

DEVELOPING AN ALCOHOL SALES POLICY FOR YOUR BUSINESS

Off Premise Sales



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Purpose of Document:

The content of this document is designed to help off premise retail licensees develop a guide for their business to stay compliant with the Maine Liquor Laws and to assist their employees with the responsible sale of alcohol through the use of uniform policy and best practices.

This guide is not designed to be used for an operational policy, but rather to assist the licensee in developing a premise policy that will apply to their specific business needs by addressing key points and providing suggestions for consideration.

Before starting you should consider what best practices you'll need to adopt as policy to best protect your business and its bottom line, prevent violations of the law, and control your service of liquor to ensure a safe and compliant experience for your patrons.

How to use this guide:

This guide should be used to develop a policy around the sale of alcohol to be used internally with your employees. Research shows that “consistent and effective outlet policies are the key to providing a work environment in which sales personnel are able and willing to implement the knowledge and skills they acquire through responsible sales training. Policies standardize staff behavior and licensee expectation regarding alcohol sales. They provide a written reference, so that new and long-term employees are clear about what is expected of them. They can be used in current training or coaching of employees. Policies help the manager to identify those effective practices that are already in place within the organization. A well-written policy manual, signed by employees who have read it, provides an excellent, responsible business practice defense. If reasonable care is found, liability might be eliminated or mitigated.”¹

Most of the components found in this guide are suggestions, **not state requirements**. *Anything that is requirement of the state or state law will be noted with a star (*)*. The language for each component is written so you can copy and paste it into your own policy.

The guide is broken down into six sections:

- General components;
- Assessment;
- Carding practices;
- Visibly intoxicated individuals;
- Miscellaneous; and
- Resources

Each section contains a number of components to choose from. You should read through the components and decide which ones best fit your business' needs. You may use the check box () by each component to check off the components you would like to use. Copy each component you check into a separate document to create the framework for your policy. There is no right combination of components, but the more you choose the more comprehensive and effective your policy will be.

¹ Guide to Responsible Alcohol Sales: Off Premise Clerk, Licensee, and Manager Training

* Is required by State of Maine Law

Disclaimer: All operational policies must be reviewed by your insurance underwriter and your legal counsel to ensure content accuracy, effectiveness and compliance with the law. The Office of Substance Abuse is not liable for any legal action taken against the licensee.

Sample Liquor Policy Mission Statement

The “Speedy Mart” recognizes that it is a privilege to buy and sell alcoholic beverages in the State of Maine and with that privilege, realizes that it is our legal and social responsibility to comply with all Maine laws, rules and regulations and follow best practices as they pertain to the service of alcoholic beverages. We are committed to the safe and responsible sale of all alcoholic beverages to only those patrons who are 21 years of age or older and to refuse service of alcoholic beverages to those individuals that are visibly intoxicated or, in those cases where we deem it necessary, to prevent a person from becoming visibly intoxicated. In order to achieve these goals, we have adopted the following policies.

Guidelines for Policy Components:

1. General:

- A. All new employees will review, with a member of management, the laws, rules and regulations and best practices as described in the mission statement prior to making any sale of liquor or imitation liquor. Once trained, all employees will regularly review those laws, regulations and best practices with a member of management, asking for clarification on topics they don’t understand and upon completion of the review, sign off that they understand and will comply with all of the premise policies governing the sale of liquor or imitation liquor.
- B. Employees shall comply with all the Maine Liquor Laws and Rules and Regulations governing the sale of alcoholic beverages.

2. Assessment:

- A. Cashiers will make verbal and visual contact with all customers purchasing liquor or imitation liquor.
- B. When making visual contact, employees will make eye contact with the patron, paying special attention to the facial characteristics, as well as noting trendy clothing, behavior and young acquaintances that might indicate the purchaser is underage. The employee should make note of bloodshot or drooping eyes, disheveled clothing and any other signs that might indicate the patron is visibly intoxicated or there is a likelihood they will become intoxicated with the purchase of alcohol and should not be served.
- C. When making verbal contact, employees will ask the patron a question that would invoke a response such as, “How are you?”, “Did you find everything?”, “How is the weather?” Note any odor of liquor on the patron’s breath and any signs of slurring.

