



# Victorian Commission for Gambling and Liquor Regulation

## Liquor Licensing Fact Sheet Intoxication guidelines

These Intoxication guidelines are issued pursuant to Section 3AB (2) of the *Liquor Control Reform Act 1998* (the Act), to help licensees serve alcohol responsibly. The guidelines contain information about how to determine if a person is in a state of intoxication and how to refuse service.

### Intoxication

Not all people will be affected by alcohol in the same way and different amounts of alcohol can have a different effect depending on the person. Several factors, such as the amount of alcohol consumed, general state of health, gender, body weight, medications and food intake, affect the rate at which a person becomes intoxicated.

Alcohol is absorbed into the bloodstream as a person drinks. It is absorbed through the stomach

walls and the intestines and carried through the bloodstream to the brain. One of the first effects of alcohol is the loss of judgement and inhibitions.

### Signs of intoxication

There are many noticeable signs that a person may display as they become intoxicated. As blood alcohol levels rise, differences can be noticed in coordination, appearance, speech and behaviour.

An intoxicated person may show the following signs:

Noticeable changes in behaviour	Noticeable loss of coordination and other physical signs	Noticeable decrease in alertness
<ul style="list-style-type: none"> <li>• becoming loud, boisterous and disorderly</li> <li>• becoming argumentative</li> <li>• annoying other patrons and staff</li> <li>• becoming incoherent, slurring or making mistakes in speech</li> <li>• becoming physically violent</li> <li>• becoming bad tempered or aggressive</li> <li>• using offensive language</li> <li>• exhibiting inappropriate sexual behaviour</li> </ul>	<ul style="list-style-type: none"> <li>• spilling drinks</li> <li>• fumbling and difficulty in picking up change</li> <li>• swaying and staggering</li> <li>• difficulty walking straight</li> <li>• bumping into furniture and other customers</li> <li>• glassy eyes and lack of focus</li> <li>• falling down</li> <li>• vomiting</li> </ul>	<ul style="list-style-type: none"> <li>• rambling conversation</li> <li>• loss of train of thought</li> <li>• difficulty in paying attention</li> <li>• not hearing or understanding</li> <li>• what is being said</li> <li>• drowsiness, dozing or sleeping while sitting at a bar</li> <li>• or table</li> </ul>

Remember, these signs are not exhaustive or, in a particular case, not necessarily conclusive of intoxication.

## What is the law in Victoria?

The Act states it is an offence for a licensee or permittee to supply liquor to a person in a state of intoxication, or to permit drunken or disorderly persons to be on the licensed premises, or on any authorised premises.

A definition of intoxication is contained in the Act. Section 3AB (1) states:

*For the purposes of this Act, a person is in a state of intoxication if his or her speech, balance, co-ordination or behaviour is noticeably affected and there are reasonable grounds for believing that this is the result of the consumption of liquor.*

## Other ways of determining if someone is intoxicated

Interaction with the person and their friends will help you determine whether someone is intoxicated and their level of intoxication.

Talk with the person, ask them questions such as:

- How much alcohol have they consumed?
- When did they last eat and how much?
- Whether they consider themselves intoxicated?

Make further observations:

- Does the person smell of alcohol?
- When did the person enter the premises?
- What type of alcohol has been consumed?
- How much alcohol have you witnessed the person drink?

If it is difficult getting a reasonable response from the person, talk to the people they are drinking with and ask similar questions. 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.

The answers to the above questions will help you form a 'reasonable' belief as to whether the person is intoxicated as a result of alcohol consumption.

## Reasonable grounds for a belief

Remember, the law requires that you have 'reasonable grounds' for the 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 belief is what a reasonable person would believe in the given situation, taking into account the relevant knowledge, facts you have and the circumstances you are in. A belief can be formed on the basis of observing the physical signs and symptoms, talking to the person and their friends, and then considering whether such symptoms could be the result of alcohol consumption or another condition.

## Conditions that exhibit similar symptoms and signs to intoxication

In Victoria, it is unlawful to treat someone unfairly or discriminate against them on grounds of their actual or assumed disability. You need to be aware that certain types of disabilities can create the impression that a person is intoxicated.

Prior to refusing service on the basis that a person is intoxicated, you must be able to rule out various medical conditions and disabilities that cause symptoms similar to intoxication. For example, possible illness, injury or medical conditions such as brain trauma, hypoglycaemia or pneumonia.

Sometimes physical and mental disabilities can exhibit some of the same signs and symptoms as alcohol intoxication. An example of such a disability is Acquired Brain Injury. This, among other things, affects the ability to walk, slurs and slows speech and affects motor responses, all of which can be characteristics of intoxication.

It is important that you consider the possibility of the existence of any of the above conditions prior to refusing service on the basis that a person is intoxicated.

## How to help prevent intoxication

It is your responsibility to prevent patrons from becoming intoxicated. There are things you can do to slow the intoxication process down, including:

- Actively promote low alcoholic drinks, non-alcoholic drinks and food accompaniments.
- Wait for the patron to re-order, don't automatically fill up drinks.
- Slow service down – keep yourself busy attending to other patrons or cleaning.
- Point to the relevant sign outlining your responsibilities.
- Alert other staff to a patron showing signs of intoxication.
- Serve water with drinks and keep water available for patrons.
- Talk to the patrons, gauge the level of intoxication.

### • What to do if someone is intoxicated

It is against the law to serve alcohol to a person who is intoxicated. If you have reasonable grounds for the belief that someone is intoxicated, you must refuse service to that person.

How to refuse service:

- Use tact - politely inform the person you will not serve them any more alcohol. Don't speak to the person in front of others.
- Repeat firmly that by law they cannot be served another drink. Management policy may be to offer a non-alcoholic drink or to suggest ordering food.
- Notify the manager, licensee, supervisor or security. Also notify other bar staff that you have refused service to the person.
- If considered necessary, management may impose a short term ban.

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

A person has the right to take the matter to the Equal Opportunity and Human Rights Commission if they feel they have been subjected to discrimination.

## Penalties

Licensees may be fined in excess of \$17,000 or be issued with a fine on the spot through an infringement notice. It is also an offence for other persons to obtain alcohol or aid and abet an intoxicated person, with a maximum fine exceeding \$2,000.

This publication avoids the use of legal language. Information about the law may have been summarised or expressed in general statements. This information should not be relied upon as a substitute for professional legal advice or reference to the actual legislation. Authorised by the Victorian Government.