

Intoxication

The *Liquor Licensing Act 1990* makes it an offence to sell or serve liquor on licensed premises or permit premises to a person who you believe on reasonable grounds to be intoxicated. A person may become intoxicated after consuming liquor, drugs or another intoxicating substance. Fines for staff of up to 50 penalty units may be issued where alcohol is served to an intoxicated person. Licensees and permit holders may also be fined 100 penalty units for allowing persons authorised by them to supply liquor to an intoxicated person.

3B Meaning of "intoxicated"

For the purposes of this Act, 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.

Liquor Licensing Act 1990

What does reasonable belief mean?

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

It is acceptable to refuse service to a person on the basis of reasonable belief, even if you are wrong, as long as your decision was based on clearly thought out reasons and those reasons were not discriminatory (eg based on a person's race, gender or disability). A person has the right to take a matter to the Anti-Discrimination Commissioner if they feel they have been subjected to discrimination.

A reasonable belief can come from many sources, such as:

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

Be aware and sensitive when informing your belief.

Consider that a person may have an injury, condition or disability

People who experience physical, intellectual, psychiatric, sensory, neurological or learning disabilities, or have an acquired brain injury, may appear to have similar speech, balance, coordination or behaviour to intoxicated people.

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

Signs of intoxication

Not all people are affected by liquor or other intoxicating substances in the same way. Factors such as the amount consumed, general state of health, gender, body weight, medications and food intake affect the rate at which a person becomes intoxicated.

A person may show many noticeable signs as they become intoxicated such as those shown below. These are not exhaustive and are not necessarily conclusive evidence of intoxication. Again, it is important to be mindful that a person may have an injury, condition or disability that causes them to have similar behavioural signs to an intoxicated person.

Speech

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

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

Balance

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

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

Things you could do to help assess whether someone is intoxicated

Things you can do to help you decide whether someone is intoxicated and their level of intoxication:

- observe the amount and type of liquor consumed;
- observe behaviour;
- talk to them and/or their friends; and
- get a second opinion from your work mates and/or supervisor.

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

Questions

- How much alcohol have they consumed?
- 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?

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.
- 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.

Refusing service because someone is intoxicated

Refusing service to someone who is intoxicated is a legal requirement. It is a responsibility that all people who serve liquor must accept as part of their job and their duty of care to patrons, their workmates and themselves.

It is an offence under the Liquor Licencing Act for a **person** to **sell or serve** liquor on licensed premises or permit premises to a person who is **intoxicated**. A person may be fined up to 50 penalty units. The licensee or permit holder is also guilty and may be fined up to 100 penalty units.

It is also an offence for **another patron** to **supply** liquor to a person who is **intoxicated**. The patron may be fined up to 50 penalty units.

If **you** are **intoxicated**, you must not **sell or serve** liquor on licensed premises or permit premises. A person may be fined up to 20 penalty units. The licensee or permit holder is also guilty and may be fined up to 50 penalty units.

If you have reasonable grounds for the belief that someone is intoxicated, you must not sell or serve them liquor.

Tips for refusing service

- Early intervention – take notice of the patron’s behaviour early, before it becomes a problem. Give early warnings so the patron knows where they stand and has an opportunity to behave better.
- Offer an alternative – refusing service of liquor is not a total ban on service if caught early enough. Offer a soft drink, coffee or a break from drinking altogether.
- Deliver the message to the patron without an audience and use open body language – do not give the patron an opportunity to “make a scene” as well as allowing them to “save face”. Explain your concern without prejudice, letting them know that their welfare, and the welfare of others is your first concern.
- Use the law as a defence – take yourself out of the argument by letting them know that you have no choice under the law. If you need to, repeat firmly that by law they cannot be served another drink.
- Stay calm and get assistance if you need to - ensure that you have backup from other staff and supervisors.
- Once you have refused service to the person notify the manager, licensee, supervisor or security.
- Consider a short term ban if necessary – management are able to impose a short-term ban where they believe it is required.

Penalty unit information can be found at:-

https://www.justice.tas.gov.au/about/legislation/value_of_indexed_units_in_legislation

For further information contact the Liquor and Gaming Branch.

Phone: (03) 6166 4040 (Hobart) or (03) 6777 2777 (Launceston)

Email: licensing@treasury.tas.gov.au **Web:** www.liquorlicensing.tas.gov.au