

Basic Course Workbook Series



Learning Domain 13

ABC Law

Version 5.0

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Basic Course Workbook Series
Student Materials
Learning Domain 13
ABC Law
Version 5.0

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The mission of the California Commission on Peace Officer Standards and Training is to continually enhance the professionalism of California law enforcement in serving its communities.

THE ACADEMY TRAINING MISSION

The primary mission of basic training is to prepare students mentally, morally, and physically to advance into a field training program, assume the responsibilities, and execute the duties of a peace officer in society.

FOREWORD

The California Commission on Peace Officer Standards and Training sincerely appreciates the efforts of the many curriculum consultants, academy instructors, directors and coordinators who contributed to the development of this workbook. We must also thank the California law enforcement agency executives who allowed their personnel to participate in the development of these training materials.

This student workbook is part of the POST Basic Course Training System. The workbook component of this system provides a self-study document for every learning domain in the Basic Course. Each workbook is intended to be a supplement to, not a substitute for, classroom instruction. The objective of the system is to improve academy student learning and information retention and ultimately contribute to you becoming a peace officer committed to safety, and to the communities you will serve.

The content of each workbook is organized into sequenced learning modules to meet requirements as prescribed both by California law and the POST Training and Testing Specifications for the Basic Course.

It is our hope that the collective wisdom and experience of all who contributed to this workbook will help you, the student, to successfully complete the Basic Course and to enjoy a safe and rewarding career as a peace officer.

MANUEL ALVAREZ, Jr.
Executive Director

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Student Workbooks

The student workbooks are part of the POST Basic Course Instructional System. This system is designed to provide students with a self-study document to be used in preparation for classroom training.

Regular Basic Course Training Requirement

Completion of the Regular Basic Course is required, prior to exercising peace officer powers, as recognized in the California Penal Code and where the POST-required standard is the POST Regular Basic Course.

Student Workbook Elements

The following elements are included in each workbook:

- Chapter contents, including a synopsis of key points,
- Supplementary material, and
- A glossary of terms used in this workbook

HOW TO USE THE WORKBOOK

Introduction

This workbook provides an introduction to the training requirements for this Learning Domain. It is intended to be used in several ways: for initial learning, for test preparation, and for remedial training.

Workbook Format

To use the workbook most effectively, follow the steps listed below.

Step	Action
1	Begin by reading the: Introduction and How to Use the Workbook, which provides an overview of how the workbook fits into the POST Basic Course Instructional System and how it should be used.
2	Refer to the Chapter Synopsis section at the end of each chapter to review the key points that support the chapter objectives.
3	Read the text.
4	Complete the Workbook Learning Activities at the end of each chapter. These activities reinforce the material taught in the chapter.
5	Refer to the Glossary section for a definition of important terms. When first referenced these terms will be bolded and underlined (e.g., <u>term</u>).

Chapter 1

Identifying and Classifying Crimes Related to ABC Violations

OVERVIEW

Learning Need

Learning need Arrest and successful prosecution depend on the development of probable cause. Peace officers must know the elements required to arrest for violations of ABC law, and to categorize these crimes as infractions, misdemeanors, or felonies.

Learning Objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
<ul style="list-style-type: none">Recognize the crime elements required to arrest a for the following crimes:<ul style="list-style-type: none">Sales without a licenseUnauthorized alcohol on premisesFurnishing alcohol to an obviously intoxicated personSale/consumption during restricted hoursSale to, consumption by, purchase by, or attempting to purchase by a minorMinor in possession of an alcoholic beverageMinors consuming/in possession of alcoholic beverages at a social gatheringMinor's possession/presentation of a false idMinor inside public premisesPossession of alcoholic beverages on public school groundsFurnishing false identification to a minor	<ul style="list-style-type: none">13.01.513.01.613.01.713.01.813.01.913.01.1013.01.1113.01.1213.01.1313.01.1413.01.15
<ul style="list-style-type: none">Recognize the crime classification of alcohol related crimes as a felony, misdemeanor, or infraction.	<ul style="list-style-type: none">13.01.16

In This Chapter

This chapter focuses on the constitutionally protected rights of individuals and how those rights apply to the criminal justice system. Refer to the table below for a specific topic.

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SALES WITHOUT A LICENSE

Introduction

Only people licensed by the Department of Alcoholic Beverage Control (ABC) are authorized to sell **alcoholic beverages**.

Leadership

Peace officers should utilize problem solving and creative thinking skills to address the many law enforcement problems caused by ABC violations such as drunk driving, spousal abuse, and teen delinquency.

Business and Professions Code Section

Sales without a **license** is covered under *Business and Professions Code Section 23300*.

Business and Professions Code Sections 23300 is useful for patrol officers investigating sales without a license at “kegger parties,” raves, or rave parties.

Crime Elements

To arrest a subject for sales without a license, the necessary crime elements must include:

- Any person who,
- Exercises the privileges or performs any act which only a **licensee** may exercise,
- Or performs under the authority of a license.
- Unless the person is authorized to do so by a license.

Classification

The crime of sales without a license is a misdemeanor, except that a person, without having a **still** license, exercising the privileges or performing any act which a still licensee may perform, is guilty of a felony. (*Business and Professions Code Section 23301*)

Examples

Example: A college fraternity was hosting a homecoming party and bought three kegs of beer, but did not obtain a license to sell. They sold drink tickets for party guests to obtain unlimited glasses of **beer**. Because they sold tickets for the drinks, the person (fraternity) was required to obtain a license. They committed the crime of sales without a license.

Non-example: A neighborhood decided to have a block party. All of the neighbors donated money to purchase a keg of beer, then shared the beer with everyone who came to the party. Since they did not sell the beer, no license was required.

UNAUTHORIZED ALCOHOL ON PREMISES

Introduction

It is unlawful for a person or licensee to have upon any licensed premises any alcoholic beverages other than the alcoholic beverages authorized by the ABC license.

Business and Professions Code Section

Unauthorized (unlawful possession of) alcoholic beverages on licensed premises is covered under *Business and Professions Code Section 25607(a)*.

Crime Elements

To arrest a subject for unauthorized (unlawful possession of) alcoholic beverages on any licensed premises, the necessary crime elements include:

- Any person or licensee who,
- Possesses on any licensed premises,
- Any alcoholic beverage not authorized by the license.

NOTE: Under *Business and Professions Code Section 25607(b)*, brandy, rum, or liqueurs may be kept solely for cooking purposes on a beer and wine eating place licensed premises.

Classification

The crime of unauthorized (unlawful possession of) alcoholic beverages on any licensed premises is a misdemeanor.

Licensee

The licensee does not have to be on the premises to be in violation. All alcoholic beverages found on the licensed premises are presumed to belong to the licensee. Proof of sale is not essential when the physical presence of unauthorized alcoholic beverages can be established in the licensed premises.

Patrons

Patrons found in possession of alcoholic beverages other than those allowed by the license are also subject to arrest (e.g., possession of **distilled spirits** in an on-sale beer and wine **eating place**).

Seizure

All alcoholic beverages found in violation of this section may be seized.

Examples

Example: A restaurant which had an on-sale beer and wine (public eating place) license applied for an on-sale General (public eating place) license so it could serve distilled spirits and mixed drinks. The licensee assumed the license would be granted, purchased the liquor, and began selling the distilled spirits. Because the on-sale General license had not been granted, the restaurant should not have possessed or sold distilled spirits.

