

LIQUOR CONTROL ACT AND LIQUOR COMMISSION RULES COMMON VIOLATIONS

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Sale to Visibly Intoxicated/Allow intoxicated to consume or possess (237 NAC 6-019.01N)

Visible signs of intoxication. Need more than probable cause for DUI arrest. PBT not necessary, but helpful. Not enough by itself. Must show at least one other factor of visible intoxication, probably more.

Visible signs of intoxication listed in Commission rule (not exclusive)

If not observed on premise, location of intoxicated individual in relation to establishment, statements/identification of intoxicated individual (including length of time in establishment and how much/what consumed); identification and interview of any witnesses

Admission by bar staff (identified) that person was served/in possession/in the establishment for a period of time/consumed how much

Video?

Delay Entry of Law Enforcement (237 NAC 6-019.01G)

Elements:

- 1) Evidence that you announced presence and demanded entrance
- 2) Reasons why you believe persons inside establishment heard you and did not respond
- 3) Amount of time elapsed between announcement and finally gaining entrance

Uncooperative with Law Enforcement-
No statute/rule prohibiting unless in relation to a disturbance, but may be subject to a mandatory meeting

Disturbance (237 NAC 6-019.01F)

No licensee (includes employee of licensee) shall allow any unreasonable disturbance to *continue* without taking certain steps to terminate the disturbance

Can apply to parking lot, but...

Disturbance broadly defined and includes improper physical contact between dancers/patrons

Serious injury must be reported to law enforcement

911 call info important

Reasonable steps to terminate disturbance: physical force only under extreme circumstances

Kicking fight out the door not in compliance with the rule

Cooperation with LE directives important

Open containers after hours/sale after hours (234 NAC 6-019.01D, 53-179(3))

Elements of sale after hours (after 2:15 a.m.)

Evidence of sale

1) Time

Elements of open container after hours:

1) Time

2) Open container of alcohol (described)

3) In possession of

patron/employee/owner for purpose of consumption (Direct or Circumstantial evidence)

Open Containers leaving premises (237 NAC 6-019.01H)

Elements:

Open container of alcohol

Visible

Leaves the establishment

- Contact staff to get admission/explanation, if possible

If patron found down the street,
statement/identification of patron,
description of open container, rule out
other locations. Identify patron w/contact
information

Sale to Minor/Allow minor to consume/possess (53-180, 237 NAC 6-019.01A, 237 NAC 6-019.01B)

1) Sale to Minor

Identify minor by asking him/her to tell you date of birth in addition to identifying by ID. Admission by minor helpful. Admissible by clerk helpful. Where did minor purchase alcohol? Any corroborating evidence

2) Allow minor to consume/possess on premises

Identify minor, DOB, etc.

Appearance of person (looked underage?)

Time line (how long minor in bar, how long minor in possession of alcohol)

Evidence of consumption/possession of alcohol/how obtained/whether false ID

Illegal activities (237 NAC 6-019.01Q)

Illegal activities: drug-related offenses, prostitution or pandering, assaults, sexual assaults, homicide, gambling, vandalism, weapons-related offenses, theft, disturbing the peace, Violation of statute or local ordinance relating to entertainment (specific violation of city ordinance, such as no minors after 9 p.m., possibly fire code occupancy violations)

Were illegal activities as set forth in the rule committed by owner or employee of establishment?

If illegal activity committed by someone else, did establishment knowingly allow it to happen? Were illegal activities committed on the premises in view of management? For how long?

Adjacent related outdoor area (sidewalk, parking lot)

Overview of Administrative Hearing

- Subpoenas assume a contested hearing-
no preliminary hearings at NLCC
- Formal Rules of Evidence may or may
not apply; assume that they do
- Three commissioners-decision-makers
- Duration: Expect to be at hearing 1 ½ to
2 hours
- Location-State Office Building, 1st floor

Hearing Notices/Conflicts/Contacts

Liquor Commission Legal Division
(administrative & scheduling issues)

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