

## Retailer Policies for Risk Management

### Alcohol Policies

- Limit the number of drinks:
  - \* Bottle service to two people is *not* good policy.
  - \* Monitor for behavior that would indicate problems.
- Pay attention to drink sizes:
  - \* Bigger is not always better and more could be too much.
  - \* Use measured drinks, free pours are never short.
- Remember, price drives consumption.
- Prohibit any kind of drinking games/competitions which include consumption.
- Avoid promotions that don't have your best interest at heart. Promoters are concerned about themselves first and foremost.
- Ensure you have sufficient staff who are fully trained.
- Service practices:
  - \* For special events, consider modifications in how you serve product.
  - \* Use plastic instead of glass.
  - \* Differentiate how alcohol and non-alcohol products are served.
  - \* If a location produces several people charged with Public Intoxication during a drink special, then there is a Place or Manner Violation. (The manner in which the business is operated or the place the business is located is detrimental to the health, safety and welfare of the public.)

### Operational Policies

- Know and maintain your occupancy.
  - \* Overcrowding is a root cause of breaches, sales to intoxicated people, and other issues.
  - \* It may also be a fire code violation and is certainly a safety concern.
- Maintain a professional image and conduct.
- No employee should be allowed to consume alcohol or be under the influence of alcohol or drugs while on duty.
- Off duty employees should be good witnesses only and not get involved in situations when not working.
- Critical incidents (fights, medical issues, etc.):
  - \* Have plans and practice for these events. Plans should include removal procedures for problem patrons. Pushing a group of problem customers out the door is not a solution – if the breach began at the licensed premises and concluded in the street, it is still a breach of peace or possibly a Place or Manner Violation.
  - \* The entire property is the licensed premises – if it happened in the parking lot, it is still a breach and must be reported. It may or may not have been beyond control of the permittees/licensees.
- House lights should come up and music should be turned down.
- The conduct of you and your employees can escalate or de-escalate the situation.
- Throwing a drunk out the door creates a Source Investigation for TABC. Not only do DWI issues arise – assaults, sexual assaults, vandalism, disorderly conduct, and pedestrian issues have all contributed to offenses at one time or another.
- Build a reputation for being *intolerant* of these behaviors.
- Closing Time:
  - \* Consider slowing the pace of music for the last set so that people have time to “mellow.” It is hard to fight to slow music.
  - \* Turning lights on and music down or off at “hard” closing time sends a clear message and allows you to observe the condition of people that you are about to send into public areas.

# Be A Responsible Retailer

TABC promotes voluntary compliance with the law to deter violations of the Texas Alcoholic Beverage Code.



1-888-THE-TABC  
[www.tabc.state.tx.us](http://www.tabc.state.tx.us)  
[www.2young2drink.com](http://www.2young2drink.com)  
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**TABC Definitions:**

**Employee** - Includes all persons paid by a license or permit holder to sell, serve, dispense, or deliver alcoholic beverages or to immediately manage, direct, supervise or control the sale or service of alcoholic beverages.  
TABC Rule §34.4(g)

**Permittee/Licensee** - A person who is the holder of a permit/license provided for in this code, or an agent, servant or employee of that person.  
TABC Code §1.04 (11)(16)

**Intoxication** - Having a BAC of 0.08 or more **OR** not having normal use of mental or physical faculties by reason of the introduction of:  
 • alcohol;  
 • a controlled substance;  
 • a drug; or  
 • a combination of the above.  
Penal Code §49.01

**Public Intoxication** - To appear in public under the influence of alcohol and/or any other substance to the degree that the individual may endanger him/herself and/or may endanger others.  
Penal Code §49.02

**Public Intoxication is a Class C Misdemeanor.**



**A Responsible Manager Should:**

- Support sellers/servers' professional efforts to provide responsible alcohol sales and service.
- Provide ongoing employee education to ensure responsible alcohol sales and service.
- Establish responsible alcoholic beverage sales and service policies and procedures.
- Discuss intervention techniques and develop an intervention plan with their employees.
- Know the laws and be the on-site authority on these laws.
- Be the on-site authority and resource on checking IDs.

