

Intoxication guidelines

Factsheet

These guidelines are designed to assist you to determine whether or not a person is intoxicated.

Overview

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

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

What is the law?

Section 5 of the *Liquor Act 2007* states that a person is intoxicated if:

- the person's speech, balance, co-ordination or behaviour is noticeably affected, and
- it is reasonable in the circumstances to believe that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor.

Liquor licensees have important obligations to ensure alcohol is served responsibly to help minimise alcohol-related harm.

Supporting responsible consumption practices and preventing intoxication lowers the risk of alcohol-related violence and neighbourhood disturbance, and helps to promote a safe venue for customers and staff.

The NSW liquor laws prohibit the sale and supply of alcohol to intoxicated persons. Licensees also have a legal obligation to prevent intoxication from occurring on their premises. Fines, higher annual licence fees, and possible suspension or cancellation of a licence can apply where alcohol is served to an intoxicated person or intoxication is permitted.

Intoxication offences under the NSW liquor laws are discussed in the *Prevention of Intoxication on Licensed Premises Guidelines*. The guidelines outline the obligations of licensees and serving staff. They provide advice on steps that can be taken by licensees and staff to manage the risk of intoxication on licensed premises.

The *Prevention of Intoxication on Licensed Premises Guidelines* are issued by the Secretary, NSW Department of Justice, under section 73(5A) of the *Liquor Act 2007* and are available from Liquor & Gaming NSW at www.liquorandgaming.justice.nsw.gov.au

What are the noticeable signs of intoxication?

These symptoms or signs are not exhaustive, and not necessarily conclusive of intoxication.

Speech	Balance	Coordination	Behaviour
<ul style="list-style-type: none"> • Slurring words • Rambling or unintelligible conversation • Incoherent or muddled speech • Loss of train of thought • Not understanding normal conversation • Difficulty paying attention 	<ul style="list-style-type: none"> • Unsteady on feet • Swaying uncontrollably • Staggering • Difficulty walking straight • Cannot stand, or falling down • Stumbling • Bumping into or knocking over furniture or people 	<ul style="list-style-type: none"> • Lack of coordination • Spilling drinks • Dropping drinks • Fumbling change • Difficulty counting money or paying • Difficulty opening or closing doors • Inability to find one's mouth with a glass 	<ul style="list-style-type: none"> • Rude • Aggressive • Belligerent • Argumentative • Offensive • Bad tempered • Physically violent • Loud/boisterous • Confused • Disorderly • Exuberant • Using offensive language • Annoying/pestering others • Overly friendly • Loss of inhibition • Inappropriate sexual advances • Drowsiness or sleeping at a bar or table • Vomiting • Drinking rapidly

Standard drink

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

The Standard Drink Guide can be used to help identify how many standard drinks have been consumed and is available from www.alcohol.gov.au



How else to determine if someone is intoxicated

Make observations:

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

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

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

Reasonable belief that a person is intoxicated

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

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

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

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

Are there conditions that exhibit similar symptoms/signs to intoxication?

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

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

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

Examples only:

- Acute infections
- Acquired brain injury
- Brain trauma/tumours
- Delirium
- Diabetes/hypoglycaemia
- Epilepsy
- Head injuries
- Pneumonia
- Seizures and post seizure states
- Stroke.

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

- Slow service down for the patron
- Wait for the patron to re-order, don't automatically top up drinks
- Do not conduct any activity or promotion that will result in patrons engaging in irresponsible, rapid, or excessive consumption of liquor.

What to do if someone is intoxicated

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

Procedures for dealing with intoxication incidents should be in place and staff should be trained in these procedures.

When refusing service to a person:

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

The Liquor & Gaming NSW website has a number of resources which provide further information on refusing entry or removing patrons from a premises.

Visit www.liquorandgaming.justice.nsw.gov.au

Penalties

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

Need more information?

Visit www.liquorandgaming.justice.nsw.gov.au for more information about the liquor laws. Subscriptions to our e-news service are also available from this site.

Access to the liquor laws – *the Liquor Act 2007* and the Liquor Regulation 2008 – is available from

www.liquorandgaming.justice.nsw.gov.au

For more information, call our Customer Service Team on (02) 9995 0300 or email info@olgr.nsw.gov.au

Publication details

These guidelines are published by the Secretary, NSW Department of Justice, under section 5 of the *Liquor Act 2007*. They are designed to assist you to determine whether or not a person is intoxicated.

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