3. Carding Practices:

- A. Maine law requires a licensee or licensee's employee or agent may not sell, furnish, give or deliver liquor or imitation liquor to a person under 27 years of age unless the licensee or licensee's employee or agent verifies the person is not a minor by means of reliable photographic identification containing that person's date of birth* (Title 28A-sec 706-2).
- B. Cashier must ask for a reliable identification from anyone under 27 years of age **every time** they enter the store to purchase liquor or imitation liquor.
- C. Our policy is to card anyone that orders liquor or imitation liquor and appears to be under the age of _____ in order to comply with Maine law. (**Age appropriate policy should be set by the licensee based on median age of patrons, employees and type of business. Remember it is state law that you must card anyone under the age of 27.**)
- D. No employee will accept an expired identification card.
- E. The cashier will ask for a current, reliable and verifiable pictured identification containing the patron's date of birth (acceptable are state driver's license, state non-driver identification card or a Passport). All out of state driver's licenses or identification cards will be verified with the Driver's License Guide. If the patron appears to be under 21 years of age, the employee will ask for a secondary form of identification, such as a military ID, passport, credit/debit card, etc.
- F. The cashier will request that the patron remove their ID from their wallet and take physical control of the identification, checking the back, then the front for signs of forgery such as:
 - Poor photo copy quality, blurred imagery or digitized lettering.
 - Disclaimers like "non-government ID" or "non transferable ID card".
 - Statements of authenticity such as "Genuine", "Authentic", "Secure", etc. (if it has to tell you it's "Genuine", it's not).
 - Unusual thickness or unevenly cut edges or corners and bumpy surfaces indicate the card has been hand cut or the picture has been replaced.
- G. The cashier will verify that the information and picture on the identification match the person presenting it, paying special attention to the date of birth in order to confirm that the individual is old enough to purchase and that the DOB has not been altered (are the numbers the same size, color, evenly spaced and level with one another?)
- H. In the event any patron fails to show proper identification or if there is doubt by the cashier of the validity of an ID, the sale will be refused. All refusals for failure to meet the requirements of the identification policy are final.

Retaining Identification: (Only choose one)

- I. Option #1.** When a patron displays an identification card that is obviously false, the cashier will refuse sale of liquor or imitation liquor and report it to a manager who will explain to the patron that they are going to **retain the identification for the purpose of verifying their age**. A premise representative will immediately call the police and surrender the identification to the authorities for that purpose. (Authority to retain Title 28-A Section 2516-2). Please note, licensee must advise individual why the ID is being retained.
- J. Option #2.** When a patron displays an identification card that is obviously false, the cashier will refuse sale of liquor or imitation liquor and report it to a manager and/or the police.

4. Visibly Intoxicated Individuals:

- A. When a person appears to be visibly intoxicated the cashier will allow the individual to bring the alcohol to the checkout. The clerk will place the alcoholic beverage behind the register and, when possible, the clerk will double team with a member from management explaining to the patron in brief, but clear terms that Maine law and store policy prohibit them from making the sale. Clerks will not argue with a visibly intoxicated person.
- B. The cashier or management team member will attempt to invite the patron to the side and advise them of their concern for their safety and offer to call alternative transportation.
- C. If a patron who is visibly intoxicated chooses to drive, the clerk or management team member will call the police immediately and give them a description of the person, their vehicle and direction of travel.
- D. All store staff will continuously appraise the sobriety of patrons within the store who appear to be purchasing alcoholic beverages and when observations of visible intoxication are made, bring them to the attention of management or sales clerks.
- E. All sale refusals because of a patron's visible intoxication are final with the exception of a patron advising the clerk that their appearance is due to a disability as defined under the Americans with Disability Act (ADA) (for compliance, refer to your attorney or human resource officer).

