcohol, each and every staff member, licensee and manager needs to understand what alcohol is, how it should be used and how it can be served for enjoyment and pleasure.

The answers to the following questions will give a clearer understanding of alcohol and the responsibility that goes with the service/provision of it.

So, if alcohol is so bad why do people use it?

People use alcohol for various reasons, some of them are:

- “Not drinking is un-Australian” - it’s a **cultural thing**.
- **Relaxation**.
- As a **social activity** with friends.
- It can be **liberating** and **empowering** to some people.
- It can be a **form of currency**. People repay a favour with a slab of beer for example.
- It **tastes good**.
- It makes people **feel good**.
- May have beneficial **health** properties.
- It’s a **social leveller**. Having a drink is common to all classes.

What are the negative social effects of alcohol?

Alcohol has been associated with some negative effects when used without due care, such as:

- **Financial** — both individual and community. People may spend more than they can afford when their judgment is affected.
- **Personality** changes eg anger.
- **Impacts on work** (absenteeism, loss of concentration, accidents etc).
- **Sexuality** (can effect performance or impede judgement in relation to sex).
- Decreases **motor skills** (effects on driving, using machinery).
- Impact on **relationships** (eg domestic violence and absence from the home).
- May lead to other activity that is **antisocial or illegal** causing negative community impact.
- Impact on the night-time economy such as costs associated with alcohol related crime, injuries, destruction, rubbish etc.

Responsible Serving of Alcohol

Alcohol and other drugs – your duty of care

You might think that recreational and illicit/illegal drugs used by young adults can have an unwanted effect on individuals' health and behaviour.

However, consider this, many older/elderly people are prescribed drugs for conditions such as heart complaints, blood pressure and pain relief.

The duty of care of the server includes ensuring that patrons are not injured on the premises. Clearly, the interaction of alcohol and other drugs can lead to a greater risk of injury such as falls. It pays to be aware of such issues and to take action as soon as possible for the safety of the patron, others on the premises and yourself.

Did you know?

Non-metropolitan areas of Australia have higher relative rates of hospitalisation for injuries and diseases caused by risky and high risk drinking than metropolitan areas.

(National Drug Research Institute, 2003)



Responsible Serving of Alcohol

The private function

A licensee is responsible for the sale and any consumption of liquor on the licensed premises even if the liquor is consumed at a function such as a private party or Christmas party, for example.

Therefore, all aspects of the obligations to abide by the Liquor Act and to observe responsible service of alcohol still exist. Also, if the arrangement includes the guests bringing their own alcohol, you still have a responsibility to ensure that it is served/consumed in a responsible way.

At the end of the day, the responsibility of the licensee, the permit holder, and the servers cannot be avoided by thinking that the patron or patron's guests are responsible.

Tips for private functions

- Conduct a pre-interview briefing with the function organiser and explain the obligations of the liquor law and the house policies. Ask them to appoint someone who will be responsible for the event and to be the contact person should problems arise.
- *Send a copy of the house policy to the organiser with the function confirmation so they know in advance what your requirements and expectations are.*
- Keep a supply tally at the dispense bar to monitor table and personal consumption of alcohol.
- *Limit the number of bottles and jugs to each table.*
- Do not replace bottles or jugs until an empty one is returned to the bar.
- *Slow down the replacement rate if necessary.*
- Keep water topped up at every table and pour water for those who might need to slow down.
- *The function organiser should be informed if warnings need to be issued.*
- All staff and supervisors need to be aware of the procedures for the service of alcohol for the function. It's everyone's responsibility.
- *Ensure that a representative or responsible person for the organisation is known and in attendance at the function.*

Did you know?

Nationwide, it has been estimated that less than one third of all alcohol is consumed on licensed premises but consumption of alcohol is associated with two thirds of the problems with intoxication.

This includes arguments and violence near licensed premises and alcohol related crime.

(Source: *National Alcohol Strategy, Alcohol and Your Health, Fact Sheet 20*)

Responsible Serving of Alcohol

Close down procedures

Sometimes the hardest part of the day is the end.

Your patrons have had a good time, all seems to have gone well but the premises needs to close.

Often this is when things can go a bit 'wobbly'.

Patrons might want to continue on, some might not want to leave or some might just have settled down and want to stay comfortable.

However, staff need to be aware that closing the premises demands more than just closing the doors and locking up.

The responsibilities of the licensee, permit holder, staff and management don't end here, nor do they end when the patron steps out of the door.

Patrons should be monitored towards the time of close to ensure that staff and management are comfortable with allowing patrons to make their own way safely.

If there is any reasonable doubt that any patron could be putting themselves or others in danger, the staff have an obligation - a duty of care - to ensure that a suitable alternative is offered and, hopefully, accepted (eg offer to call a cab).

Close down tips

Write down all activities in a procedure or flowchart in a logical and practical order.

Make sure all staff stick to the procedure so that it becomes habit and is passed onto new staff.

ALWAYS close down in the same sequence. Staff and patrons will then get used to it.

Use subliminal cues prior to closing time (eg turn up the lights gradually and change the music).

Staff should remain courteous.



Responsible Serving of Alcohol

Unacceptable serving practices

Knowing how to provide responsible service of alcohol is one thing, knowing what **not** to do is another.

Using sales promotions that encourage a quick alcohol sales boost might give your premises short term sales, but they can lead to long term damage for the premises, its patrons and the community.

Licensees and permit holders should think carefully about the promotions and advertising they use, which must support responsible service and consumption of alcohol principles. Under **section 68** of the Liquor Act, the Commissioner may issue a notice prohibiting or restricting irresponsible promotion or advertising practices (if it's likely to encourage irresponsible consumption of alcohol or if otherwise in the public interest). Licensees and permit holders that do not comply with the notice can be fined up to \$3 140 (20 penalty units).

The following measures to promote alcohol sales could be considered irresponsible.

Did you know?

In the 10 years to 2002, an estimated 2 643 people between 15 and 24 years of age died from alcohol attributable injury and disease caused by risky or high risk drinking in this country.

The most common death caused by alcohol for young people are road injury, suicide and violence.

Deaths attributable to alcohol injury or disease are four times greater for males than for females.

(National Alcohol Indicators Bulletin No. 6)

Appeal to minors	Using characters, imagery, designs, motifs, interactive games, merchandise or media that is likely to appeal to minors. Using a name or packaging that could be confused with confectionery or a non-alcoholic drink. Using models in settings primarily used by minors or who are, or who appear to look, under 18 years of age.
Indecent or offensive	Using insulting or offensive language. Using sexual, degrading, sexist or gratuitously offensive images, symbols, figures and innuendo.
Non-standard measures	Serving liquor in yard glasses, test-tubes or bowls, pouring liquor straight into a patron's mouth, slammers, blusters, bombs etc. Encouraging the consumption of multiple shooters or shots by an individual or encouraging an individual to purchase and consume on their own an alcoholic drink intended to be shared.