Non-example: A restaurant had an on-sale beer and wine (public eating place) license, and the cook possessed brandy and rum for cooking purposes only. Because possession of brandy and rum for cooking purposes only is allowed for this type of license, no crime has been committed.

FURNISHING ALCOHOL TO AN OBVIOUSLY INTOXICATED PERSON

Introduction

It is unlawful for any person to sell, furnish, give or cause to be sold, furnished, or given away, any alcoholic beverage to any person who is obviously intoxicated.

Business and Professions Code Section

Furnishing alcoholic beverages to an obviously intoxicated person is covered under *Business and Professions Code Section 25602(a)*.

Crime Elements

To arrest a subject for furnishing alcoholic beverages to an obviously intoxicated person, the necessary crime elements include:

- Any person who,
- Sells, furnishes, gives, or
- Causes to be sold, furnished, or given away,
- Any alcoholic beverage to any obviously intoxicated person.

The officer must observe or establish that the person who sold or furnished the alcoholic beverage was in a position to have known, or to have reasonably known, that the person to whom sold exhibited the symptoms of obvious intoxication at the time of the sale or furnish.

Classification

The crime of furnishing alcoholic beverages to an obviously intoxicated person is a misdemeanor.

Related Term

A person is **obviously intoxicated** when such intoxication can plainly be determined when a person exhibits objective symptoms or manifestations of intoxication such as the following:

- Staggered gait
- Slurred speech
- Ineffective muscular coordination
- Falling against bar or off stool
- Inability to pick up change
- Uncontrollable voice pitch
- Loud and boisterous behavior
- Bloodshot eyes
- Disheveled condition of clothes and hair
- Smell of alcoholic beverage

Chemical Tests

Chemical tests are inadmissible as evidence to prove the obviousness of intoxication.

NOTE: *Business and Professions Code Section 25602(a)* makes reference to sales to habitual drunkards. There are legal questions as to the enforceability of this portion of the statute. Common drunkard provisions have been deleted from the *Penal Code Section 647*. Peace officers should contact their local prosecutor regarding this statute.

Examples

- Example:** An officer was at a licensed liquor store investigating a petty theft. While behind the counter and out of sight of customers, the officer saw an obviously intoxicated male enter the store. In view of the clerk, the man stumbled into the reach-in cooler and selected a 40 oz. bottle of beer. He staggered to, and supported himself on, the sales counter. In front of the clerk, the man dropped currency and change on the floor but, after several attempts, eventually picked it up. The clerk took money from the man for purchase of the beer and handed him some change. The man staggered out of the store with his beer. The clerk committed the crime of furnishing alcoholic beverages to an obviously intoxicated person.
- Example:** A peace officer conducted a premises check at a local bar and observed a patron who was obviously intoxicated. The patron had a strong smell of alcoholic beverages about his person, red bloodshot eyes, and a staggering gait. The officer observed the bartender mocking the patron's state of intoxication, then serving the patron a bottle of beer. The bartender committed the offense of furnishing alcoholic beverages to an obviously intoxicated person.
- Non-example:** A man entered a store without showing signs of being obviously intoxicated. The man purchased a bottle of vodka and left the store. The man drove away and ran a stop sign. He was stopped by a peace officer who observed several empty alcoholic beverage bottles in the car. The officer administered a preliminary alcoholic beverage screening. The man's blood alcoholic level was .23%, but he performed other tests well. The clerk did not commit the crime of furnishing alcoholic beverages to an obviously intoxicated person because, although the man's blood alcohol percentage was high, he exhibited no other objective symptoms of intoxication.

SALE/CONSUMPTION DURING RESTRICTED HOURS

Introduction

The sale, giving, delivering, purchasing and/or permitting consumption of alcoholic beverages in a licensed premises must be done during specified hours.

Business and Professions Code Sections

Unlawful sale/purchase during restricted hours is covered under *Business and Professions Code Section 25631*.

Unlawful permitting consumption during restricted hours is covered under *Business and Professions Code Section 25632*

Ethics

Community policing requires the establishment of trust and credibility between law enforcement and the community. Peace officer's conduct, both on and off-duty, should be above reproach, if they are to be accepted as leaders or partners in the effort to reduce ABC violations in the community.

Procedural Justice

Giving people the opportunity to tell their side of the story, remaining neutral in your decision-making and behavior, treating people with respect, and explaining your actions, will help you interact with victims effectively.

Crime Elements

To arrest a subject for *unlawful sale/purchase* during restricted hours, the necessary crime elements include:

- Any on- or off- licensee, or agent or employee of such licensee, who
- Sells, gives, or delivers to any person,
- Any alcoholic beverage or
- Any person who knowingly purchases any alcoholic beverage
- Between the hours of 2:00 a.m. And 6:00 a.m. Of the same day.
- Any retail licensee, or agent or employee of such licensee, who
- Permits any alcoholic beverage to be consumed by any person,
- On the licensed premises,
- During any hours in which it is unlawful to sell, give, or deliver any alcoholic beverage for consumption on the premises.

NOTE: The sale, purchase, furnishing and/or consumption of the alcoholic beverage must be witnessed by an officer to constitute a violation. The mere presence of an alcoholic beverage on the counter will not sustain a prosecution under this section.

Classification

The crimes of unlawful sale, purchase, furnishing and/or permitting consumption during restricted hours are misdemeanors.

Examples

Example: A 24-hour restaurant had a tour bus arrive for a late evening meal at 1:30 a.m. The group purchased pitchers of beer to drink with their meals. The waitress informed them that the beer needed to be consumed by 2:00 a.m. They began to complain, and she allowed them to keep the beer. At 2:15 a.m. she sold them another pitcher of beer to keep them from complaining further. A peace officer on night shift had entered at 2:00 a.m. for a meal and watched as the group continued to purchase and consume the beer. The employee had committed the crime of unlawful sale and permitting consumption. The group has committed the crime of unlawful purchase.

Non-example: A man entered an all-night pizza parlor at 3:30 a.m. He ordered a ginger ale and a small pizza. He quickly consumed the soda, then discreetly poured beer into the glass that he had smuggled in under his jacket. The waiter did not realize that the man had switched beverages. Because of the man's stealth, the waiter had not permitted the consumption and had not committed the crime of unlawful consumption.

SALE TO, CONSUMPTION BY, OR PURCHASE BY A MINOR, OR ATTEMPTED PURCHASE BY A MINOR

Introduction

Minors are not allowed to purchase, consume, or attempt to purchase alcoholic beverages. Any minor who purchases, consumes, or attempts to purchase an alcoholic beverage from a licensed premises, as well as any person who provides the minor with an alcoholic beverage, has violated ABC law.

A minor becomes 21 years of age on the day of his/her 21st birthday (District Court of Appeal ruling).

Business and Professions Code Sections

Sale to a minor is covered under *Business and Professions Code Section 25658(a)*.

Consumption/purchase by a minor is covered under *Business and Professions Code Section 25658(b)*.

Attempt to purchase by a minor is covered under *Business and Professions Code Section 25658.5*.

Crime Elements

The following table describes the crime elements necessary to arrest a subject for sale to a minor and consumption or attempt to purchase by a minor.

