

A GUIDE TO TASMANIAN LIQUOR LAWS

This guide is published by the Commissioner for Licensing, as a quick reference for any person involved in the operation or regulation of premises at which liquor is being sold.

It contains extracts from the *Liquor Licensing Act 1990* and *Police Offences Act 1935*.

Disclaimer:

This publication is issued in good faith as a guide only and the relevant legislation should be referred to if further information is required.

LIQUOR AND GAMING CONTACT DETAILS

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<table border="0"><tr><td data-bbox="272 1423 526 1562">The logo features a blue square with a white border containing three stylized figures. To the right, the text reads "responsible conduct of gambling" in green, with "TASMANIA" in smaller green letters below.</td><td data-bbox="607 1381 1062 1608">E-mail: licensing@treasury.tas.gov.au gaming@treasury.tas.gov.au Web: www.gaming.tas.gov.au www.liquorlicensing.tas.gov.au</td><td data-bbox="1143 1402 1403 1541">The logo features a blue wine glass with a red outline and a white owl face. To the right, the text reads "responsible serving of alcohol" in red, with "TASMANIA" in smaller black letters below.</td></tr></table>		 The logo features a blue square with a white border containing three stylized figures. To the right, the text reads "responsible conduct of gambling" in green, with "TASMANIA" in smaller green letters below.	E-mail: licensing@treasury.tas.gov.au gaming@treasury.tas.gov.au Web: www.gaming.tas.gov.au www.liquorlicensing.tas.gov.au	 The logo features a blue wine glass with a red outline and a white owl face. To the right, the text reads "responsible serving of alcohol" in red, with "TASMANIA" in smaller black letters below.
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NOTES:

- **One penalty unit equals \$154** (as at 1 July 2015 - subject to annual increase).
- **The number to the left of each clause relates to the particular section of the legislation.**

LIQUOR LICENSING ACT 1990

Liquor not to be sold except as authorized

- 5 A person shall not sell liquor except as authorized by -
- (a) a liquor licence; or
 - (b) a liquor permit; or
 - (c) a general liquor exemption.

Penalty: *Fine not exceeding 40 penalty units.*

Liquor not to be sold to young people

- 70 (1) A person shall not sell liquor to a person under the age of 18 years.
Penalty: Fine not exceeding 50 penalty units.
- (2) A licensee is guilty of an offence if a person authorized by the licensee to sell liquor on the licensed premises sells liquor to a person under the age of 18 years.

Penalty: *Fine not exceeding 100 penalty units.*

If you are unsure or doubtful that a person is 18 years of age insist on one of the following forms of identification.

- a photographic drivers licence
- a photographic firearms licence
- a photographic passport
- a photographic "Keypass card"
- a photographic "personal information card"

[If in doubt - ask for a second form of identification.]

[Remember:- "No ID - No Liquor"]

Liquor not to be supplied to young people on licensed premises, &c.

- 71 A person shall not supply liquor to a person under the age of 18 years on
- (a) licensed premises; or
 - (b) premises specified in a special permit.

Penalty: *Fine not exceeding 50 penalty units.*

Young persons not to enter, &c., certain parts of licensed premises, &c.

- 72 (1) A person under the age of 18 years shall not enter or remain on any part of licensed premises designated as a Prohibited area where a notice specifying the prohibition is displayed in accordance with section 60.

Penalty: *Fine not exceeding 20 penalty units.*

- (2) A person under the age of 18 years shall not enter or remain on any part of licensed premises designated as Restricted where a notice specifying the prohibition is displayed in accordance with section 60 except -
- (a) to have a meal; or
 - (b) in the company of a parent or guardian.

Penalty: *Fine not exceeding 20 penalty units.*

- (3) Subsections (1) and (2) do not apply to a person working on the licensed premises.

[The Commissioner for Licensing may designate areas of licensed premises to restrict or prohibit underage entry.]

Young person not to produce false evidence of identity

72A A person under the age of 18 years must not use a false document in order to do, or attempt to do, anything that a person under that age is prohibited from doing by or under this Act.

Penalty: Fine not exceeding 10 penalty units.