Responsible Serving of Alcohol

<p>Extreme discounts (50% or more off the full price is an extreme discount and is of concern where rapid or excessive consumption is also encouraged)</p>	<p>Providing free drinks or \$1 shots of spirits for consumption on and/or off the premises.</p> <p>Discount offers, such as:</p> <ul style="list-style-type: none"> • drink cards, promotional cards or vouchers that encourage stockpiling drinks or consumption over a short period of time; or • bulk purchases that result in a liquor product being sold for less than one dollar per standard drink (such as 2 for 1 spirits all night). <p>Happy hours or other promotions on the premises involving extreme discounts that extend for more than two hours.</p>
<p>Rapid or excessive consumption (Be wary of events or games of short duration that may encourage irresponsible consumption)</p>	<p>Events associated with rapid or excessive consumption and/or binge drinking (such as, end of sporting season celebrations like “Mad Monday” or end of school year celebrations like “Schoolies Week” or “after parties”).</p> <p>Games, competitions or challenges such as skolling games, boat races and “toss the boss”.</p> <p>Use of non-standard measures such as yard glasses, test-tubes or bowls.</p>
<p>Public Interest</p>	<p>Promotions which use images or messages which could be associated with anti-social behaviour, illicit drugs or illegal activities.</p> <p>Promotions which associate liquor consumption with risk taking or with dangerous, aggressive or violent behaviour.</p> <p>Discriminatory promotion, such as, women drink free.</p>

Tips for responsible alcohol advertising and promotions

The way **YOU** advertise and promote liquor...



can influence the way it is consumed in **YOUR** premises and **YOUR** community...



and how patrons behave in **YOUR** premises and **YOUR** community.

Promotions are a common tool used by premises to attract patrons, however it is important that a number of elements are considered to assess the risks posed by the promotion. In many cases the risk that is raised by one element, can be offset or reduced by adjusting another element of the promotion. Some things to consider include:

- avoid running promotions at high risk times. After 10.00pm the risk of patrons becoming intoxicated increases, so run promotions at a lower risk time.

Responsible Serving of Alcohol

- *offer lower strength liquor products rather than products with a high alcohol content. For example, limiting the number of shots added to cocktails.*
- when providing free sampling, consider limiting the number of samples and providing an offset by limiting the discount of liquor during a promotion, ensuring that reduction in price is not extreme and likely to encourage rapid or excessive consumption.
- *place reasonable limits on the duration of the promotion, for example, a happy hour should not extend for more than two hours. Be aware that the time limits can also encourage rapid or excessive consumption.*
- limit the number of drinks that can be purchased by a single person in a single transaction during the promotion. For example, two drinks per person per transaction during happy hour.
- *avoid games, dares, challenges and competitions that may create an incentive for patrons to drink more.*
- consider limiting the number of promotions that are held during a single trading period.
- *check that the proposed advertisement is not in conflict with the standards for alcohol marketing set out in the ABAC Responsible Alcohol Marketing Code. All advertisements for alcoholic beverages are required to comply with this Code and any complaints alleging breaches are formally examined by the ABAC Adjudication Panel. Further information is available at www.abac.org.au.*

Responsible Serving of Alcohol

Secondary sales and other offences

As well as unacceptable serving practices there are also some other issues that you should be aware of when taking on the responsibility to become involved with the sale, supply or promotion of alcohol.

The Liquor Act also covers the following:

Secondary supply of liquor to young people (Section 71)

- As noted previously, the supply of liquor to an underage person on licensed or permit premises can attract a maximum fine of \$7 850 (50 penalty units).
- Be aware of people consistently coming to the bar ordering for others.
- Have security or floor staff to monitor areas that are out of sight of the service points.
- Take wine glasses away from young people at a dining table.
- Do not allow young people to be served liquor, even by their parents.
- Keep in mind that some food dishes have alcohol in them.

Prohibition of sale of undesirable liquor products (Section 38A)

- The Minister may declare a liquor product or class of liquor products as undesirable and prohibit their sale if it is in the public interest to do so⁹.
- Staff selling an undesirable liquor product can be fined up to \$7 850 (50 penalty units). The licensee and permit holder is also guilty of an offence and can be fined up to \$15 700 (100 penalty units), even though they did not sell the undesirable liquor product.

Sale of liquor through internet or other communication media (Section 46D)

- A licensee who sells liquor by taking orders over the telephone, fax, mail order or the internet must:
 - require the purchaser to supply their date of birth (prior to or at the time an agreement for sale is made); and
 - provide the person delivering the liquor with written instruction requiring it be delivered to the adult person who placed the order, or to another adult at the premises who undertakes to accept it on behalf of the person who placed the order, or if the order was over the internet

⁹ As at September 2016, no liquor products have been declared undesirable. Advice when liquor products are declared undesirable is published in the *Gazette* and local newspaper. A list will also be kept at www.liquorlicensing.tas.gov.au.

Responsible Serving of Alcohol

in accordance with the customer's instruction.

A licensee who breaches these obligations can be fined up to \$3 140 (20 penalty units).

- If liquor is given to an underage person upon delivery, the licensee and the person who delivered the liquor are both guilty of an offence and can each be fined up to \$3 140 (20 penalty units). However, there are provisions in the Act that allow for a defence in proceedings and with respect to licensees it must be established that he or she complied with the requirements set out in section 46D in relation to the sale.
- A person who orders or requests an underage person to take delivery of the liquor can be fined up to \$3 140 (20 penalty units).

Restrictions on where liquor can be consumed (Sections 63 and 64)

- For off-licence premises (eg bottle shop) liquor must not be consumed on the premises (unless authorised by an on-permit).
- For on-licence premises (eg restaurant) liquor must not be removed from the premises (unless authorised by an off-permit).
- Licensees that breach these restrictions can be fined up to \$3 140 (20 penalty units).

Restrictions on premises outside authorised hours (Section 65)

- A licensee that allows a public person to remain or enter any part of the premises where liquor is normally sold outside authorised hours can be fined up to \$3 140 (20 penalty units).

Hindering an authorised officer (Sections 67 and 82)

- The maximum fines for persons hindering an authorised officer without reasonable excuse are \$3 140 (20 penalty units) for licensees and permit holders; and \$15 700 (100 penalty units) for staff and patrons.

Liquor not to be sold or served by intoxicated person (Section 69A)

- An intoxicated staff member who sells or serves liquor on licensed or permit premises can be fined up to \$3 140 (20 penalty units). The licensee or permit holder can also be fined up to \$7 850 (50 penalty units), even though they did not sell or serve the liquor.

Responsible Serving of Alcohol

Underage people in possession or charge of liquor (Sections 75 and 77)

- Underage people (who are not working on the premises under direct supervision) must not be given or have possession or control of liquor on licensed or permit premises. Where these obligations are breached, licensees, permit holders and staff can be fined up to \$7 850 (50 penalty units), and patrons can be fined up to \$1 570 (10 penalty units).