Crime Name	Crime Elements	<i>Business and Professions Code</i>
Sale to a minor	<ul style="list-style-type: none"> • Every person who sells, furnishes, gives or • Causes to be sold, furnished, or given away, • Any alcoholic beverage • To any person under the age of 21 years 	25658(a)
Purchase/ Consumption by a minor	<ul style="list-style-type: none"> • Any person under the age of 21 years who • Purchases any alcoholic beverage, or • Consumes any alcoholic beverage in any on-sale premises 	25658(b)
Attempt to purchase by a minor	<ul style="list-style-type: none"> • Any person under the age of 21 years who • Attempts to purchase, • Any alcoholic beverage, from a • Licensee, or the licensee's agent or employee 	25658.5

Classification

Sale to a minor and consumption/purchase by a minor are misdemeanors.

Attempt to purchase by a minor is classified as an infraction.

Sales To a Minor

In all cases of sales to a minor, the investigating officer should present the alleged seller with the underage person.

Examples

Example: A 19-year-old female entered a convenience store, took a six-pack of beer from the refrigerator, and attempted to purchase the beer. When the clerk asked for her ID, she became very nervous, claimed that she left her wallet at home, and tried to convince him that she was not a minor. The clerk did not believe her and refused to sell her the beer. An officer standing outside the store observed the attempted purchase. When the officer entered the store to purchase a soda, the clerk told him what had happened and pointed out the woman to the officer. Because she attempted to purchase an alcoholic beverage and was underage, she had committed the crime of attempt to purchase by a minor.

Non-example: A 20-year-old male college student attended a party where alcoholic beverages were being served and attempted to get a drink. The bartender, a fellow student, knew the man was still a minor and refused to serve him an alcoholic beverage. Since there was no attempt to purchase from a licensed premises, the minor has not committed a crime.

MINOR IN POSSESSION OF AN ALCOHOLIC BEVERAGE

Introduction

Minors cannot have alcoholic beverages in their possession in a public place or place open to the public.

Business and Professions Code Section

A minor in possession of an alcoholic beverage is covered under *Business and Professions Code Section 25662(a)*.

Crime Elements

To arrest a subject for minor in possession of an alcoholic beverage, the necessary crime elements include:

- Any person under the age of 21 years, who
- Has any alcoholic beverage in his or her possession,
- On any street or highway, or
- In any public place, or
- In any place open to the public.

Classification

The crime of minor in possession of an alcoholic beverage is a misdemeanor.

Employment Exception

This section does not apply to possession by a minor making a delivery of an alcoholic beverage in pursuance of his or her employment, on the order of his/her parent, responsible adult relative, or any other adult designated by the parent or legal guardian.

Examples

- Example: A 17-year-old girl and boy were at a park having a picnic. The girl brought out a bottle of wine that she had taken from her parents' house. The teenagers opened the bottle and began to drink the wine. A patrol officer walked by and saw that they were drinking wine. The officer cited the teenagers for possession of an alcoholic beverage and seized the wine.
- Example: A peace officer enters a private home where residents are hosting a public party. The officer sees a 15-year-old drinking from a beer bottle. When enforcing this section, agency policy should be followed.
- Non-example: A peace officer visited a house to obtain information related to an auto accident. As the officer spoke with a minor who answered the door, he observed that she was holding a can of beer. Because this took place in a private residence, the crime of minor in possession of an alcoholic beverage has not been committed. The peace officer is limited in what actions may be taken (i.e. seizing the alcoholic beverage).

MINORS CONSUMING/IN POSSESSION OF ALCOHOLIC BEVERAGES AT A SOCIAL GATHERING

Introduction

Minors cannot have an alcoholic beverage in their possession at a social gathering. Alcoholic beverages may be seized if certain conditions apply.

Business and Professions Code Section

Social gatherings with minors consuming alcoholic beverages are covered under *Business and Professions Code Section 25662(b)*.

Social Gatherings

In this context, a **social gathering** is a gathering open to the public, hosted by one or more individuals.

It is the responsibility of those hosting a social gathering to ensure that minors are not consuming alcoholic beverages. Those minors at social gatherings who are in possession of alcoholic beverages can be charged under *Business and Professions Code Section 25662(a)*.

Seizure At Social Gatherings

A peace officer may seize any alcoholic beverage in plain view that is in the possession of, or provided to, a minor at social gatherings when all of the following conditions exist:

- A peace officer has lawfully entered the premises,
- Those gatherings are open to the public,
- 10 or more persons under the age of 21 are participating,
- Persons under the age of 21 years are consuming alcoholic beverages, and
- There is no supervision by a parent or guardian of one or more of the participants

Crime Element

Persons under the age of 21 years consuming alcoholic beverages without supervision by a parent or guardian of one or more of the participants.

Classification

Minors consuming or in possession of alcoholic beverages is a misdemeanor.

Disposition Of Seized Alcohol

Where a peace officer has seized alcoholic beverages under this statute, the officer may dispose of any alcoholic beverage:

- In an opened container, and
- In the possession of, or provided to,
- A person under the age of 21 years.

For alcoholic beverages in unopened containers, the officer shall impound those beverages:

- For a period not to exceed seven working days,
- Pending a request for the release of those beverages by a person 21 years of age or older, and
- Who is the lawful owner or resident of the property upon which the alcoholic beverages were seized.

If no one requests release of the seized alcoholic beverages within that period, those beverages may be destroyed.

NOTE: This statute carries no criminal penalties. It is a section for local law enforcement to seize alcoholic beverages at social gatherings involving the consumption of alcoholic beverages by minors. Any questions should be discussed with your local City Attorney or District Attorney and refer to your agency policy.

MINOR'S POSSESSION OR PRESENTATION OF A FALSE ID

Introduction

A minor in possession of a false ID is a crime.

Business and Professions Code Section

Possession or presentation of a false ID is covered under *Business and Professions Code Section 25661*.

Crime Elements

To arrest a subject for possession or presentation of a false ID, the necessary crime elements include:

- Any person under the age of 21 years, who
- Presents or offers to any licensee, his or her agent or employee,
- Any written, printed, or photostatic evidence of age and identity,
- Which is false, fraudulent, or not actually his or her own,
- For the purpose of ordering, purchasing, attempting to purchase, or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or
- Who has in his or her possession any false or fraudulent ID

Classification

The crime of possession or presentation of a false ID is a misdemeanor.

Examples

Example: A 19-year-old woman borrowed the driver's license of a friend who had similar features but was 21. The 19-year-old presented the license to the bouncer at the door to gain admittance to a bar. The bouncer realized that the woman did not match the picture on the license and could not answer questions based on information on the ID. Because the woman presented ID that wasn't her own, she committed the crime of presentation of a false ID.

Non-example: A mother called her 18-year-old daughter from work and stated that she had inadvertently left her driver's license at home. She asked her daughter to bring the license to her office because she needed it. Because there was no intent on the daughter's part to order, purchase, or procure alcoholic beverages, no crime was committed.

MINOR INSIDE PUBLIC PREMISES

Introduction

Minors are not allowed to enter and remain in a licensed public premises.

Business and Professions Code Section

Minors inside public premises is covered under *Business and Professions Code Section 25665*.

Crime Elements

To arrest a subject for minor inside a public premises, the necessary crime elements include:

- Any licensee under an on-sale license issued for public premises, who
- Permits a person under the age of 21 years,
- To enter and remain in the licensed premises without lawful business.

OR

- Any person under the age of 21 years who
- Enters and remains in the licensed premises without lawful business.

NOTE: This section applies to on-sale beverage (Public Premises), on-sale General (Public Premises), on-sale Beer (Public Premises), only. The Department of ABC may take administrative disciplinary action against the licensee if the licensee's employees violate this section. A licensee's *employee* who permits a minor to enter and remain may not be cited for violation of this section.