Liquor not to be purchased by young people

73 A person under the age of 18 years shall not purchase liquor.

Penalty: *Fine not exceeding 10 penalty units.*

Young person not to be sent to obtain liquor

74 A person shall not send a person under the age of 18 years -

- (a) to purchase liquor; or
- (b) to collect liquor from -
 - (i) licensed premises; or
 - (ii) premises specified in a special permit.

Penalty: *Fine not exceeding 50 penalty units.*

Young person not to be given possession or charge of liquor on licensed premises, &c.

75 (1) A licensee or a person acting on behalf of the licensee shall not give to a person under the age of 18 years possession or control of liquor on the licensed premises or allow a person under the age of 18 years to have or retain possession or control of liquor on the licensed premises.

Penalty: *Fine not exceeding 50 penalty units.*

- (2) Subsection (1) does not apply in respect of a person under the age of 18 years who -
- (a) has possession or charge of liquor in the course of work; and
 - (b) is working under the direct and personal supervision of a person who has attained the age of 18 years.

[Subsection 2 allows for genuine trainees / junior employees to carry out liquor service duties]

Young person not to consume liquor on licensed premises, &c.

76 A person under the age of 18 years shall not consume liquor on -

- (a) licensed premises; or
- (b) premises specified in a special permit.

Penalty: *Fine not exceeding 10 penalty units.*

Young person not to have possession or control of liquor on licensed premises, &c.

77 (1) A person under the age of 18 years shall not have possession or control of liquor on -

- (a) licensed premises; or
- (b) premises specified in a special permit.

Penalty: *Fine not exceeding 10 penalty units.*

(2) Subsection 1 does not apply in respect of a person who -

- (a) has possession or charge of liquor in the course of work and;
- (b) is working under the direct and personal supervision of a person who has attained the age of 18 years.

[Direct and personal supervision means physically in the same room.]

Liquor not to be sold to people appearing to be drunk

78 (1) A person must not sell liquor to a person who appears to be drunk.

Penalty: *Fine not exceeding 50 penalty units.*

(2) A licensee is guilty of an offence if a person authorized by the licensee to sell liquor on the licensed premises sells liquor to a person who appears to be drunk.

Penalty: *Fine not exceeding 100 penalty units.*

Liquor not to be supplied on licensed premises, &c. to people appearing to be drunk

79 A person shall not supply liquor to a person who appears to be drunk on -

- (a) licensed premises; or
- (b) premises specified in a special permit.

Penalty: *Fine not exceeding 50 penalty units.*

[This relates to the purchase of liquor by a person who then supplies it to another person who appears to be drunk]

Licensee to prevent offences on licensed premises

79A A licensee who knows or has reason to believe that an offence under this or any other Act is being, or is about to be, committed on the licensed premises must take reasonable action to prevent the commission of the offence.

Penalty: *Fine not exceeding 100 penalty units.*

[This is to ensure that licensees are accountable for the prevention of unlawful activities on their licensed premises; eg sale of drugs, sale of stolen property, entry of young persons contrary to a designation etc.]

Person to leave licensed premises when requested to do so, &c.

- 80 (1) A person shall leave licensed premises when required to do so by -
- (a) the licensee or a person acting with the authority of the licensee; or
 - (b) a police officer - acting in accordance with this Act.

Penalty: *Fine not exceeding 50 penalty units.*

- (2) A person who -
- (a) has left licensed premises in compliance with subsection (1); or
 - (b) has been removed from licensed premises by a police officer acting in accordance with this Act -
- shall not re-enter or attempt to re-enter those premises within the period of 24 hours immediately after leaving or being removed from the premises.

Penalty: *Fine not exceeding 50 penalty units.*

- (3) A police officer may -
- (a) arrest without warrant a person whom the police officer reasonably believes is committing, or has committed, an offence under subsection (1) or (2); and
 - (b) use such reasonable force as may be necessary to remove from licensed premises a person whom the police officer reasonably believes is committing, or has committed, an offence under subsection (1) or (2).

Person to leave special permit premises when required to do so, &c.