Responsible Serving of Alcohol

The role of Tasmania Police

Tasmania Police have been given the power to issue infringement notices, in accordance with the *Monetary Penalties Enforcement Act 2005*, for the majority of breaches of the Liquor Act.

These arrangements are similar to traffic infringement notices and assist policing by streamlining the disciplinary process and removing the need for offenders to appear in court.



Tasmania Police have prescribed offences under the *Liquor Licensing (Infringement Notices) Regulations 2015* from 1 penalty unit (**\$157**) to a maximum of 15 penalty units (**\$2 355**), e.g.

- A person failing to leave licensed premises – 1 penalty unit (**\$157**)
- Supplying liquor to a person underage – 1 penalty unit (**\$157**)
- Selling liquor to a person underage, employee – 5 penalty units (**\$785**)
- Selling liquor to a person intoxicated, employee – 5 penalty units (**\$785**)
- Selling liquor to a person underage, licensee – 15 penalty units (**\$2 355**)
- Selling liquor to a person intoxicated, licensee – 15 penalty units (**\$2 355**)

In addition to issuing infringement notices, Tasmania Police have other powers under the Liquor Act such as:

- removing a person from a licensed or permit premises, when that person has been required to leave by the licensee (or staff) and may use reasonable force against or arrest a person who commits this offence;
- issuing barring orders;
- lawfully requiring a person to provide their name, address and date of birth and may arrest a person refusing to provide this information or if the Police believe the information provided is false; and
- entering licensed premises (at any time) or permit premises (during the time liquor is being sold) for the purpose of ensuring sale of liquor is compliant or if reasonably suspects it is not. Police are able to use force where necessary and seize liquor.

Responsible Serving of Alcohol

Standard drinks

The *Australian Alcohol Guidelines* talk about “standard drinks” and that in Australia, by law, all containers of alcohol have to show the number of standard drinks contained.

So, what is a standard drink?

A standard drink contains 10g of alcohol.

But what does that mean?

Well, the following page contains a guide to help you work out what is a standard drink given that various alcoholic drinks have different levels of alcohol. That is, a standard drink of bourbon will be smaller in volume than a standard drink of light beer.

It's probably a good idea to display a similar poster in the premises as a reference point.

If standard drinks are served, does that mean they will have the same effect on all people?

In a word **NO!!**

Each person will absorb (*enter the system*) and metabolise (*break down by the liver*) alcohol at different rates. Therefore, the blood alcohol concentration (**BAC**) will be different over time for different people.

This is an important point to remember. Two people can drink the same amount over the same period and react quite differently.

Blood alcohol concentration (BAC) depends on -

- The amount consumed.
- The size, build and gender of the person.
- The time over which drinks are consumed.
- The time of consumption.
- The health of the liver.
- Genetics.
- Body fat content.

Did you know?

BAC is the number of grams of alcohol in the bloodstream per 100mls of blood. Therefore, a BAC of 0.05 equals 0.05 grams of alcohol per 100mls of blood.



Responsible Serving of Alcohol

NUMBER OF STANDARD DRINKS – BEER



NUMBER OF STANDARD DRINKS – WINE



NUMBER OF STANDARD DRINKS – SPIRITS



Responsible Serving of Alcohol

Alcohol and health

The National Health and Medical Research Council (NHMRC)¹⁰ has developed a number of guidelines to assist people to make informed choices about their alcohol consumption. The Australian Guidelines to Reduce Health Risks from Drinking Alcohol document was released in 2009 and replaces earlier guidelines. A summary appears below.

Guideline one

Reducing the risk of alcohol-related harm over a lifetime

The lifetime risk of harm from drinking alcohol increases with the amount consumed.

For healthy men and women, drinking **no more than two standard drinks** on any day reduces the lifetime risk of harm from alcohol-related disease or injury.

This guideline applies to healthy individuals over the age of 18 years and suggests that while it does not represent a 'safe' or 'no risk' level of alcohol consumption it does identify the level at which the risk of alcohol related harm remains low over a lifetime compared to not drinking alcohol at all. This includes risk of death from disease related to alcohol consumption and risk of hospitalisation or death from injuries related to alcohol consumption.

It must also be noted that risks to health from alcohol consumption not only relate to how much is consumed but the patterns of consumption over time. That is, binge drinking on several occasions in a year may carry greater health risks than drinking one glass of wine per day over the same period even though a similar amount of alcohol is consumed.

Regular alcohol free days and reduction of occasions when alcohol is consumed may lessen risk to health over the long term.



¹⁰ The full guideline document can be found at

<http://www.nhmrc.gov.au/files/nhmrc/publications/attachments/ds10-alcohol.pdf>

Responsible Serving of Alcohol

Guideline two

Reducing the risk of injury on a single occasion of drinking

On a single occasion of drinking, the risk of alcohol-related injury increases with the amount consumed.

For healthy men and women, drinking no more than **four standard drinks** on a single occasion reduces the risk of alcohol-related injury arising from that occasion.

This guideline supports the notion that binge drinking is harmful, not only in the long term, but in regard to the risk of injury due to intoxication. The guideline identifies that when more alcohol is consumed in the one occasion, the greater the risk of injury. This is particularly so for men and having four drinks on a single occasion more than doubles the relative risk of an injury in the six hours afterwards

Guideline three

Children and young people under 18 years of age

For children and young people under 18 years of age, **not drinking alcohol** is the safest option.

A. Parents and carers should be advised that children under 15 years of age are at the greatest risk of harm from drinking and that for this age group, not drinking alcohol is especially important.

B. For young people aged 15–17 years, the safest option is to delay the initiation of drinking for as long as possible.

The rationale for this guideline suggests that where people begin drinking alcohol at an earlier age than 18 years, there is a greater risk of accident, injury, violence and self harm.

So too, drinkers under the age of 15 years of age are more likely than older drinkers to experience episodes of drinking related, risky anti-social behaviour and may contribute to a greater likelihood of more frequent and higher quantity drinking later in life.

Responsible Serving of Alcohol

Guideline four

Pregnancy and breastfeeding

Maternal alcohol consumption can harm the developing fetus or breastfeeding baby.

A. For women who are pregnant or planning a pregnancy, **not drinking** is the safest option.

B. For women who are breastfeeding, not drinking is the safest option.

There is limited research available on the affects of alcohol during pregnancy and breastfeeding and therefore, no safe level of alcohol consumption has been established.

While the risk to unborn children from very low levels of alcohol consumption is thought to be low, there is not enough evidence to establish a 'safe' level of alcohol consumption for women who are pregnant.

However, there is evidence to suggest that high levels of alcohol consumption may be related to miscarriage, stillbirth and premature births.

The guidelines indicate that the safest option is **not to drink at all** while pregnant. So too, breastfeeding mothers should avoid drinking alcohol as it can appear in breast-milk some hours after drinking and have adverse effects on infant behaviour and psychomotor development.

What are the other risks?