Classification

The crime of minor inside public premises is a misdemeanor. Both the on-sale licensee and the minor are guilty of a misdemeanor under this section.

Exception

Business and Professions Code Section 25663.5 permits persons 18 to 21 years of age to be employed as musicians during business hours, as long as nude or topless entertainment does not occur on such premises. The area of employment is confined to a portion of the premises restricted for the exclusive use of musicians and entertainers with no alcoholic beverages sold, served, or consumed.

Examples

Example: A 19-year-old woman entered a bar saying she needed to use the phone. After using the phone, she continued to stay in the bar talking to patrons. The owner (licensee) asked her to leave as she was a minor and could not stay in the bar legally. When the woman refused to leave, the owner called peace officers who cited the woman and escorted her out of the bar. Because she remained without lawful business, the woman committed the crime of minor inside public premises.

Non-example: In the example above, the owner did not commit a crime in allowing the woman to enter the bar, because she had lawful business to enter the premises. Also, he did not allow her to remain because she no longer had any lawful business once she completed the phone call.

POSSESSION OF ALCOHOLIC BEVERAGES ON PUBLIC SCHOOL GROUNDS

Introduction

Alcoholic beverages are not allowed on public school grounds.

Definition

Public schools include day or evening elementary schools and such day and evening secondary schools, technical schools, and kindergarten schools as may be established by the legislature or by municipal or district authority.

Public schools include two-year colleges but not state colleges and universities.

Business and Professions Code Section

Possession of alcoholic beverages on public school grounds is covered under *Business and Professions Code Section 25608*.

Crime Elements

To arrest a subject for the crime of possession of alcoholic beverages on public school grounds, the necessary elements include:

- Any person, who
- Possesses, consumes, sells, gives, or delivers to any other person,
- Any alcoholic beverage,
- In or on any public-school house or any of the grounds.
- This is enforceable seven days a week, 24 hours a day.

NOTE: Prior to enforcement, peace officers should check the *ABC Enforcement Manual* for exceptions to the law.

Classification

The crime of possession of alcoholic beverages on public school grounds is a misdemeanor.

Exceptions

There are several exceptions to this code. The most common exception occurs when an alcoholic beverage is used in the course of instruction or for religious purposes (i.e., wine). Even though these excepted activities may occur on school grounds, no crime is committed.

Arrest and Conviction

Any person convicted of a violation shall, in addition to the penalty imposed for the misdemeanor, be barred from having or receiving any privilege of the use of public-school property.

NOTE: Officers should report the arrest and conviction of any violators to the governing board of the school district.

Examples

Example: A high school basketball team won the district championship. While their son was getting changed, a couple drove to a local grocery store, purchased two bottles of champagne, and returned to the public high school. When their son came out of the locker room, the parents sprayed him with one of the bottles of champagne and proceeded to drink the other bottle. The officer on duty at the school saw them drinking and asked them to leave. They refused, claiming they were celebrating the victory with their son. The officer then cited them for possession of an alcoholic beverage on public school grounds and seized the champagne.

Non-example: A state university was hosting a football game. Many parents and other spectators were holding “tailgate” parties in the parking lot of the stadium. Alcoholic beverages were consumed at many of these parties. Because this was a university, it was not considered a public school for purposes of this statute, and no crime was committed.

FURNISHING FALSE ID TO A MINOR

Introduction

Furnishing false ID to a minor is a crime.

Business And Professions Code

Selling, giving or furnishing false or fraudulent identification to a minor is covered under *Business and Professions Code 25660.5*.

Crime Elements

To arrest a subject for selling, giving or furnishing false or fraudulent ID to a minor, the necessary crime elements include:

- Any person who
- Sells, gives or furnishes,
- To any person under the age of 21 years,
- Any false or fraudulent written, printed, or photostatic evidence,
- Of the majority and identity of such minor.

Classification

The crime of furnishing false ID to a minor is a misdemeanor.

Example

An 18-year-old male (minor) entered a small retail business that specialized in passport photos and portraits. He engaged the owner in conversation about the shop's services. The 18-year-old was told that he could purchase a purported valid drivers' license or identification card for any state. The printed document would show his age to be of majority. The 18-year-old paid the service fee and subsequently received a fraudulent California Identification Card that showed him to be 22 years of age. Because the owner sold and furnished the minor with a fraudulent photostatic evidence of majority, she committed the crime of furnishing false identification to a minor.

Learning Need

Arrest and successful prosecution depend on the development of probable cause. Peace officers must know the elements required to arrest for violations of ABC law, and to categorize these crimes as infractions, misdemeanors, or felonies.

Sales Without a License [13.01.5,13.01.16]

Any person, who exercises the privilege or performs any act which only a licensee may exercise, or perform under the authority of a license, unless the person is authorized to do so by a license is a misdemeanor.

Unauthorized Alcohol on Premises [13.01.6, 13.01.16]

Any person, who has or sells, on any licensed premise, any alcoholic beverage not authorized by the license is a misdemeanor.

Furnishing Alcohol to An Obviously Intoxicated Person [13.01.7, 13.01.16]

Any person, who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any obviously intoxicated person is a misdemeanor.

Sale and/or Consumption During Restricted Hours [13.01.8, 13.01.16]

Any on- or off-sale licensee, or agent or employee of such license, who sells, gives, or delivers to any person any alcoholic beverage, or any person who knowingly purchases any alcoholic beverage, between the hours of 2 a.m. and 6 a.m. of the same day is a misdemeanor.

Any retail licensee, or agent or employee of such licensee, who permits any alcoholic beverage to be consumed by any person, on the licensed premises, during any hours in which it is unlawful to sell, give, or deliver any alcoholic beverage for consumption is a misdemeanor.

Sale To, Purchase/Consumption/Attempted Purchase by A Minor [13.01.9, 13.01.16]

Every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage, to any person under the age of 21 years is a misdemeanor. Any person under the age of 21 years, who purchases any alcoholic beverage, or consumes any alcoholic beverage in any on-sale premises is a misdemeanor. Any person under the age of 21 years, who attempts to purchase, any alcoholic beverage from a licensee, or the licensee's agent or employee is an infraction.

Minor In Possession of An Alcoholic Beverage [13.01.10, 13.01.16]

Any person under the age of 21 years, who has any alcoholic beverage in his or her possession, on any street or highway or in any public place or in any place open to the public is a misdemeanor.

Minors Consuming/In Possession of Alcoholic Beverages At A Social Gathering [13.01.11, 13.01.16]

A peace officer who has lawfully entered the premises can seize alcoholic beverages if:

- The gathering is open to the public,
- 10 or more persons under the age of 21 are participating,
- Persons under the age of 21 years are consuming alcoholic beverages,
- There is no supervision by a parent or guardian of one or more of the participants has no criminal penalties.

Minor In Possession or Presentation of A False ID [13.01.12, 13.01.16]

Any person under 21 years, who presents or offers to any licensee, his or her agent or employee, or who has in his or her possession, any written, printed, or photostatic evidence of age and identity, which is false, fraudulent, or not actually their own, for the purpose of ordering, purchasing, attempting to purchase, or otherwise procuring or attempting to procure, the serving of any alcoholic beverage is a misdemeanor.

Minor Inside Public Premises [13.01.13, 13.01.16]

Any license under an on-sale license issued for public premises, who permits a person under the age of 21 years, to enter and remain in the licensed premises without lawful business.