5. Miscellaneous:

- A. Any staff whose responsibilities include the sale, handling or marketing of alcoholic beverages will attend a seller/server training approved by the Commissioner of the Department of Public Safety and Liquor Licensing as soon as possible upon employment. See the following website for a list of approved trainings: <http://www.maine.gov/dps/liqr/contact.html#training>
- B Employees will always be professional, friendly and polite with all patrons when complying with Maine law and/or store policy, explaining that when service is declined, it is because of Maine law and/or store policy.

- C. A person may not consume liquor on the property of an off-premise licensee licensed under chapter 50 except as provided in section 1205.* (Title 28-A, section 1206).
- D. No licensee shall permit or allow visibly intoxicated persons to remain on the licensed premises. No licensee shall show effects of, nor allow any of his employees, agents, or entertainers to consume or to show any effect of liquor while on duty or performing on the licensed premises* (Title 28-A, Rule 1.8).
- E. All employees will report for work sober and will not have consumed any alcoholic beverage prior to arriving, or consume any alcohol while on duty.
- F. All questionable incidents involving patrons will be written down in a store log, noting the date, time, name of employees involved and brief statement of facts of the incident. It will be the responsibility of the store manager or duty clerk to log these incidents. **(A sample log sheet can be found in the Card ME Program materials.)**
- G. No employee under 17 years of age may accept payment for the sale of malt liquor or wine at the checkout counter of an off-premise retail licensee’s establishment* (Title 28-A, Section 1202).
- H. An employee who is at least 17 years of age but less than 21 years of age may accept payment only in the presence of an employee who is at least 21 years of age and is in a supervisory capacity* (Title 28-A, Section 1202).
- I. Persons who are at least 15 years old may stock coolers or bus tables, but may not sell, serve, or mix liquor* (Title 28-A rule 2.3).
- J. No wholesale or retail licensee shall permit the direct handling of liquor on his licensed premises by any person under the age of 15 years* (Title 28-A rule 3.4).
- K. All staff should use due diligence in watching for patrons or activities that are not consistent with this policy or Maine Law and should report a breach of either to management immediately.

6. Other Considerations:

A. An establishment may wish to make the carding policy the same for tobacco and liquor where the two are very similar in statutory requirements. (Review Title 28-A, Section 706 & Title 22, Section 155-B)

B. If you have considered incorporating programs such as “No Butts” or “Card Me” into your responsible service plan, it may be beneficial to review the program with a “No Butts” or “Card Me” sponsor prior to drafting your alcohol and tobacco policy.

- For more information on No Butts, contact: Partnership for Tobacco-Free Maine, 207-287-5762.
- For more information on the Card ME Program, contact: The Office of Substance Abuse, 207-287-2595.

C. The licensee should decide what disciplinary action will be taken for non-compliance of the policy, i.e., dismissal, retraining, progressive discipline, etc.

D. All policies should be regularly reviewed. Some details to consider include:

- How often should the policies be reviewed?
- Who should review the policies?
- Who will oversee the review process and enforce compliance?
- Will you use an acknowledgment form?
- Should you use a testing procedure to ensure staff understands the policy and laws?

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Resource Materials:

For a full list of liquor laws, please refer to Liquor Licensing and Compliance:

<http://www.maine.gov/dps/liqr/index.html>

Americans with Disabilities Act – U.S. Department of Justice ADA home page

<http://www.ada.gov/>

United States Court of Appeals First District - David Dudley v. Hannaford Bros. Co.

<http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=1st&navby=docket&no=021382>

Clarke Associates Insurance - Portland Maine

<http://www.clarkinsurance.com/>

Pacific Institute for Research and Evaluation Responsible Sales Guide

http://www.pire.org/documents/responsible_sales.pdf

For an electronic copy of this guide, please go to:

www.maineosa.org/prevention/community/licensee.htm

Maine Office of Substance Abuse
Information and Resource Center
41 Anthony Avenue
#11 State House Station
Augusta, ME 04333-0011
Ph: 1-800-499-0027 or 207-287-8900
TTY: 1-800-606-0215
Email: osa.ircosa@maine.gov
Web: www.maineosa.org

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