There are a number of other health issues from the use of alcohol. These range from an increase in risk of cancer, stroke, liver damage and heart damage among others. See below for examples of short and long term issues related to alcohol misuse.

<i>Short term issues</i>	<i>Long term damage</i>
Headache, nausea, memory loss, vomiting, diarrhoea, absenteeism from work, loss of concentration, unsafe sex, loss of control of motor functions, personality changes.	Heart disease, high blood pressure, stomach ulcers, liver disease, weight problems, brain damage, memory loss, dependence, anxiety, financial problems, cancer, pregnancy complications, learning difficulty, fits, nerve damage, muscle damage.

Responsible Serving of Alcohol

Keeping safe - staying under the limit

There are some important points to note about the consumption of alcohol. In order to stay under the limit of 0.05 (the legal limit for driving for fully licensed drivers), people should limit their intake depending on their circumstances.

This might include weight, gender and how rapidly drinks are consumed. There is also a delay between swallowing alcohol and it being absorbed into the body.

People on Learners and Probationary driving licences or those operating machinery need to stop drinking some time before taking control of a vehicle or machinery in order to meet the legal BAC of 0.00.

- Drinking on an empty stomach will allow the alcohol consumed to be absorbed more quickly than if the stomach has food in it. Eating before or whilst drinking slows the absorption into the system.
- Binge drinking is a high risk activity and may cause the drinker to be over the driving limit the morning after a big night.
- Reaction time whilst or after drinking alcohol is directly related to the alcohol consumed not how you may feel.

These 'Helpful Tips' can be found on the information card produced by the Tasmanian Liquor and Gaming Branch.

- Use standard drinks to monitor your drinking, remembering a full glass is quite often more than 1 standard drink.
- Drink slowly and don't top up drinks.
- Choose alcohol-free or low-alcohol drinks and have alcohol-free spacers between drinks.
- Get to know how many you can have to be under 0.05.

"Australian State and Territory laws allow a BAC of up to 0.05 while driving for full licence holders, zero for learner drivers, and between zero and 0.02 for provisional drivers (depending on the State or Territory). Those who operate commercial aircraft, public or heavy vehicles, commercial vessels, machinery, and mobile plant or farm equipment must observe blood alcohol levels required by their employer's company policy as well as those required by law. For most adults, drinking no more than two standard drinks on an occasion will keep the BAC below 0.05."

(NHMRC, 2009. *Australian Guidelines to Reduce Health Risks from Drinking Alcohol* p.85)

Responsible Serving of Alcohol

Keeping safe - the female element

It is sometimes said that women get more intoxicated than men and there are some physiological (human function) reasons why this might appear to be the case.

- Women carry less water in their bodies (50% of total weight) than men (60% of total weight). This means that alcohol is slightly more diluted in the body of a man compared to a woman.
- The menstrual cycle has an impact. Results of an investigation revealed the following variation in BAC depending on the stage of the woman's cycle despite drinking the same amount of alcohol:
 - During the menstrual period 0.064
 - Between periods (at ovulation) 0.068
 - Just prior to the menstrual period 0.080
- Women should be aware that the same amount of alcohol will have different effects depending on her cycle.
- The contraceptive pill contains properties that interfere with the enzymes in the liver that break down alcohol. This means that women on the Pill metabolise alcohol at a slower rate and the BAC will take much longer to return to zero.

Considerations for 'mums to be'

As discussed previously, there is not enough evidence to rule out foetal damage (damage to the baby) at any level of alcohol use during pregnancy.

Some experts recommend no alcohol should be taken at all during pregnancy as even drinking less than one standard drink per day may or may not cause damage to unborn babies. Heavy alcohol use is linked to miscarriage, premature birth, stillbirth, high blood pressure, diabetes and a higher likelihood of small and sickly babies¹¹.

Those wishing to fall pregnant should stop drinking alcohol.

Breastfeeding mums should also avoid alcohol as it will be transferred to breast milk and can affect the baby in a number of ways including feeding, sleeping and movements.

(see www.thewomens.org.au for more information)

¹¹ Royal Women's Hospital. Flyer. *Alcohol and Pregnancy* (April 2016).
<https://thewomens.r.wildssl.net/images/uploads/fact-sheets/Alcohol-and-pregnancy.pdf>

Responsible Serving of Alcohol







Behavioural effects of alcohol

Behaviour will be affected at different blood alcohol concentrations.

Whilst this may well vary between people, the following can be used as a guide and will be handy when assessing intoxication of patrons.

Some points to understand

- ONE standard drink per hour will raise the BAC* by around 0.0155g.
- The body metabolises alcohol at the rate of about 0.0155g per hour.
- So, if you drink only one standard drink per hour, you would maintain a steady level.

Relative Stages	Indication	BAC*	Effects
Feeling of wellbeing		Up to 0.05	Talkative, relaxed, confident, happy, cheerful.
Getting risky		0.05 to 0.08	Impaired judgement, lack of attention, reduced inhibitions.
Dangerous		0.08 to 0.15	Speech slurred, visual impairment, nausea and vomiting, slowed reflexes, balance affected.
Stupor		0.15 to 0.40	Laboured breathing, loss of bladder control, sleepy, passing out, unable to walk unaided.
Death	 	Over 0.40	Coma Shock Death