OR

Any person under the age of 21 years, who enters and remains in the licensed premises without lawful business is a misdemeanor.

Possession Of Alcoholic Beverages on Public School Grounds [13.01.14, 13.01.16]

Any person, who possesses, consumes, sells, gives, or delivers to any other person, any alcoholic beverage, in or on any public schoolhouse or any of the grounds is a misdemeanor.

Furnishing False ID To Minor [13.01.15, 13.01.16]

Any person, who sells, gives, or furnishes, to any person under the age of 21 years, any false or fraudulent, written, printed, or photostatic evidence, of the majority and identity of such minor is a misdemeanor.

WORKBOOK LEARNING ACTIVITIES

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity Questions

1. A young-looking female sits at the bar of a local cocktail lounge and orders a glass of wine. What responsibility does the bartender have toward this customer? How might this differ if the bar featured live entertainment and had a bouncer covering the door? Explain.

2. What are the signs of an “obviously intoxicated” person? Why do you think that chemical testing is not proof of this state?

3. After the prom four high school seniors stop at a convenience store. One uses his 23-year-old brother's driver's license to attempt to purchase two bottles of champagne. The clerk compares the photo ID with the student and states, "Yeah, right. After-prom party?" When the student shrugs, the clerk smiles and says, "Go ahead, have fun," and sells the champagne to the student. The four students sneak into the school's football stadium and drink the champagne. What crime(s) have been committed and by whom? Are these felonies or misdemeanors? If an officer discovers the students, can the champagne be seized? Explain.

4. Peace officers stop a car at approximately 8:00 p.m. after the driver runs through a stop sign. The driver exhibits slurred speech, poor coordination, red eyes, and smells strongly of an alcoholic beverage. The driver explains that she has just had some beer at a friend's barbecue. Under what circumstances would the barbecue's host or hostess have committed a crime? Name and classify any applicable crimes as felonies or misdemeanors.

5. Parents having dinner at a restaurant with an on-sale license (beverage) (public eating place) purchase a bottle of wine to consume with their meal. An officer observes them pouring glasses of wine for themselves and for their daughter, who looks no older than 14 or 15. The daughter sips the wine with her meal. How should the officer proceed? What, if any, crime has been committed? Explain. Would this differ if a 23-year-old husband bought a glass of wine for his 20-year-old wife? Why or why not?

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Chapter 2

Investigating ABC Violations

OVERVIEW

Learning Need

The ABC Act provides a method to abate a number of common problem areas within a community. To effectively enforce ABC law, peace officers must be aware of basic ABC investigative techniques.

Learning Objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to	Objective ID
<ul style="list-style-type: none">Identify possible threats to officer safety encountered when investigating ABC violations.	13.02.4
<ul style="list-style-type: none">Recognize the methods for determining if a suspected liquid is an alcoholic beverage.	13.02.5
<ul style="list-style-type: none">Recognize appropriate methods for obtaining evidence to establish proof of an ABC violation.	13.02.6
<ul style="list-style-type: none">Recognize procedures for establishing the age and identity of a person using legally accepted identification.	13.02.7
<ul style="list-style-type: none">Identify general information to include in a written report involving a violation of ABC law.	13.02.8

In This Chapter

This chapter focuses on investigating ABC violations. Refer to the chart below for specific topics.

Topic	See Page
Officer Safety	2-3
Identifying Alcoholic Beverage and Collecting Evidence	2-7
Establishing Age and Identity	2-10
Reporting	2-13
Chapter Synopsis	2-15
Workbook Learning Activities	2-17

Introduction

Peace officers listed under *Penal Code Section 830.1* may enter a licensed premises to enforce ABC laws. This situation has inherent problems that threaten officer safety, and the officer should be aware of these factors.

Intoxication and Drug Influence

It is important for officers to understand the effects of alcohol and drugs to anticipate how people will behave under varying degrees of alcoholic intoxication or drug influence. They may have:

- Lowered inhibitions which can lead to episodes of violent behavior,
- Impaired judgment, and
- Reduced perception of pain.

Policing in the Community

The enforcement of the ABC Act depends significantly upon the contributions of local law enforcement agencies and their partnership with ABC. Peace officers are important in the education of community members, especially minors, regarding the dangers of alcohol. Active involvement can help communities avoid the pain of alcohol-related problems.

ABC violations in a community can be a clue to more serious criminal activity. In this context, ABC enforcement becomes useful in the law enforcement/community partnership to protect neighborhoods from disruptive licensed business and neighborhood deterioration.

Poor lighting

Many ABC establishments are dimly lit. Officer's eyes may have difficulty adjusting quickly to low light. This may cause an inability to see threats, exits, etc.

Overcrowding/Confined Space

Peace officers should be aware of the following factors in a licensed premises:

- Individuals often display more courage when surrounded by friends and supporters and may be more inclined to challenge authority, whereas they might not be so inclined in a different environment or set of circumstances.
- Patrons often come to the support of the owners and employees.
- Fights may become unruly. View the situation as a potential threat to personal safety. If you upset one person, five may come at you.
- Confined space limits alternatives. Additional considerations must be taken with the use of a firearm. The situation is prone to weapon take-aways, easy attacks.

Weapons

Along with conventional weapons (e.g., firearms, knives, etc.), officers may encounter makeshift weapons such as, but not limited to:

- Bottles, broken bottles, glassware, mugs
- Pool cues,
- Broken pool cues, pool balls,
- Darts,
- Bar stools, and/or other furniture

Possible Locations of Weapons

While on routine **inspections**, officers should ask licensees if they have weapons and where they keep them so they will know such locations ahead of time.

Possible locations include, but are not limited to:

- Behind the bar
- In the kitchen, etc.
- On the **person**
- In purses
- Under tables
- In the office

Attitudes Toward Law Enforcement

In many licensed premises it is commonplace for peace officers to be challenged. Using the principles of Procedural Justice will help you manage these interactions. Be professional, treat people with respect, explain your authority, and give them a voice.

Individuals	Attitudes
Owners	<ul style="list-style-type: none">• Generally, cooperative because they have a lot at stake.• Some will make comments, such as, "This is my business. I'll do what I want. This is private property. Show me your search warrant."
Employees	<ul style="list-style-type: none">• Generally, well informed of the laws and their responsibilities.• Often resort to house policies and practices and what they have been told to do.
Patrons	<ul style="list-style-type: none">• Often supportive of the establishment.• This may include comments such as, "Go do some real police work instead of harassing these people."

Preventative Measures Approaching Scene

The officer can take preventative measures when approaching the scene. The officer should:

- Scan the parking lot and activities in vehicles,
- Observe the crowd inside and outside,
- Know the exterior escapes (driveways, etc.),
- Note location and number of doormen or security guards along with whether or not the guards are armed.

IDENTIFYING ALCOHOLIC BEVERAGES AND COLLECTING EVIDENCE

Introduction

In most ABC cases it is necessary to establish that a drink or item is an alcoholic beverage.

Methods For Identifying

The table below suggests methods for establishing an item as an alcoholic beverage.

