

# RISK MANAGEMENT

RISK MANAGEMENT



## UNDERSTANDING YOUR RISKS



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



TABC promotes voluntary compliance with the law to deter violations of the Texas Alcoholic Beverage Code. This booklet provides information on:

- Breach of Peace
- Risk Management

## 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*** 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.”

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## Reporting Breaches of the Peace *(continued)*

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;

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## Reporting Breaches of the Peace *(continued)*

- 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.

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## Reporting Breaches of the Peace *(continued)*

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)

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## Reporting Breaches of the Peace *(continued)*

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)



### BREACH OF THE PEACE REPORT

Date Incident Occurred \_\_\_\_\_

Time Incident Occurred \_\_\_\_\_

### INCIDENT LOCATION

Trade name of Licensed Premise where the incident occurred \_\_\_\_\_

Street number \_\_\_\_\_ Street name \_\_\_\_\_

City \_\_\_\_\_ Zip \_\_\_\_\_

County \_\_\_\_\_

### REPORTER

Name of Person filing the Breach of the Peace Report \_\_\_\_\_

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## License Suspension or Cancellation

### BREACH OF PEACE

Texas Alcoholic Beverage Code §§ 22.12, 28.11, 69.13, 71.09

The commission or administrator may suspend or cancel a license (license type varies by code) after giving the permittee notice and the opportunity to show compliance with all requirements of law for the retention of the permit if it finds that a breach of the peace has occurred on the licensed premises or on premises under the control of the permittee and that the breach of the peace was not beyond the control of the permittee and resulted from his improper supervision of persons permitted to be on the licensed premises or on premises under his control. Acts 1977, 65th Leg., p. 422, ch. 194, § 1, eff. Sept. 1, 1977.

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## Texas Regulations

TABC Administrative Rules Chapter 34. SCHEDULE OF SANCTIONS AND PENALTIES

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
Conducting business in a manner as to allow a simple breach of the peace with no serious bodily injury or deadly weapon involved (as defined in the Texas Penal Code) in violation of the Texas Alcoholic Beverage Code §§22.12 and 28.11.	3-5 days \$300/day	6-10 days \$300/day	18 days- Cancel \$300/day

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## Texas Regulations

TABC Administrative Rules Chapter 34. SCHEDULE OF SANCTIONS AND PENALTIES

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
Conducting business in a manner as to allow an aggravated breach of the peace with a serious bodily injury, death or involving a deadly weapon (as defined in the Texas Penal Code) in violation of the Texas Alcoholic Beverage Code §§22.12, 28.11, 69.13 and 71.09.	25-35 days \$300/day	Cancel	Cancel

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## Texas Regulations

TABC Administrative Rules Chapter 34. SCHEDULE OF SANCTIONS AND PENALTIES

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
Failure to report a breach of the peace in violation of the Texas Alcoholic Beverage Code §§11.61(b)(21), 61.71(a)(31).	2-5 days \$300/day	4-10 days \$300/day	12 days- Cancel \$300/day

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## General Risk Management Policies

The business will follow the lead of the owners and managers.

- Owners/Managers – Set the tone for your employees.
- Make Risk Management a top priority.
- Train your employees for your expectations. With proper training, you will be able to support your employee's decisions.
- Give your employees a chance to excel.
- Set the bar high....reward good risk management practices.

## Policies and Procedures

Establish written polices and procedures. Include key areas related to:

- Service practices;
- Security - roles and responsibilities;
- Use of force;
- Documenting unusual incidents; and
- Emergency procedures.

Train employees on the policies and require them to sign off on what they have learned and when they completed the review. In some cases, testing of employees may be preferred.

Ensure that key policies are easily accessible and reviewed frequently.

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## Alcohol Policies for Risk Management

- 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.

## Alcohol Policies for Risk Management *(continued)*

- 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.)

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## 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.

## Operational Policies *(continued)*

- 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.

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## Operational Policies *(continued)*

- 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.

## Operational Policies *(continued)*

- 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.

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## Conclusions

- Management expectations help establish the overall business reputation.
- Policy and Procedures are critical to create safe environments.
- Train staff for consistency and proper performance.
- Your business's reputation will become known...what reputation do you want?
- Talk to your insurance carriers. Adopting these suggestions could save you money and reduce the likelihood of lawsuits.

## Emergency Services

- Calling Emergency Services:
  - \* Make sure employees know how to call for emergency services.
  - \* Have critical information posted near phones such as:
    - » Name
    - » Business Address
    - » Business Phone
    - » Special Instructions to expedite the response.
  - \* Staff should meet emergency services at the door and escort them to the problem location.
  - \* Additional staff should help clear a path to the problem. Time can be the difference in preventing increased problems or loss of life.

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## Security

- Security Staff:
  - \* Hire appropriate people for the job and complete background checks on them. Look beyond the obvious.
  - \* Hire thinkers as well as those who can act. (Size isn't the most important thing.)
  - \* Avoid hiring anyone with a history of violence. Some people go into this field because of the sport of the position.

## Security *(continued)*

- Ensure staff have the equipment they need to do the job properly. Know what is legal for your staff to use. If other equipment is used or carried by staff, they must be trained on the proper use of that equipment.
- A highly visible uniformed appearance is helpful.
- Communication is critical...Head sets, hand signals or other forms of communication can be provided for a better response.
- Think about the message being sent to the customers by your security staff. Is it the message you want?

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## Security *(continued)*

- Procedural training is critical.
- Establish a Use of Force Policy for security.
- Understand your legal limitations and liability issues.
- Understand what constitutes criminal conduct. Ensure that security staff understand that if they put their hands on people before there is a perceived threat that they can articulate, they will have committed an assault.

## Security *(continued)*

- If security goes hands on, what documented training does the employee have?
  - \* Have documentation policies in place that include:
    - Types of incidents to be documented;
    - Who is involved in the documentation;
    - Incident evaluations to improve performance.

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## TABC's Commitment

TABC is here to help you provide more responsible alcoholic beverage service.

We would rather help you prevent a violation than punish you after one occurs.

If you need any help, please call 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)

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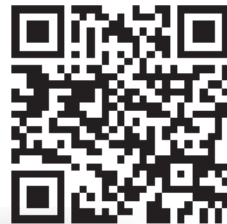


## Questions?

[questions@tabc.state.tx.us](mailto:questions@tabc.state.tx.us)



TABC Field Offices



TABC Breach of Peace

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