

## BERKELEY POLICE DEPARTMENT

DATE ISSUED: June 24, 2005

GENERAL ORDER D-1

SUBJECT: CONDUCT OF LICENSED ALCOHOL ESTABLISHMENTS

### PURPOSE

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

### POLICY

- 2 - 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.**

### DEFINITION

- 3 - For the purpose of this Order, 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 the Department of Alcoholic Beverage Control to sell alcoholic beverages. The Department of Alcoholic Beverage Control 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.**

### PROCEDURES

- 4 - The Special Enforcement Unit (SEU) will be responsible for routing copies of all reports involving liquor license violations to the ABC.
- 5 - An officer shall submit a written report to the SEU 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.**

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- 6 - If the incident involved 2 (a) or 2 (b), the officer shall take the following action:
- (a) Seize the **alcoholic beverage** sold or served and, if it can be identified, seize the container from which it was poured.
  - (b) 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 (**25658(a) B&P**).
  - (c) In the case of the service or sale of **an** alcoholic beverage to someone under **the age of 21**, as detailed in 2 (b), identify the individual who was **furnished the alcoholic beverage**. Where appropriate, a citation should be issued to the underage minor for possession of **an** alcoholic beverage or consumption of that beverage (**25662(a) B&P, 25658(b) B&P**).
  - (d) To insure that the particular 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 the Department of Alcoholic Beverage Control along with the police report.**
  - (e) 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 of the Business and Professions Code (25661 B&P).**
- 6 - If a case number has been assigned as a direct result of an incident, the report to SEU should be prepared under the same case number. If no case number has been assigned, a case shall be originated covering all relevant circumstances.
- 7 - **Copies of all police reports involving an alcohol-licensed establishment shall be forwarded to SEU. SEU shall ensure the reports are properly forwarded to the Oakland Office of the Department of Alcoholic Beverage Control. The reports should also be forwarded to the City of Berkeley Code Enforcement Unit, Planning Department, and the Office of Economic Development.**

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- 8 - 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 SEU with the appropriate licensing agencies and the local office of the District Attorney.

### RETAIL LIQUOR LICENSES

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

**CSB** personnel will notify the respective supervisors of the **Special Enforcement Unit and the Patrol 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.

### ONE-DAY LIQUOR LICENSES

- 10 - Upon receipt of a request for a one-day liquor license, the employee receiving it will explain to the applicant that:
- (a) The **Department** of Alcoholic Beverage Control (ABC) will issue the license based on recommendations from the Berkeley Police Department.
  - (b) The SEU 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 the 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 (10) business days to issue** the letter of recommendation.
- 11 - **Personnel working at the Front Counter of the Records Division 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 SEU without any unnecessary delay.
- 12 - SEU personnel will conduct file checks on the person(s), organization(s), and proposed location(s) to determine suitability for issuance of a one-day permit.

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- 13 - SEU personnel will notify the respective supervisors of the Community Services Bureau and **the Patrol Division** to allow for input from all of **relevant** sources.
- 14 - The SEU Commander will make the final decision on approval of the recommendation and if it is approved, the application will then be referred to the Patrol Division **Secretary** for typing.
- 15 - The completed letter will then be routed to the Chief of Police for signing and returned to the Patrol Division **Secretary**.
- 16 - The **Patrol Division Secretary** will place the letter in the Will Call box **in the Records Division** and route a copy to SEU.
- 17 - When the applicant comes in for the letter, the **Records Division 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 SEU.

Reference: 58516 N.S., 55876 N.S.  
25602/**25661**/25662(a)/**25658(a)**/**25658(b)** Business and Professions  
Code,  
**Training & Information Bulletin #229**