**Policies You Need To Address:**

- How to check IDs and which types to accept.
- How to refuse a sale.
- How to handle difficult customers.
- Whether it is illegal for an employee to be intoxicated at their place of employment while on or off duty.
- **Policies cannot conflict** with existing laws, but they may be stricter than existing laws.
- Policies must be clear and specific.
- Policies must be reinforced with training of employees.
- Policies must be in writing.

### Guidelines for Writing Policies:

## What is “Safe Harbor”?

If an employee sells or serves alcoholic beverages to a non-member of a private club, a minor or an intoxicated person, the actions of the employee shall not be attributable to the employer if:

1. the person selling is not the owner or an officer of the company;
2. the person selling holds a current seller-server training certificate from TABC;
3. all employees engaged in the sale, service, or delivery of alcoholic beverages, as well as their immediate managers, are certified within 30 days of their hire date;
4. the employer has written policies for responsible alcohol service and ensures that each employee has read and understands these policies;
5. the employer does not directly or indirectly encourage the employee to violate the law; and
6. there are not more than three of these types of violations within a twelve-month period.

## What does this mean?

Requiring employees to be seller/server certified provides “safe harbor” for permittees. If all employees are seller/server certified, the permittee’s alcoholic beverage license might be protected from a fine, suspension or cancellation. Other benefits may include:

- lowering liability insurance costs;
- more knowledgeable and responsible employees;
- being a more responsible member of your community.

## How do I know if my employees are certified?

Everyone that takes a TABC approved seller training course receives a certificate immediately.

If they do not have a certificate, verify that employees are seller/server certified by checking the TABC website. You will need their social security numbers and dates of birth.

Certified seller training schools have 14 days to upload trainee information into the TABC database. If an employee claims to be certified and is not in the system, contact TABC at 512-206-3420.

## How do I get my employees certified?

Contact one of the TABC certified course providers in your area. A list is provided on the TABC website.

## Reporting Breaches of the Peace

TABC license and permit holders are required to report to the Texas Alcoholic Beverage Commission **as soon as possible but within 24 hours** of any incident on the licensed premises where a person shoots, stabs, causes serious bodily injury to, or murders a person.

\*Serious bodily injury is defined in the Texas Penal Code §1.07 as “bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.”

Unless required by the previous section to report within 24 hours, TABC license and permit holders are required to report to the Texas Alcoholic Beverage Commission as soon as possible but **within five calendar days** any incident on the licensed premises where either:

1. Law enforcement or emergency medical services personnel respond to the premises of a permit or license; OR
2. A disturbance is created on the premises by a person who does any of the following:
  - a. Causes bodily injury to another person;
  - b. Threatens another person with a weapon;
  - c. Discharges a firearm on the premises of the permit or license; or
  - d. Destroys the permittee's or licensee's property, if the incident is reported by the permittee or licensee to a law enforcement agency.

A breach of peace incident described in paragraphs (1) and (2) in this section only has to be reported if it:

- a. Occurs at a time when the permittee or licensee or any person allowed by the permittee or licensee is on the premises; and
- b. Interferes with, interrupts, or intrudes upon the operation or management of the licensed premises.

A breach of the peace may be reported by:

E-mail: [breachofpeace@tabc.state.tx.us](mailto:breachofpeace@tabc.state.tx.us)

On-line: <https://www.tabc.state.tx.us/BreachOfPeace>

In person: At your local TABC office

Fax: To your local TABC office

To find your local office, go to:

[http://www.tabc.state.tx.us/contact\\_us/local\\_field\\_office.asp](http://www.tabc.state.tx.us/contact_us/local_field_office.asp)



The image shows a "BREACH OF THE PEACE REPORT" form from TABC. The form includes the following fields: Date Incident Occurred, Time Incident Occurred, INCIDENT LOCATION (Trade name of Licensed Premise where the incident occurred, Street number, City, County, Street name), and REPORTER (Name of Person filing the Breach of the Peace Report, Zip). The TABC logo is in the top left corner.

The information required to be reported is the same regardless of how it is reported. You may see the entire form with the required information at: [http://www.tabc.state.tx.us/laws/breach\\_of\\_peace.asp](http://www.tabc.state.tx.us/laws/breach_of_peace.asp)