Method	Description
Analysis	<ul style="list-style-type: none">Requires the exact chain of custody and the testimony of the chemist.
Appearance and Smell	<ul style="list-style-type: none">Determined by the investigating officer at the scene. Requires the testimony of the officer that he or she is familiar with the appearance and smell of the particular beverage. Should be corroborated by chemical analysis.
Presumption	<ul style="list-style-type: none">Courts have held that there is a presumption that the particular drink ordered was the drink served. Thus, if an officer hears a drink such as bourbon and soda ordered, it is presumed that the drink served contained bourbon (whiskey) and soda.
Sealed Bottles and Containers	<ul style="list-style-type: none">Courts recognize that sealed containers contain the item listed or identified on the label.
Opened Bottles	<ul style="list-style-type: none">A bottle labeled as distilled spirits, coupled with the appearance of its contents (amber liquid in a bourbon bottle), will tend to establish that the item is an alcoholic beverage.

Method	Description
Admission	<ul style="list-style-type: none"> • Admissions by licensee/employee/agent that alcoholic beverages were served is an exception to the hearsay rule and most often occurs in after-hours cases. (Patron admissions are not admissible.)
Beer Tap Spigot Markers	<ul style="list-style-type: none"> • The presumption is that the type of beer labeled on the beer tap spigot is the beverage received when ordered. The investigating officer should smell and describe the beverage and submit a small portion for chemical analysis.

NOTE: Peace officers are cautioned that chemical analysis of the suspected item is the best proof. Use of alternative methods can result in a loss of both criminal and administrative cases.

Collecting Evidence

Peace officers should use the following guidelines for collecting alcoholic beverages as evidence:

- Retain alcoholic beverage for evidence. When necessary, put in a clean evidence bottle and seal. Local policy may allow photographic evidence.
- Mark bottles or containers of seized beverage for identification.
- Seal container in presence of person from whom seized, if possible.
- Give a receipt for seized evidence, if container is unopened. This requirement for unopened alcoholic beverages may vary with agencies.
- Smell and identify alcoholic beverage, if in an open container.
- If a mixed drink, remove ice immediately. Place mixed drink in a clean sample bottle.
- Obtain chemical analysis to substantiate alcoholic content, if deemed necessary.

ESTABLISHING AGE AND IDENTITY

Introduction

Peace officers must establish age and identity when investigating certain violations. Use the following guidelines for establishing age and/or identity of the licensee or employee, minor, or witnesses.

Legally Acceptable Identification

A legally acceptable, or bona fide evidence of **identification** is one document that contains all of the following:

- Issued by a governmental agency (federal, state, county, or municipal),
- Name of the person,
- Date of birth,
- Physical description,
- Photograph, and
- Currently valid (i.e., not expired).

Examples of legally acceptable IDs include, but are not limited to, a:

- Driver's license,
- State-issued id card,
- U.S. passport, or
- Federal Military ID card (except ones which don't have a physical description).

NOTE: Licensees may establish a policy that is stricter than the law allows (i.e. accepting only California driver's licenses). A licensee may have any policy that does not conflict with existing laws (e.g., discrimination).

False Identification: Purchasing Alcoholic Beverages

Section 25661, Business and Professions Code makes it a misdemeanor to present false identification for the purpose of ordering, purchasing, attempting to purchase or otherwise procure or attempting to procure the serving of any alcoholic beverage.

Defenses in Court

The ABC Act defines all persons under the age of 21 years as minors, regardless of marital status. A licensee is authorized to demand documentary evidence of age and identity of any person in his or her premises.

Proof that a licensee, or his/her employee or agent, obtained documentary evidence of age and identity shall be a defense to any criminal prosecution or ABC administrative proceedings for certain violations of the ABC Act involving minors.

The licensee must demand, be shown, and act in reliance upon bona fide (legally acceptable) documentary evidence of majority and identity. (*Business and Professions Code Section 25660*).

No defense will exist if an ID card is obviously altered or the identity on the card does not match the person presenting it.

Establishing Minor's Identity

When trying to establish the age of a minor who has violated the law under this division, a peace officer should determine what documents were shown, if any. The officer should examine the document(s) and check carefully for alterations and if the photograph matches the person presenting it. If false, they should seize the document(s) as evidence.

In addition, the officer should:

- Question minor about age and establish if minor was questioned about age prior to service.
- Attempt to verify age by a records check, parent, guardian, or relative.
- Bear in mind that a birth certificate is proof of age only, and that proof of identity is necessary.
- Scrutinize all information documents thoroughly and compare with bearer.
- Note and include in the report the apparent age, appearance, and dress of the minor.
- Thoroughly search minor for false identification when probable cause exists, or consent has been obtained.
 - Search minor for false identification even when no claim of false ID exists.
 - If a search is made, document the results in the report for use at a trial or administrative hearing, or to preclude licensee's use of false ID issue as a defense.
- Take a photograph of the minor.

Establishing Witness Identity

When establishing a witness's identity, officers should obtain that individual's:

- Full name, date of birth,
- Address,
- Telephone numbers (home and work),
- Place of employment (including address).

Introduction

Officers must forward a copy of their reports to the Department of ABC in order to track violations.

Facts About Premises

During an investigation officers should take written notes of the following information about the buyer and include this information in the written report.

- Condition of premises such as:
 - Lighting,
 - Length of bar,
 - Size of crowd,
 - Demeanor of customers,
 - General description, or
 - Location of check-out counter.
- Presence of video or surveillance camera.
- Number of employees present.
- Pertinent information from posted license such as:
 - Licensee,
 - Address, and
 - Type of license.
- Check time accuracy:
 - With dispatcher,
 - On licensee's or employee's watch or clock.

Facts About Buyer

Officers must note the following information about the buyer and include this information in a written report.

- Appearance and outward behavior of buyer.
- Observation of consumption, whenever possible.
- Citation or apprehension of suspect or suspects, including
 - Those cited or arrested at scene, and
 - Witness(es) who can identify suspect(s).

Facts About Sale

Officers should note the following information about the sale during an investigation and include this information in the written report.

- The order for alcoholic beverages.
- Type of beverage (i.e., wine, beer, mixed drink).
- How served or sold (e.g., placed in bag or box, served in glass, etc.).
- Time order took place.
- Location where beverage came from (e.g., refrigerator, back bar, speed rack, shelf, etc.).
- Cost of merchandise, including the:
 - Cash register slip,
 - Amount requested by seller,
 - Type/amount of money given to seller by buyer, and
 - Amount of change, if any, received by buyer.

Learning Need

The ABC Act provides a method to abate a number of common problem areas within a community. To effectively enforce ABC law, peace officers must be aware of basic ABC investigative techniques.

Officer Safety [13.02.4]

Officers should take into consideration the following threats to officer safety:

- Alcohol intoxication/drug influence,
- Poor lighting,
- Overcrowding/confined space, and
- Weapons.

Determining Alcoholic Beverages [13.02.5]

The suggested methods for establishing an item as an alcoholic beverage may include analysis, appearance and smell, presumption, sealed bottles and containers, opened bottles, admission and beer tap spigot markers.

Obtaining Evidence [13.02.6]

Peace officers should use the following guidelines for obtaining evidence.

- Retain alcoholic beverage for evidence.
- Mark bottles or containers of seized beverage.
- Seal in presence of person from whom seized, if possible.
- Give a receipt for seized evidence if container is unopened.
- Smell and identify alcoholic beverage, if in an open container.
- If a mixed drink, remove ice immediately. Place in a clean sample bottle.
- Obtain chemical analysis to substantiate alcoholic content, if deemed necessary.

Establish Age and Identity [13.02.7]

A legally acceptable identification contains all of the following:

- Issued by a governmental agency (federal, state, county, or city),
- Name of the person,
- Date of birth,
- Physical description,
- Photograph, and
- Currently valid (i.e., not expired).

