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# Conduct of Licensed Alcohol Establishments

## 610.1 PURPOSE AND SCOPE

The purpose of this policy is to establish the policy and procedure covering the conduct of leased liquor establishments.

## 610.2 POLICY

It shall be the policy of the Department to monitor the issuance of liquor licenses and forward investigative reports of violations and/or incidents which occur in alcohol licensed establishments to the Department of Alcoholic Beverage Control (ABC) for follow up.

## 610.3 DEFINITIONS

For the purpose of this policy, an underage minor refers to an individual who is under the age of 21. An alcohol-licensed establishment is any business that is authorized by ABC to sell alcoholic beverages. ABC has the exclusive power, in accordance with laws enacted, to license and regulate the manufacture, importation and sale of alcoholic beverages in this state. It also has the power for good cause to deny, suspend or revoke any specific alcoholic beverage license.

## 610.4 PROCEDURES

Records Management will be responsible for routing copies of all reports involving liquor license violations to ABC.

Officers shall complete a written report concerning any of the following situations involving an alcohol-licensed establishment:

- (a) His/her witnessing the sale or service of an alcoholic beverage to any obviously intoxicated person.
- (b) His/her witnessing, or the obtaining of information through investigation, observations regarding the sale or service of an alcoholic beverage to a person under the age of 21.
- (c) The arrest of any person for any crime inside or adjacent to the establishment.
- (d) The knowledge of a legally actionable or undesirable circumstance or condition inside or adjacent to the establishment provided there is a nexus between the circumstance and the establishment.

If the incident involved (a) or (b) above, the officer shall take the following action:

1. Seize the alcoholic beverage sold or served and, if it can be identified, seize the container from which it was poured.
2. Identify the person who furnished the alcoholic beverage. If the incident was witnessed by the officer, a citation should be issued to this individual for violations of the applicable Business and Professions Code (B&P).
3. In the case of the service or sale of an alcoholic beverage to someone under the age of 21, identify the individual who was furnished the alcoholic beverage. Where

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appropriate, a citation should be issued to the underage minor for possession of an alcoholic beverage (B&P §25662) or consumption of that beverage (B&P § 25658(b)).

4. During an ABC operation, in order to ensure that the case can be successfully prosecuted, the officer will take the underage minor back to the location where he or she purchased the alcoholic beverage for a visual confrontation between the seller and the underage minor to show the seller the person to whom he or she sold the alcoholic beverage. The officer should photograph the underage minor, the employee who furnished the alcohol, and the alcoholic beverage together and forward it to ABC with the police report.
5. In the situation where the owner of an alcohol licensed establishment claims that the individual under 21 years of age utilized false identification, the officer should make the appropriate search of the individual to ascertain if the underage minor is in possession of false identification. If this identification is located, it should be seized and booked into evidence under the case. If the identification is fraudulent, a citation should be issued to the individual for a violation B&P §25661.

If a case number has been assigned as a direct result of an incident, the report should be prepared under the same case number. If no case number has been assigned, a case shall be originated covering all relevant circumstances.

Records Management shall forward all police reports involving an alcohol-licensed establishment to ABC's Oakland office. The reports should also be forwarded to the City of Berkeley Code Investigations Unit, Planning Department and the Office of Economic Development.

The question of subsequent action, if any, to be taken against the alcohol licensee or his or her employee, should be resolved through contact by a member of the Community Services Bureau with the appropriate licensing agencies and the local office of the District Attorney.

#### **610.5 RETAIL LIQUOR LICENSES**

The Zoning Adjustments Board (ZAB) will handle all requests for retail alcohol licenses except for one-day liquor licenses. Upon receipt of an application for a liquor license, the ZAB will notify the Chief of Police for appropriate comments. The Community Services Bureau will coordinate the processing of the application and investigation to determine if there are concerns that the Police Department should address.

CSB personnel will notify the respective supervisors of the Operations Division for input on the proposed new alcohol establishment. CSB will prepare a response for the Chief's signature to be submitted for review by the Zoning Adjustment Board.

#### **610.6 ONE-DAY LIQUOR LICENSES**

##### **610.6.1 INITIAL RECEIPT**

Upon receipt of a request for a one-day liquor license, the Detective Bureau Lieutenant or designee receiving it will explain to the applicant that:

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- (a) ABC will issue the license based on recommendations from the Berkeley Police Department.
- (b) The Detective Bureau Lieutenant will conduct background and file checks on the organization, person(s) in charge and proposed location of the event.
- (c) Successful applicants will be charged a \$25 administrative fee, which is in addition to any fees charged by ABC.
- (d) Successful applicants will be provided with a letter of recommendation to the ABC to issue a one-day license.
- (e) Applications submitted for one-day liquor licenses take approximately ten business days to issue the letter of recommendation.

Personnel working at the Front Counter of Records Management will have forms available so that any employee of the Berkeley Police Department can record all of the required information and forward it to the Detective Bureau Lieutenant without any unnecessary delay.

#### 610.6.2 DETECTIVE BUREAU LIEUTENANT RESPONSIBILITIES

After explaining the information listed above to the applicant, the Detective Bureau Lieutenant will do the following:

- (a) Conduct file checks on the person(s), organization(s) and proposed location(s) to determine suitability for issuance of a one-day permit.
- (b) Notify the respective supervisors of the Community Services Bureau and the Operations Division to allow for input from all of relevant sources.
- (c) Make the final decision on the approval of the application, and if approved, forward the application to the Operations Division Assistant.

#### 610.6.3 FINAL APPROVAL

Upon receipt of the approval letter, the Operations Division Assistant will obtain a signature from the Chief, place the letter in the Will Call box in Records Management and route a copy to the Detective Bureau Lieutenant.

When the applicant comes in for the letter, Records Management Front Counter personnel will provide the letter to the applicant and collect the administrative fee in accordance with this procedure. A copy of the receipt will be forwarded to the Detective Bureau Lieutenant.