

Special Occasion Permits

Each year, local communities and organizations sponsor thousands of fairs, festivals and other special events at which they serve beer, wine and distilled spirits. They are generally intended as fundraisers, promotional opportunities and community celebrations. Events of this type require a *Special Occasion Permit* issued by the Pennsylvania Liquor Control Board.

LEGAL RESPONSIBILITIES

As the holder of a Special Occasion Permit issued under the Pennsylvania Liquor Code an organization is entitled to engage in the sale of alcoholic beverages. Substantial responsibilities accompany the privileges associated with a Special Occasion Permit.

LIABILITY IS YOUR FIRST CONCERN

Requirements of Law

Special Occasion Permit holders are expected to observe and remain in compliance with the general requirements of Pennsylvania alcoholic beverage laws. All alcoholic beverages, offered for sale under authority of the Special Occasion Permit, must be lawfully acquired either from a Pennsylvania Liquor Control Wine & Spirits Shoppe, a licensed beer outlet, or a licensed limited winery. The sale or furnishing of alcoholic beverages to a minor, anyone under the age of 21, is strictly prohibited. The sale or furnishing of alcoholic beverages to a visibly intoxicated person (VIP) is also prohibited. Special Occasion Permits allow for the sale of alcoholic beverages on weekdays and Saturdays between the hours of 7:00 am and 2:00 am of the following day. Sales on Sundays may be conducted from 11:00 am until 2:00 am Monday.

Additionally, holders of a Special Occasion Permit must, by law, comply with the following:

- ❖ The event at which the Special Occasion Permit is used must be held to benefit the permittee only.
- ❖ The holder of a Special Occasion Permit must notify the local police department, or in the absence of a local police department, the Pennsylvania State Police at least 48 hours prior to the event.

Penalties for Violating the Law

The Pennsylvania Liquor Code mandates that any person convicted of selling alcoholic beverages in violation of the provisions relating to the Special Occasion Permit shall be fined \$250.00 for the first offense and \$500.00 for each subsequent offense. Under provisions of the Pennsylvania Crimes Code an individual suspected of selling or furnishing alcohol to a minor may be prosecuted further. If convicted they may face a minimum fine of \$1,000.00 to a maximum fine of \$5,000.00. Those convicted of selling or furnishing alcoholic beverages to a minor may also face up to one (1) year in prison for each offense.

Servers of alcohol can also be held ***personally*** liable under Dram Shop Laws for death, injury or damage caused by a minor or a VIP who was unlawfully served alcoholic beverages. The cost of civil liability can be quite high.

Dram Shop

The ***Dram Shop Acts*** establish second and third party liability for accidents involving minors and VIPs. These laws hold Special Occasion Permit holders and their servers responsible if they sell alcoholic beverages to a minor or a visibly intoxicated person who then causes death, injury or property damage.

Dram Shop cases have resulted in verdicts awarding substantial amounts of money to those injured parties. In most cases, damages are paid by the Special Occasion Permit holder or their insurance carrier.

VISIBLE INTOXICATION vs. LEGAL INTOXICATION

Visible Intoxication Defined:

“Visible Intoxication” is a level of impairment that any person can observe. This is the standard that servers should use to decide whether a customer is visibly intoxicated.

Criteria for judging visible intoxication in Dram Shop laws is loosely defined. In liability cases, the question of whether an individual was visibly intoxicated must, in most cases, be submitted to a jury.

Intoxication has been defined as “being under the influence”, “feeling the effects” or “impaired by alcoholic beverages.” If it is apparent that the person’s behavior, judgment and coordination have become impaired, then the person may be considered visibly intoxicated.

Refusing service to a VIP helps avoid criminal action and also protects from second and third-party lawsuits.

Legal Intoxication Defined:

In Pennsylvania, a Blood Alcohol Content (BAC) of .08% or greater is all that is necessary to be convicted of Driving Under the Influence (DUI).

As a person's BAC rises, so does their probability of being involved in an accident. A person with a BAC of .10 is seven times more likely to be involved in an accident than a person who has no alcohol. A person with a BAC of .15 is 25 times more likely to be involved in an accident and a person with a BAC of .20, 100 times more likely.

Visible intoxication can occur at a high or low BAC depending on a person's tolerance to alcohol.

RECOGNIZING "VISIBLE INTOXICATION"

It is important to recognize the onset of visible intoxication before it develops into a problem. A patron becomes impaired before showing the typical signs of intoxication. It is easier to slow down service during the early stages than it is to cut off service when a customer has become obviously intoxicated.

"Visible intoxication" is a level of impairment that an average person can easily detect. Servers cannot be expected to know a patron's BAC, but they are required to recognize "visible intoxication".

Servers must observe and talk with their customers to determine whether they are visibly intoxicated. Servers must be observant of changes in behavior and alert for signs of impairment.

Most Common Signs of Visible Intoxication

- ❖ *Balance*- An intoxicated person often experiences loss of balance, difficulty walking and the need for extra support sitting and standing.
- ❖ *Coordination*- When a person becomes intoxicated, coordination may become impaired. For example, they may spill drinks, miss their mouth and have trouble picking up change from the bar.

- ❖ *Perception*- A person's visual perception changes when they become intoxicated. Things appear nearer or farther than they really are.
- ❖ *Speech*- Speech becomes slurred and some people become louder than normal.
- ❖ *Appearance*- Intoxicated people often have flushed faces and perspire more. Hair and clothes may become disheveled.
- ❖ *Language*- Sometimes intoxicated patrons become crude, loud or boastful.
- ❖ *Emotion*- Alcohol relaxes inhibitions and people's emotions may come to the surface. They can become sad and wistful or lose their temper and lash out suddenly.

To protect the Special Occasion Permit, the organization and the individual servers involved with the event should be sure to take steps to prevent problems. Minimize intoxication by following some basic rules. Always concentrate on the customer. Beware of any changes in their demeanor. Measure and monitor the strength of drinks being served. Monitor the rate at which a customer is consuming the alcohol. Have plenty of food available during the event. Do not serve a drink without first removing the glass or bottle from the previous drink and slow down service when a customer is ordering or consuming rapidly. "Last call" means "last drink." Never serve more than one. If a customer appears to be or is intoxicated stop serving them.

To receive information on how to obtain a Special Occasion Permit or how to protect your organization if you have been cited for a violation under the Pennsylvania Liquor Code do not hesitate to call me at me at 1-877-LAW-2555 for a free initial consultation.

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