Reporting ABC Violations [13.02.8]

Officers should take written notes during an investigation and include this information in the written report. The officer should include information about the:

- Premises
- Buyer, and
- Sale.

WORKBOOK LEARNING ACTIVITIES

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity Questions

1. When collecting evidence in an ABC case, why is chemical analysis of the served or consumed substance often required? What other methods are available to determine whether a particular substance is alcohol? What can happen if these methods are solely relied upon by officers rather than coupled with chemical analysis?
2. Peace officers enter a crowded sports bar at 10:00 p.m. after a televised football playoff game won by a local team. They are responding to a disturbance call by the owner of the establishment reporting a fight between patrons. What circumstances should officers be prepared to encounter that might pose possible threats to them? Describe four precautions they might take.

3. List three crimes that are commonly associated with ABC law violations. If criminal activity is taking place at a neighborhood bar, what circumstances must be proven for the licensee to be held responsible under ABC law?

4. A member of the community calls peace officers to report that a neighborhood bar is selling alcohol to minors on high school graduation night. Officers arrive on the scene of a crowded club with an on-sale license. Upon entering the club, the officers immediately note five drinkers who appear to be under 21 years of age. Outline the procedures and/or techniques the officers should use at this point to obtain evidence to support criminal charges and ABC violations.

5. What documents are sufficient to establish an individual's age and identity?

Supplementary Material

Introduction

Numerous sections of the Penal Code, the Business and Professions Code and the Vehicle Code pertain to the Alcoholic Beverage Control laws.

Topic	See Page
Other Codes Related to ABC Law	S-2
Training Materials	S-8
ABC Licenses	S-9

OTHER CODES RELATED TO ABC LAW

Penal Code and B&P Code Sections

The following chart gives information regarding some of the Penal Code and Business and Professions Code sections related to ABC laws.

Circumstance of Crime	Code Section
Prohibits employing person to encourage purchases other than original packages; prohibits sale on commission	<i>Penal Code 303</i>
Prohibits employing person in licensed on-sale premises to encourage purchases; prohibits sale on commission	<i>Business and Professions Code 25657(a)</i>
Prohibits loitering for the purpose of begging or soliciting of any alcoholic beverage	<i>Penal Code 303a</i>
Prohibits employing or knowingly permitting anyone to loiter for the purpose of begging or soliciting any alcoholic beverages.	<i>Business and Professions Code 25657(b)</i>
Prohibits sale of candies, cakes, cookies, or chewing gum that contains alcohol in excess of ½ of 1 percent by weight to minors	<i>Penal Code 307</i>
Prohibits keeping or renting of disorderly house for prostitution or which disturbs the neighborhood	<i>Penal Code 316</i>
Prohibits manufacture, sale, or transfer of false government-issued identification cards or driver's licenses	<i>Penal Code 529.5</i>
Prohibits manufacture, sale, or transfer of false birth certificates or falsely representing oneself with another's birth certificate	<i>Penal Code 529a</i>

Vehicle Code Sections

The following chart gives information regarding some of the Vehicle Code sections related to ABC laws.

Circumstance of Crime	Vehicle Code Section
Grants DMV authority to issue an identification card to a person with bona fide evidence	13000
Provides for expiration and renewal of identification cards in six years, except for senior citizens	13002
Provides for duplicate identification cards in the event a card is lost, destroyed, mutilated, or a new name is acquired	13003
Prohibits the unlawful use, display, alteration, or reproduction of identification cards	13004
Specifies the content and form of identification cards	13005
Absolves a public entity and its employees from any loss or injury directly or indirectly from false or inaccurate information contained in identification cards	13006
Specifies procedures for change of address on identification cards	13007
Mandates suspension, restriction, or delay of driving privileges for conviction of persons under the age of 21 years, but 13 years of age or older, for any alcohol related offense, including juvenile proceedings	13202.5

Circumstance of Crime	Vehicle Code Section
Prohibits any person from:	
displaying or having in possession any canceled, revoked, suspended, fictitious, fraudulently altered, or fraudulently obtained driver's license.	14610(1)
lending driver's license to any other person or knowingly permit the use thereof by another.	14610(2)
displaying or representing any driver's license not issued to that person.	14610(3)
failing or refusing to surrender any driver's license which has been suspended, revoked or canceled.	14610(4)
permitting any unlawful use of their driver's license.	14610(5)
doing any act forbidden or failing to perform any act required by this division.	14610(6)
photographing, photo stating, duplicating, or in any way reproducing any driver's license or facsimile in such a manner that it could be mistaken for a valid license, or to have in possession any false license.	14610(7)
altering any driver's license.	14610(8)
Prohibits any person under the age of 21 years who has a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test or other chemical test, to drive a vehicle.	23136
Prohibits any person under the influence of alcohol or drugs, a combination of the two, or addicted to the use of any drug, from driving a vehicle.	23152

Circumstance of Crime	Vehicle Code Section
Prohibits persons from drinking any alcoholic beverage while driving a motor vehicle on any highway or lands.	23220
Prohibits persons from drinking any alcoholic beverage while in a motor vehicle on any highway.	23221
Prohibits persons from riding a bicycle under the influence of alcohol.	21200.5
Prohibits possession of any bottle, can, or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, while driving a motor vehicle on a highway or on off-highway lands.	23222
Prohibits possession of any bottle, can, or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, while in a motor vehicle on a highway or on off-highway lands.	23223
Prohibits any person under the age of 21 from knowingly driving any motor vehicle carrying any alcoholic beverage for the purpose of transportation of an alcoholic beverage, unless the person is accompanied by a parent or other adult designated by the parent or legal guardian or is employed by a licensee and is driving the motor vehicle during the course of employment.	23224

Circumstance of Crime	Vehicle Code Section
Prohibits keeping in a motor vehicle, any bottle, can, or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed unless the container is kept in the trunk of the vehicle or some other area not normally occupied by the driver or passengers.	23225
Prohibits keeping in the passenger compartment of a motor vehicle when the vehicle is on the highway, or off- highway lands, any bottle, can, or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.	23226
States that Sections 23221 and 23223 do not apply to passengers in any bus, taxicab, or limousine for hire licensed to transport passengers pursuant to the Public Utilities Code or proper local authority, or the living quarters of a house car or camper.	23229

TRAINING MATERIALS

ABC Enforcement Manual. A manual to assist peace officers in investigating violations of the ABC Act. Available without charge from:

Department of Alcoholic Beverage Control (ABC) Training Unit
3810 Rosin Court, Suite 150
Sacramento, CA 95834
www.abc.ca.gov

The following training videos are also available from ABC:

ABC Off-Sale Basics: A Peace Officer's Guide. A video (approximately 15 minutes) program provides field officers with basic guidelines for “off-sale” investigations.

ABC On-Sale Basics: A Peace Officer's Guide. A video (approximately 15 minutes) program provides field officers with basic guidelines for “on-sale” investigations.

COPPS and Disruptive Off-Sale Premises: A video (approximately 15 minutes) program designed for peace officers. Outlines effective strategies to address problematic off-sale licensed locations (liquor stores, grocery stores, etc.). Follows tenets of COPPS - Community Oriented Policing and Problem Solving.

COPPS and Disruptive On-Sale Premises: A video (approximately 16 minutes) program designed for peace officers. Outlines strategies to address problematic on-sale licensed locations (clubs, bars, restaurants, etc.). Follows tenets of COPPS - Community Oriented Policing and Problem Solving.