*BAC: Blood Alcohol Content

Responsible Serving of Alcohol

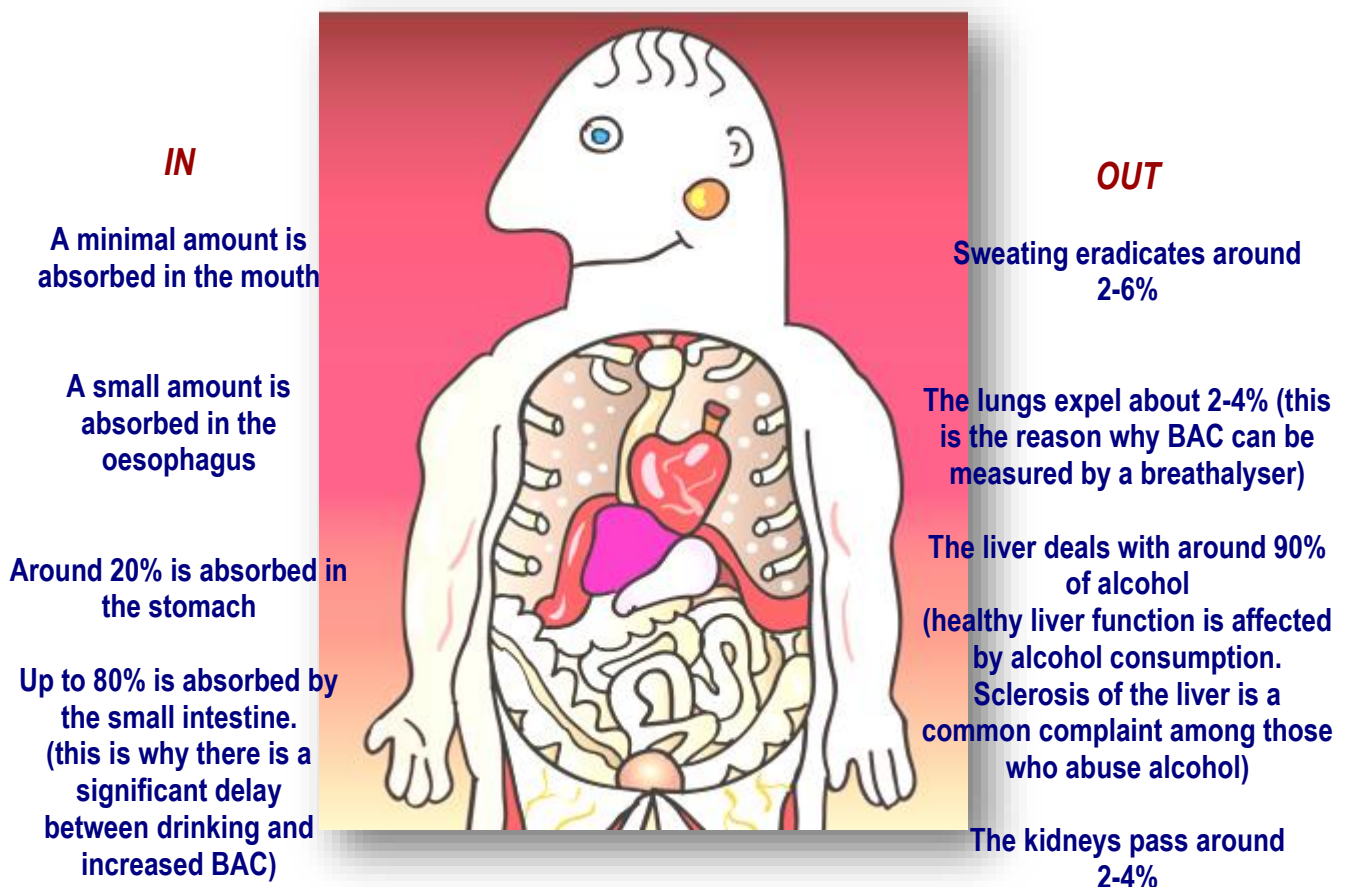
Sobering up

There are many stories and 'old wives' tales' about how to sober up after being intoxicated.

Some of the most common are taking a cold shower, vomiting and drinking coffee.

The only way that alcohol can get out of the system is through the liver and no matter how much coffee, dancing or exercise a person does, the rate at which this happens is pretty much fixed.

How is alcohol managed by the body?



Despite popular belief, food does not absorb alcohol; it merely slows the absorption rate.

If drinking on an empty stomach, alcohol will enter the system and can reach the brain in only a few minutes compared to up to six hours after a full meal.

Responsible Serving of Alcohol

Current issues

Drink spiking

(Adding alcohol or other substances to drinks without the drinker's knowledge or consent.)

Drink spiking is an issue that is causing serious concern among health professionals and police as it can be related to other crime such as sexual assault.

Whilst it is often associated with drugs such as rohypnol and GHB, it also extends to putting shots of spirits (eg vodka) into drinks or ordering drinks with extra shots for other people.

Licensees, management and staff must be careful to notice incidents of drink spiking and should develop strategies that reduce the opportunity for drink spiking to occur.

It should be remembered that it is a crime punishable by fines and imprisonment.

Strategies to avoid drink spiking:

- Have a policy regarding the maximum number of shots per drink, even in cocktails.
- Dispose of unattended drinks.
- Be suspicious of orders for drinks with added shots of spirits and have a policy in place to deal with them.
- Watch the behaviour of patrons, looking for signs that a person has become suddenly intoxicated. Take notice of people offering to take the affected person home.



Responsible Serving of Alcohol

Other strategies to deal with drink spiking

- Have a chill out room or safe place available in the premises for use if patrons are affected or while they are waiting for taxis.
- Ask those looking after affected patrons for ID. This may stop an incident happening or may help with identification of offenders if the worst does happen.
- Look for verbal or physical cues that an affected person is uncomfortable with the person helping them.

Contact your regional Sexual Assault Support Service for more information.

See the resources section for telephone numbers.

What to do...

Should you find someone who may have been affected by drink spiking, you should:

- Get the person to a quiet, safe and warm place.
- Stay with them until a trusted person can take them home.
- Call an ambulance if they become unconscious or if you have fears for their health.
- Make a report in the incident book including any details of people they may have been drinking or socialising with.

Did you know?

Young people generally have a smaller body mass than adults and are therefore less able to tolerate the same amount of alcohol.

Inexperience with the use of alcohol also means that they are less likely to be able to judge the effect that the consumption of alcohol is having on them. Servers, then, have a duty of care to ensure that young people do not have access to alcohol.



Responsible Serving of Alcohol

Binge drinking

Binge drinking is a very harmful practice of drinking too much in a short period of time or in one-off episodes. Young people are particularly at risk as they may not have access to alcohol over the long term, but get hold of it only occasionally.

Binge drinking can lead to aggression, domestic violence, health issues, unsafe sex and sexual assault.

Following responsible service of alcohol practices can reduce the incidence of binge drinking and underage drinking which is often associated with binge drinking.

Research has shown that 67% of all alcohol consumed in Australia is drunk in a manner that is dangerous to health through habits such as binge drinking and drinking on more than five days per week.

However, it is most common in the 18-24 years age group with over 93% of alcohol drunk by males liable to cause health problems and 82% for young women.

(Source: myDr.com.au)

Did you know?

Excessive alcohol has been found to be an important factor in 1/3 of all road deaths in Australia.

Alcohol related issues have been rated as the 3rd greatest problem faced by 15-24 year olds.

(Source. National Alcohol Strategy, Fact Sheet 20)

Responsible Serving of Alcohol

Smoke free premises

All areas inside premises are smoke free and this needs to be considered by all staff working in licensed or permit premises.

If patrons smoke in any indoor area penalties apply for both the smoker and the operator.

So, licensees, permit holders, management and staff have a responsibility to maintain the comfort of all patrons by making sure that smokers move outside.

Understanding the law and the obligations of staff and licensees/permit holders is important if penalties are to be avoided.

Smoke free areas

Tobacco laws under the *Public Health Act 1997* provide that:

- smoking is banned in:
 - outdoor dining areas in which solid food is consumed;
 - within three metres of an outdoor dining area unless surrounded by a screen or other barrier at least 2.1 metres high and is impervious to smoke;
 - within three metres of an entry or exit to a public building;
 - within 10 metres of air intakes for ventilation equipment for public buildings;
- some public events may be designated as smoke-free by the Director of Public Health; and
- competition and seating areas at sporting events (and within 20 metres) are smoke-free.