- 80A (1) A person who has been required under this Part to leave premises specified in a special permit -
- (a) must leave those premises when required to do so; and
 - (b) must not re-enter or attempt to re-enter those premises during the period of 24 hours after the person so left those premises or was removed from those premises under subsection (2).

Penalty: *Fine not exceeding 50 penalty units.*

- (2) A police officer may -
- (a) arrest without warrant a person whom the police officer reasonably believes is committing, or has committed, an offence under subsection (1); and
 - (b) use such reasonable force as may be necessary to remove from the premises specified in a special permit a person whom the police officer reasonably believes is committing, or has committed, an offence under subsection (1).

Special permits to be displayed

- 81 The holder of a special permit shall display the permit in a conspicuous position on the premises specified in the permit during the time liquor may be sold on those premises under the authority of the permit.

Penalty: *Fine not exceeding 50 penalty units.*

Authorized officer not to be hindered, &c.

82 A person shall not -

- (a) hinder an authorized officer carrying out the authorized officer's duties under this Part: or
- (b) fail to comply with any requirement of an authorized officer made in accordance with this Part; or
- (c) fail to provide an authorized officer with reasonable assistance in the exercise of any power under this Part.

Penalty: *Fine not exceeding 100 penalty units.*

[Licensing Inspectors and Licensing Police Officers are Authorized Officers.]

Name, address and date of birth to be given to police if lawfully requested

83 A person shall give the person's name, address and date of birth if required to do so by a police officer acting in accordance with this Part.

Penalty: *Fine not exceeding 50 penalty units.*

Police may request name, address and date of birth if offence suspected

- 92 (1) If a police officer has reasonable grounds for believing that a person has committed or is committing an offence under this Act the officer may require that person to give the person's name, address and date of birth.
- (2) If a police officer, acting in accordance with the subsection (1) has requested a person to give the person's name, address or date of birth, the officer may arrest, without warrant, that person if -
- (a) that person refuses to give the person's name, address or date of birth; or
 - (b) the police officer reasonably believes any name, address or date of birth given by that person is false.

Power to restrict entry to licensed or special permit premises.

93 Licensees or persons acting with the authority of the licensee may prohibit entry or require a person to leave licensed premises.

[A licensee has the right to decide who is permitted to enter the premises or be served liquor. Reasons for the refusal of service or entry are not required to be given.]

Police Offences Act - Provisions as to underage

Section 13 of the Act includes the following provisions:-

- (2A) A person shall not, in a public place, supply liquor to a person under the age of 18 years.
- (2B) A person under the age of 18 years shall not consume liquor in a public place.
- (2C) A person under the age of 18 years shall not have possession or control of liquor in a public place.

A penalty not exceeding 10 penalty units or imprisonment for a term not exceeding six months applies on conviction in the case of an offence under (2A), (2B), or (2C).

Power to seize liquor -

A police officer may seize liquor in the possession of a person the police officer believes is committing an offence under section (2A), (2B) or (2C).

Removal of patrons from licensed premises

A licensee or a person acting with the authority of a licensee should be aware of section 41 of the *Criminal Code Act 1924* which allows for the removal of a person from premises, provided that any force used in removing a person is not intended and is not likely to cause death or grievous bodily harm.

Section 46 of the *Criminal Code Act* provides that any person should only use reasonable force, under the circumstances, to defend themselves.

[If required at a later date, the onus is on the licensee/employee to prove that any force used was reasonable and not excessive.]

GENERAL INFORMATION

- It is an offence under the *Police Offences Act* to have possession of an opened container of liquor in a public street.
- It is an offence under the *Police Offences Act* to consume liquor in a public street.
- The *Police Offences Act* provides for a person to arrest without warrant any person who attempts to make off without payment for goods or services.
- On duty police officers may enter licensed premises at any time and must not be hindered in the course of their duty.
- Laws relating to the sale and consumption of liquor apply during the conduct of private functions on licensed premises.
- It is an offence for a person to spike another person's drink. If convicted, the penalty can be a term of imprisonment not exceeding two years or a fine of 100 penalty units or both. A person could also incur civil liability in respect of their action.