The publications listed below may be useful to assist agencies in developing effective responses to problematic bars and rave parties.

Assaults In and Around Bars by Michael S. Scott and *Rave Parties* by Michael S. Scott. Guides are part of a series of *Problem-Oriented Guides for Police*, available without charge, from the U.S. Department of Justice, Office of Community Oriented Policing Services, 1100 Vermont Avenue, NW, Washington, DC 20530, <https://cops.usdoj.gov/>. Also, on-line, at *The Center for Problem-Oriented Policing* <https://popcenter.asu.edu/>.

Information Displayed on License

As illustrated by the example, all ABC licenses display certain information regarding that licensed business, including:

- License Type
- Operating period
- Licensee and mailing address
- Numerical license designation
- Premises address
- Conditions, if any.

When Is a License Not Required?

A license is not required where *all* of the following conditions exist:

- There is no sale of an alcoholic beverage,
- Premises is not open to the general public during the time alcoholic beverages are served, consumed or otherwise disposed of,
- Premises is not maintained for the purpose of keeping, serving, and consuming alcoholic beverages or otherwise disposing of alcoholic beverages.

(Business and Professions Code Section 23399.1)

Non-retail Licenses

Generally speaking, non-retail licenses are issued to businesses that will be engaged in the manufacture and/or distribution of alcoholic beverages.

With the exception of wineries and brew pubs, these licenses:

- Require their holders to sell only to other licensees, and
- Do not permit the sale of alcoholic beverages to consumers.

Examples: - Distilleries, and
 - Wholesale distributors.

Retail Licenses

Retail licenses are issued to businesses engaged in the sale of alcoholic beverages to consumers. There are several retail licenses, separated into two basic types, off-sale and on-sale. With the exception of club licenses, all retail licensed premises must be open to the general public.

Off-sale and On-sale Retail Licenses

Off-sale licenses authorize the sale of alcoholic beverages for consumption off the premises.

On-sale licenses authorize the sale of alcoholic beverages for consumption on the premises. On-sale licenses also have certain off-sale privileges (for beer and wine only), provided said privileges have not been prohibited pursuant to conditions on the license.

The following table further identifies the most commonly issued types of retail licenses. Two colors represent the types of licenses. A pink license indicates that minors are permitted in the premises. A green license (Type 42, 48 and 61) means that minors are not permitted in the premises without lawful business therein

Retail License	Type License/ Color	Authority	Examples
Off-sale	Type 20 - Beer and Wine Color - pink	<ul style="list-style-type: none"> • Sale of beer and wine • Consumption off the premises where sold (off-sale privileges) • Minors may be present 	<ul style="list-style-type: none"> • Convenience stores • Markets • Florists • Specialty shops
Type 21 - Off-Sale General Color - pink	<ul style="list-style-type: none"> • Sale of beer, wine, and distilled spirits • Consumption off the premises where sold (off-sale privileges) • Minors may be present 	<ul style="list-style-type: none"> • Liquor stores • Drug stores • Supermarkets • Gift shops 	

Retail License	Type License/ Color	Authority	Examples
On-sale	Type 40 - On-Sale Beer Color - pink	<ul style="list-style-type: none"> • Sale of beer • Consumption on and off the premises where sold • Minors may be present 	<ul style="list-style-type: none"> • Beer bars • Taverns • Billiard halls • Pizza parlors
	Type 41 - On-Sale Beer and Wine (Public Eating Place) Color - pink	<ul style="list-style-type: none"> • Sale of beer and wine • Consumption on and off the premises where sold • May possess brandy, rum, and liqueurs solely for cooking purposes • Minors may be present 	<ul style="list-style-type: none"> • Pizza parlors • Sandwich shops • Restaurants
	Type 42 - On-Sale Beer and Wine (Public Premises) Color - green	<ul style="list-style-type: none"> • Sale of beer and wine • Consumption on and off the premises where sold • Minors are not permitted inside without lawful business 	<ul style="list-style-type: none"> • Bars • Wine tasting rooms

Retail License	Type License/ Color	Authority	Examples
On-sale	Type 47 - On-Sale General (Public Eating Place) Color - pink	<ul style="list-style-type: none"> • Sale of beer, wine, and distilled spirits • Consumption on the premises where sold • Consumption of beer and wine off the premises where sold • Minors may be present 	<ul style="list-style-type: none"> • Restaurants • Public golf courses • Hotels • Resorts
	Type 48 - On-Sale General (Public Premises) Color - green	<ul style="list-style-type: none"> • Sale of beer, wine, and distilled spirits • Consumption on the premises where sold • Consumption of beer and wine off the premises where sold • Minors are not permitted inside without lawful business 	<ul style="list-style-type: none"> • Bars • Clubs • Lounges

Retail License	Type License/ Color	Authority	Examples
Type 51/57 - Club License/ Special On-Sale General Color - pink	<ul style="list-style-type: none"> • Sale of beer, wine, and distilled spirits • Consumption on the premises where sold only to club members and their guests • No off-sale privileges • Minors may be present 	<ul style="list-style-type: none"> • Private country club • Kiwanis club • Lions club • Private club 	<ul style="list-style-type: none"> • Bars • Clubs • Lounges
Type 61 - On-Sale Beer (Public Premises) Color - green	<ul style="list-style-type: none"> • Sale of beer • Consumption on and off the premises where sold • Minors are not permitted inside without lawful business 	<ul style="list-style-type: none"> • Pool hall • Card rooms • Taverns • Beer Bars 	

Glossary

Introduction

The key vocabulary terms for Learning Domain 13: ABC Law are listed below with the definitions as they apply to this workbook.

Alcoholic Beverages

Alcohol, spirits, liquor, wine, or beer, and every liquid or solid containing *one-half of 1 percent or more of alcohol by volume*, and is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances

Beer

Any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof in water, and includes ale, porter, brown, stout, lager beer, small beer, and strong beer but does not include sake, known as Japanese rice wine

Distilled Spirits

An alcoholic beverage obtained by the distillation of fermented agricultural products, and includes alcohol for beverage use, spirits of wine, whiskey, rum, brandy, and gin, including all dilutions and mixtures thereof

Eating Place

A place maintained *in good faith* and used for the regular service of meals to patrons

Identification

Document which is issued by a government agency and contains the name of the person, their date of birth, physical description, photograph, and is currently valid

Inspections

Entering a premises for the purpose of enforcing the provisions of the ABC Act

License

Department of Alcoholic Beverage Control authorizing privileges pertaining to the manufacture, sale, purchase, possession, and transportation of alcoholic beverages

Licensee

Any person holding a license issued by the State Department of Alcoholic Beverage Control

Minors

Any person under the age of 21. A minor becomes 21 years of age on their 21st birthday

Obviously Intoxicated

A person whose intoxication can plainly be determined by exhibiting one or more of the specified physical conditions

Person

Any individual, firm, co partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination of people acting as a unit, including the plural as well as the singular number

Public Schools

Day or evening elementary schools and such day and evening secondary schools, technical schools, and kindergarten schools established by the legislature or by municipal or district authority

Social Gathering

A gathering open to the public, hosted by one or more individuals

Still

Apparatus capable of being used for separating alcohol, or alcohol vapors or solutions from alcohol or alcohol solutions. Does not include apparatus used for laboratory purposes or solely in the production of distilled water or substances other than alcoholic beverages.