Unless otherwise designated, a smoke free area under the Act does not include an 'outdoor smoking area' provided on a licensed or permit premises for the use of customers who smoke. However, designated outdoor smoking areas must

- not be serviced (including delivery of beverages and food to customers in that area); and
- either not have a roof or if roofed must have a perimeter consisting of more than 50 per cent walls or windows (further clarification is provided in the Act):

Some councils have introduced their own smoke-free laws in relation to licensed premises, particularly those that have a council-issued Occupation Licence or the like. It is recommended that you contact your local council for advice on smoke-free legislation.

Responsible Serving of Alcohol

Signage

Signage must be displayed in outdoor dining and outdoor smoking areas to ensure members of the public and patrons are aware that an area is smoke free. Signage must be clearly legible and adequately convey the smoke free requirements. Examples of signage approved by the Director of Public Health are available on the Department's website at www.dhhs.tas.gov.au.

Responsible Serving of Alcohol

You are considered an expert

As a person who has attended a recognised Responsible Serving of Alcohol program and received their certificate, you have a responsibility to put into practise the principles and procedures that encourage and support responsible service of alcohol.

It is a big responsibility and one that should be taken seriously; if not only to avoid fines but because alcohol is a depressant drug that needs to be served and used wisely.

The strategies opposite should be followed in your premises.

If you are a staff member, encourage management to adopt such strategies to minimise your liability and that of the licensee and permit holder.

If you are a manager, licensee or permit holder, ensure your staff follow your lead to refuse service and/or restrict entry (where relevant and as necessary) and provide support when they do.

People who have completed a Responsible Serving of Alcohol program must have their details added to the RSA Register kept on the premises.

This should be completed by the licensee. A copy of your certificate must be given to the licensee for their records.

Strategies to adopt ASAP

Make sure you are familiar with the *Liquor Licensing Act 1990 and associated regulations*, and the relevance to you and your premises.

Adopt and implement a standard Refusal of Service procedure for all staff.

Develop and implement a House Policy that clearly communicates a strong position on the responsible service of alcohol.

Develop and implement an incident register making sure all staff use it.

Conduct regular staff training to reinforce the RSA principles, especially for newer staff.

Incorporate the principles and practices of RSA into the induction program for all new staff.

Never serve people who are intoxicated.

Never serve underage persons.

View your job as a professional occupation with requisite obligations to be taken seriously.



Responsible Serving of Alcohol

Questions

If you are unsure about any topic or point raised in this program, now is the time to ask. If your question cannot be answered today, your facilitator will take your details and respond with an answer as soon as possible.

Remember, if you didn't understand something, there's bound to be at least one other person in the room who will thank you for asking the question.

Assessment

Like all things worth having, you need to work for the Responsible Serving of Alcohol certification.

Your task is to do an assessment that will show if you are competent to put into practice the principles of RSA.

This program is aligned to the nationally accredited competency unit *Provide responsible service of alcohol* and so, to receive both the RSA program certification **and** the national unit you need to do an assessment that shows that you are competent.

Your facilitator will give/has given you details regarding the assessment to be completed.



Responsible Serving of Alcohol

Thank you

We hope that you have enjoyed the Responsible Serving of Alcohol program.

More importantly, we hope that you have gained the skills, knowledge and understanding to maintain and support the principles and processes connected to serving alcohol responsibly.

It is a serious business and it should be taken seriously, but if we all work together we can make the industry better for everybody - staff, licensees, management, permit holders and of course, our patrons.

Good luck and enjoy your profession – *responsibly*.

Responsible Serving of Alcohol

Useful sources of information

Whilst all care has been taken to identify reputable sites, your own judgement should be used to determine the appropriateness to your own circumstances.

Department of Treasury and Finance (Tas)

Liquor and Gaming Branch

www.liquorlicensing.tas.gov.au

Liquor Licensing Act 1990 (Tas)

Liquor Licensing Regulations 2016

Liquor Licensing (Fees) Regulations 2015

Liquor Licensing (Infringement Notices)

Regulations 2008

www.thelaw.tas.gov.au

National Health and Medical Research Council

www.nhmrc.gov.au

Tasmanian Hospitality Association

<http://australianhotels.asn.au>

Sexual Assault Support Services

South (03) 6231 1817 [all hours]

North (03) 6334 2740 [business hours] or
1800 697 877 [after hours]

North-West (03) 6431 9711 [business hours]
or 1800 697 877 [after hours]

Department of Health and Human Services

www.dhhs.tas.gov.au

Drug Education Network (DEN)

Statewide service providing drug education and information for young people, schools and the community.

Hobart 1300 369 319 or (03) 6211 2350

www.den.org.au

Alcohol and Drug Service

A statewide 24 hour telephone service offering information, counselling and referral advice for users, relatives, friends, students, health and welfare professionals and members of the general public.

Freecall 1300 139 641 or
1800 811 994

Responsible Serving of Alcohol

Relevant sections of the Liquor Licensing Act 1990

Responsible Serving of Alcohol

Liquor Licensing Act 1990

The *Liquor Licensing Act 1990* regulates the sale, supply, promotion and consumption of liquor in Tasmania with a focus on minimising harm, while allowing for the responsible development of the liquor and hospitality industry. The Act and the associated regulations also provides for obligations and offences that apply to Licensees, permit holders, staff and patrons.

If any of the provisions contained in the Act or regulations are breached there is a range of disciplinary procedures that could result. Generally, the Commissioner for Licensing may consider a range of penalties ranging from a warning to a fine or, for more serious issues, suspension or cancellation of licence or permit. Police may also issue on the spot fines for any of the offences prescribed under the Act.

The Liquor Act allows the sale of liquor in hotels and clubs between 5am and midnight 7 days a week. Trading outside these hours, namely the hours between midnight and 5am, can be carried out under the authority of an **Out-of-Hours Permit**.

A licensee when applying for an **Out-of-Hours Permit** has to satisfy the Commissioner that the sale of liquor on the premises in accordance with the permit will not-

- (a) cause undue annoyance or disturbance to-
 - (i) people living or working in the neighbourhood of the premises; or
 - (ii) customers or clients of any business in the neighbourhood of the premises or;
 - (iii) people conducting or attending religious services or attending a school in the neighbourhood of the premises; or
- (b) cause the occurrence of disorderly conduct-
 - (i) in the premises; or
 - (ii) in the neighbourhood of the premises.

Responsible Serving of Alcohol

Liquor Licensing Act 1990

If a licensee or permit holder is unable to satisfy the Commissioner of the above the Commissioner would refuse the application or subject the licence or permit to conditions. The licensee has a right of appeal to the Tasmanian Liquor and Gaming Commission (TLGC).

Where a permit has been issued and complaints are received as to the conduct of the premises or the conduct of the patrons of the premises both inside and outside the premises the Commissioner may cancel the permit. The licensee then has the right of appeal to the TLGC who can confirm or reject the Commissioner's decision or vary the terms of the permit.

