



Intoxication Guidelines

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, and the operation of the licensed premises, 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.

Licensees should also be aware that other substances, such as kava, when mixed with alcohol can cause increased intoxication.

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 fee, 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 GL4002 'Prevention of intoxication on licensed premises' guidelines available from Liquor & Gaming NSW at liquorandgaming.nsw.gov.au. The guidelines outline the obligations of licensees and serving staff. They provide advice on steps that can be taken by licensees and staff to prevent intoxication on licensed premises.¹

What are the noticeable signs of intoxication?

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

Speech

- slurring words
- rambling or unintelligible conversation
- incoherent or muddled speech
- loss of train of thought
- not understanding normal conversation
- difficulty paying attention.

Balance

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

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.

¹ The (GL4002) Secretary's Prevention of intoxication on licensed premises guidelines is issued under section 73(5A) of the *Liquor Act 2007*.

Intoxication Guidelines

Behaviour

- 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 bar or table
- vomiting
- drinking rapidly.

Standard drinks

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 drinks guide](#) can be used to help identify how many standard drinks have been consumed and is available from health.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 Anti-Discrimination NSW Board if they feel they have been subjected to discrimination.

Are there conditions that may result in a person exhibiting symptoms/signs similar to that of 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 may have a pre-existing condition, if you have observed the person consuming alcohol and the person has been drinking for some time, then it may be reasonable to form a belief that the person is intoxicated as a result of alcohol consumption.

Intoxication Guidelines

- 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.

Drink spiking

Drink spiking is when someone deliberately adds alcohol or another drug to someone's drink without their knowledge or permission. This can lead to negative consequences such as assault and sexual violence, with one in three drink spiking incidents being associated with sexual assault. Drink spiking is illegal in all Australian states and territories. In NSW, drink spiking is an offence under section 38A of the *Crimes Act 1900* which carries a maximum penalty of 2 years in prison.

The most common ways to spike a drink is by adding alcohol to a non-alcoholic drink or adding extra alcohol (double/triple shots). A range of drugs can also be used to spike a drink which is added to alcohol to act as a powerful sedative. Majority of victims are unable to detect that they have been spiked through sight, smell or taste because these substances are often colourless and odourless.

Everyone who works in a licensed premises, including security staff, have a part to play in preventing drink spiking. It is important to be aware of signs that someone's drink has been spiked. Symptoms will vary for a variety of reasons. For a drink spiking incident with alcohol, it will depend on how much alcohol was consumed prior to the incident, current prescriptions, tolerance levels, the venue environment, and the drink spiking dosage. With a drink spiking incident with drugs other than alcohol, it is dependent on the type of drug used. Look out for a sudden or extreme intoxication inconsistent with the amount of alcohol they have consumed.

Symptoms may include:

- confusion
- nausea or excessive vomiting
- hallucinations
- disorientation
- inability to communicate clearly (for example slurred speech and unresponsiveness)
- paranoia
- poor coordination
- poor visibility
- unconsciousness.

What to do if someone's drink has been spiked?

Call police (and the ambulance) if you witness a drink spiking. If someone reports a drink spiking incident, an assessment of the situation is required to work out the best course of action. Steps to ensure everyone's safety should include:

Listen

- Listening and believing is the vital first step in supporting someone who has been affected. If someone suspects a drink has been spiked you should listen, stop what you are doing, pay attention and focus on the information the person is giving you.

Work with emergency services

- Call the police if the alleged perpetrator is still present, especially if they are behaving violently.
- Call an ambulance if the victim requires medical attention, especially if they are unconscious, and advise them that you suspect the person's drink may have been spiked.

Gather information for police

- Gather information and report the incident to the police as soon as possible, and record the matter in your incident register (if you are required to have one).
- If a request is made for the police not to be contacted, be mindful of who is making the request; is it in the best interests of the individual; do they have the capacity to agree to this request? Ensure anyone offering to help is a friend and can be fully trusted. If in doubt, intervene. Take a record of names, ID and exchange contact details if you can.

Work with police

- If the person affected has vomited, this and any contaminated clothing should be brought to the attention of the police.
- It is best practice to preserve any CCTV recordings. You may be asked if the CCTV can be viewed in situ to identify any suspects at the earliest opportunity. CCTV evidence can be provided electronically.
- If the perpetrator is still present, they should be identified to the police immediately. If there is a suspect identified you should circulate the details with your local police.
- If possible, secure the drinking vessel (e.g. glass) alleged to have been used in the offence, including any liquids for analysis.

Note some high-risk premises and those located in the Sydney CBD and Kings Cross precincts have to comply with crime scene preservation requirements. This requires venue staff to call police where there is an act of violence involving an injury to a person on the premises.

Intoxication Guidelines

What to do next

If you witness a drink spiking incident or someone has reported to you or your staff that they have had their drink spiked, do not let the victim leave the venue alone or with anyone you are suspicious about. You should ensure they have a planned journey home and are accompanied by someone they know and trust, once they have been attended to by police, and evidence has been gathered.

If they are unable to arrange their own transport home, organise safe transport on their behalf with a taxi or ride share service, or by referring the patron to support services.

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 patrons.
- Give a 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 the police for assistance in removing the person from the premises.
- If considered necessary, management may consider imposing a short term ban.

It is recommended that venues make a record of their actions and interactions with patrons who are identified as intoxicated in or around their venue. This record should be made within an approved incident register (if this is required for your licence).

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

See the FS3030 'Refusal of entry and patron bans/barring' fact sheet for further information on refusing entry or removing patrons from a premises, or search for 'refusing entry' at liquorandgaming.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.

Supplying alcohol to an intoxicated person is also a category 1 demerit offence. Demerit offences result in additional loadings attached to the annual liquor licence fee of a venue. More information on this is available at liquorandgaming.nsw.gov.au

Publication details

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


For further information?

Visit liquorandgaming.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 2018* – is available from liquorandgaming.nsw.gov.au

To find out more about the liquor laws, contact L&GNSW:

 liquorandgaming.nsw.gov.au

 1300 024 720

 [Contact us online](#)