Where conduct of the premises or patrons as described above becomes an issue outside the hours of an **Out-of-Hours Permit** namely the hours between 5am and midnight the Commissioner may, by order served on the licensee under section 39 of the Liquor Act, prohibit or restrict all or any of the activities authorised by the licence to be carried on the grounds that-

- (a) the use of the premises as authorised by the liquor licence is causing undue annoyance or disturbance to-
 - (i) people living or working in the neighbourhood of the premises; or
 - (ii) customers or clients of any business in the neighbourhood of the premises; or
 - (iii) people attending or in charge of people attending an educational establishment in the neighbourhood of the premises; or
 - (iv) people conducting or attending religious services in the neighbourhood of the premises; or
- (b) to do so will reduce or avoid the occurrence of disorderly conduct-
 - (i) in the premises; or
 - (ii) in the neighbourhood of the premises.

Responsible Serving of Alcohol

Liquor Licensing Act 1990

If the Commissioner issues an order it has effect for a maximum period of up to twelve months and may be revoked at any time by the Commissioner.

Section 39 could be used in respect of premises against which it is alleged that irresponsible service of liquor is taking place.

Such action would need to be taken on a premises by premises basis. The preferred approach is to **conduct an education program which encourages licensees to adopt a responsible attitude.**

The responsible service of liquor is very much tied to the underage aspect of the consumption of liquor.

The following two tables summarise the obligations and offences under the Liquor Act which relate to 1) licensees, permit holders and their staff; and 2) public persons.

Table 1 - Offences and penalties applied to licensees, permit holders and their staff

Offences of licensees, permit holders and their staff	Penalty units	Who will be penalised?			Section of the Act
		Licensee	Permit Holder	Staff	
Liquor must not be sold except as authorized by a liquor licence, permit or general exemption.	40	✓	✓	✓	5
The holder of a liquor licence or permit must comply with the conditions of that licence or permit.	20	✓	✓		25B(2) and 34A(2)
Liquor products must not be sold if they have been deemed undesirable by the Minister.	100 (50 for staff)	✓	✓	✓	38A(4) and (5)
Licensees and permit holders must retain control over the sale and consumption of liquor on the premises.	50	✓	✓		46
Persons selling or serving liquor must complete an approved RSA course; and permit applicants and holders must successfully complete an approved RSA course when, or if, directed.	20	✓	✓		46A(1) and (1A)
Licensees and permit holders must ensure sellers and servers of liquor meet minimum age requirements.	50	✓	✓		46B
Sale and consumption of liquor must not cause undue annoyance, disturbance or disorderly conduct.	50	✓	✓		46C

Responsible Serving of Alcohol

Offences of licensees, permit holders and their staff	Penalty units	Who will be penalised?			Section of the Act
		Licensee	Permit Holder	Staff	
Licensees selling liquor by taking orders over the telephone or by facsimile or by mail order must prominently display the licence number in advertisements or published information.	20	✓			46D(1)
Licensees selling liquor through an internet site must ensure the licence number is prominently displayed on the site and in advertisements or information published; and a notice is displayed prominently on the site at all times.	20	✓			46D(2)
Licensees selling liquor through the internet or by other communication media must require the purchaser's date of birth and provide written instructions for delivery etc.	20	✓			46D(3)
When selling liquor through the internet or by other communication media, if liquor is taken by a person under the age of 18 years, the licensee and delivery person are guilty of an offence.	20	✓			46D(4)
Licensees must not alter the area of licensed premises without approval.	20	✓			47(1)
Licensees must notify the Commissioner of an alteration to the boundaries of a designated area at least 30 days prior.	20	✓			48
Licensees and permit holders to notify Commissioner of any change (as specified by the Commissioner) within 14 days after it takes place.	Disciplinary Action ¹²	✓	✓		49
Licences or permits must be produced on demand to a police officer or authorized person.	20	✓	✓		53
Licences and permits (held by licensees) must be displayed in a noticeable position on the licensed premises.	20	✓			54 and 55
An authority to act as licensee must be displayed in a noticeable position on the premises.	20	✓			54A

¹² In accordance with the Liquor Licensing Act, where grounds exist, the Commissioner may consider taking disciplinary action as the Commission considers is appropriate.

Responsible Serving of Alcohol

Offences of licensees, permit holders and their staff	Penalty units	Who will be penalised?			Section of the Act
		Licensee	Permit Holder	Staff	
Special permits and small producer permits must be displayed in a noticeable position on the premises.	20		✓		55A
Liquor restriction orders must be displayed in a noticeable position on the premises.	20	✓			56
Licensees must display notices in respect to young people, provided by the Commissioner, at each entrance to areas of the premises designated as prohibited or restricted areas.	20	✓			60
Licensees must prevent or restrict entry of people under the age of 18 years to certain parts (prohibited or restricted areas) of licensed premises.	20	✓			61
Licensees and permit holders must require people exhibiting inappropriate behaviour or using inappropriate language to leave the premises.	20	✓	✓		62
Liquor sold on off-licence premises must not be consumed on the premises.	20	✓			63
Liquor sold on on-licence premises must not be removed from the premises.	20	✓			64
Licensees must restrict people from being on licensed premises outside authorized hours.	20	✓			65
Licensees must notify the Commissioner of intended absence from premises in excess of 14 days.	20	✓			66
A licensee, permit holder or person must not hinder etc an authorized officer.	20 (100 for staff)	✓	✓	✓	67 and 82
Licensees and permit holders must comply with notices banning or restricting advertising or promotion of the sale of liquor served on them by the Commissioner.	20	✓	✓		68(2)
A person must not knowingly make a false or misleading statement in an application.	50	✓	✓		69
Liquor must not be sold or served by a person who is intoxicated.	50 (20 for staff)	✓	✓	✓	69A(1) and (2)

Responsible Serving of Alcohol

Offences of licensees, permit holders and their staff	Penalty units	Who will be penalised?			Section of the Act
		Licensee	Permit Holder	Staff	
Liquor must not be sold or served to people on the premises under the age of 18 years.	100 (50 for staff)	✓	✓	✓	70(1) and (2)
Liquor must not be supplied to people on the premises under the age of 18 years.	50	✓	✓	✓	71
A person under the age of 18 years must not be given or allowed possession or control of liquor on the premises.	50	✓	✓	✓	75(1)
A person under the age of 18 years must not have possession or control of liquor on licensed or permit premises unless in the course of work and is under direct supervision.	10			✓	77
Liquor must not be sold or served to an intoxicated person.	100 (50 for staff)	✓	✓	✓	78(1) and (2)
Liquor must not be supplied on premises to an intoxicated person.	50	✓	✓	✓	79
Licensees and permit holders must take reasonable action to prevent offences on premises.	100	✓	✓		79A
The sale of liquor through vending machines must be specified in a licence or permit and comply with any condition, and the vending machine must be on licensed or permit premises.	20	✓	✓		79B(2)
Licensees must ensure that a person under the age of 18 years does not sell liquor on the premises in an area designated as prohibited.	10 ¹³	✓			84(1)
False identity documents seized must be given to police within 72 hours, with a notice detailing particulars.	10	✓	✓	✓	92A(3)
A person required to appear at a Commission hearing shall attend and produce required documents etc.	5	✓	✓	✓	217(1)

¹³ The maximum penalty units for this offence is prescribed in the *Liquor Licensing Regulations 2016*.

Responsible Serving of Alcohol

Offences of licensees, permit holders and their staff	Penalty units	Who will be penalised?			Section of the Act
		Licensee	Permit Holder	Staff	
A person called as a witness at a Commission hearing shall not refuse to be sworn/affirm, refuse to answer questions or answer questions incorrectly.	5	✓	✓	✓	217(2)
A person who grows grapes or produces wine must provide statistical information under the <i>Dairy Industry Act 1994</i> , as required.	15	✓	✓		222A(1)
A person providing statistical information must not make false or misleading statements or omissions etc.	15	✓	✓		222A(2)
Licensees must provide wholesale liquor supply information as required.	15	✓			222B(3)
Licensees must not make false or misleading statements or omissions etc, when providing wholesale information.	15	✓			222B(4)

Table 2 - Offences and penalties applied to public persons

Offence	Penalty units	Section of the Act
A person must not sell liquor unless they have a licence, permit or general exemption.	40	5
A person must not sell liquor products deemed undesirable by the Minister.	50	38A(4)
When selling liquor through the internet or by other communication media, if liquor is taken by a person under the age of 18 years, the licensee and delivery person are guilty of an offence.	20	46D(4)
A person must not order or request a person under 18 years to take delivery of liquor sold through the internet or by other communication media.	20	46D(7)
A person must not knowingly make a false or misleading statement in an application.	50	69
A person must not supply liquor to people under the age of 18 years on licensed or permit premises.	50	71
A person under the age of 18 years must not enter or remain on licensed premises in an area which has been designated as prohibited.	20	72(1)

Responsible Serving of Alcohol

Offence	Penalty units	Section of the Act
A person under the age of 18 years must not enter or remain on licensed premises in an area which has been designated as restricted, except to have a meal or is in the company of a responsible adult.	20	72(2)
A person under the age of 18 must not use false evidence of identity.	10	72A
A person under the age of 18 years must not purchase liquor.	10	73
A person must not send a person under the age of 18 years to obtain liquor from licensed or permit premises.	50	74
A person under the age of 18 years must not consume liquor on licensed or permit premises.	10	76
A person under the age of 18 years must not have possession or control of liquor on licensed or permit premises unless in the course of work and is under direct supervision.	10	77
Liquor must not be supplied to a person who is intoxicated on licensed or permit premises.	50	79
A person must not sell liquor by means of a vending machine unless otherwise permitted to do so, etc.	20	79B(2)
A person must not bring liquor onto a licensed or permit premises without the consent of the licensee or permit holder.	10	79C
A person must not act in a violent, quarrelsome or disorderly manner; or use disgusting, profane or foul language on licensed or permit premises.	20	79D
A person must leave a licensed or permit premises when required to do so.	50	80(1) and 80A(1)(a)
A person who has been required to leave a licensed or permit premises, must not re-enter or attempt to re-enter those premises within 24 hours of leaving or being removed from those premises.	50	80(2) and 80A(1)
A person who is required to leave a licensed or permit premises must not, without reasonable excuse, remain in the vicinity of those premises for the remainder of the day's trading or six hours after being required to leave the premises.	50	80(2A & 80A(1A)
A person who is prevented under a barring order from entering or remaining on a licensed or permit premises, must not enter or attempt to enter or remain on the premises to which the order relates.	50	81(7)

Responsible Serving of Alcohol

Offence	Penalty units	Section of the Act
A person who is served with a barring order must not, without reasonable excuse, enter or remain in the vicinity of the licensed or permit premises to which the order relates.	50	81(8)
A person must not hinder an authorized officer.	100	82
A person must give their true name, address and date of birth if required to do so by a police officer.	50	83
A person under the age of 18 years must not sell liquor in an area designated as prohibited.	10 ¹⁴	84(1)
A person who is required to appear at a hearing of the Commission must attend and produce documentation in accordance with the notice.	5	217(1)
A person who is called as a witness at a hearing before the Commission must not refuse to be sworn or answer any question, or answer any question incorrectly.	5	217(2)
A person who grows grapes or produces wine, must provide statistical information under the <i>Dairy Industry Act 1994</i> .	15	222A(1)
A person who grows grapes or produces wine, when providing information, must not knowingly make a false or misleading statement or omission.	15	222A(2)

¹⁴ The maximum penalty units for this offence is prescribed in the *Liquor Licensing Regulations 2016*.



Fine Time – (For all licensed and permit premises)

This notice reminds staff and patrons that it is an offence to sell or supply liquor to a person intoxicated and that the supply and sale of liquor to, or purchase/consumption of liquor by, young people is illegal.

Display this notice in a prominent position in all bar and liquor service areas.



Prove It! No Proof – No Purchase – (For all licensed and permit premises)

This notice is important for patrons and staff as it sets out the acceptable forms of ID, so that staff can ensure that young people do not access liquor.

Display this notice in restricted areas where young persons are allowed entry, but are not allowed to purchase or consume liquor.



Prove It! No ID – No Entry – (For nightclubs and premises where underage access is prohibited)

This notice is important for staff and patrons as it sets out the acceptable forms of ID, so that staff can ensure that young people do not gain entry to prohibited areas.

Display this notice at the entrance to prohibited areas of licensed premises, particularly night clubs and late night premises, where young persons are not allowed to enter at any time.



Wait On! Restricted Area – (For premises with designated areas restricting underage entry, such as lounge/dining room areas)

A restricted area is one where young persons are allowed to enter, and remain in, as long as they are in the company of a responsible adult, or are there to have a meal.

This notice must be displayed if the Commissioner for Licensing has designated any part of a licensed premises as a restricted area.

Display this sign in a conspicuous position at each entrance to any part of the designated area.



Hold It! Prohibited Area – (For prohibited bar areas, such as public bars)

A prohibited area is an area where young persons under the age of 18 are not to enter under any circumstances or at any time.

This notice must be displayed if the Commissioner for Licensing has designated any part of licensed premises as a prohibited area.

Display this sign in a conspicuous position at each entrance to any part of the designated area.

All signs are free and can be printed from www.liquorlicensing.tas.gov.au > [Liquor > Industry Requirements > Signs](#) or sent to you by contacting the **Liquor and Gaming Branch**:

email licensing@treasury.tas.gov.au

fax (03) 6173 0218

phone (03) 6166 4040 Hobart or (03) 6777 2777 Launceston

or

by attending the offices of the **Liquor and Gaming Branch** in:

Hobart – 2nd Floor, 80 Elizabeth St and

Launceston - 3rd Floor, Henty House, 1 Civic Square.