

DEKALB POLICE DEPARTMENT

Subject: **Liquor Ordinance Enforcement**

Policy #: **401.5**

Effective Since: 8-21-03

Revision Effective: 1-1-19

FTO Training Task: # 28

Reference Material: City Ordinance Chapters 38 and 52

ILEAP Standards Covered: NA

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PURPOSE: The City of DeKalb has enacted liquor ordinances that either mirror state statutes or further limit the possession, consumption, or sale of alcohol. The department recognizes that alcohol violations, particularly by minors, pose risks to their personal safety and well-being. It is the purpose of this policy to provide guidelines for effective liquor control enforcement.

POLICY: It is the policy of this department to enforce liquor violation ordinances, as well as state liquor statutes. The department encourages its officers to educate minors about the dangers of drinking and take appropriate enforcement action when necessary.

DEFINITIONS:

ID: identification, usually a government-issued identification card

NTA: Notice to Appear

CITY ORDINANCES:

Liquor Ordinances ; there are several liquor ordinances commonly enforced by the police department:

- A. Ordinance violations currently eligible on the checkbox complaint with the mail-in option:
 - 1. 38.21(a), Entering / Remaining in a Tavern as a Minor (Class A liquor establishments)
 - 2. 52.06, Keeping a Disorderly House; permitting minors to consume intoxicating drinks of any kind.
 - 3. 38.13-2, Open Container of Alcohol on a Public Way (regardless of age)
 - 4. 38.21(f), Possession or consumption of alcohol by a minor (38.21 contains other related offenses involving minors as well)
- B. Ordinance violations requiring a court appearance (not eligible for mail-in):
 - 1. 38.23, Misrepresenting Age, for purpose of purchasing, accepting, or receiving alcohol, by use of false identification or using another's ID.
 - 2. 38.02, Selling Liquor without a License
- C. Chapter 38 of the City Ordinances also contains ordinances governing liquor establishments and use of city liquor licenses.

PROCEDURE: The following procedure is the departmental guide for enforcement of liquor ordinances, and state statutes.

I. Enforcement procedure :

- A. When an officer encounters liquor violations, particularly involving offenses relating to minors, appropriate enforcement action should be taken.
- B. Officers should ensure that the elements of the offense have taken place and there is sufficient evidence to support the charge.
- C. **Issuing a city ordinance complaint for liquor violations :**
 - a. Checkbox form: complete with a court date and issue the appropriate copy to the violator. Tell the violator that instructions are listed on the back of the complaint.
 - b. Long form complaints: complete and issue the appropriate copy to the violator with a Bail Bond long form with a Notice to Appear.
 - c. Obtaining bond money is not required.
 - d. A known repeat offender is not eligible for the mail-in procedure.

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- e. Minors under 18 are not eligible for the mail-in procedure.
 - f. Officers should follow standard juvenile procedures for minors under 17; mini-complaints & long form I-bonds for ages 14-17, no written complaints for minors under 14.
- D. **Issuing a state complaint** for liquor violations can occur when:
- a. The offender has previous liquor violation arrests.
 - b. The offender is being charged with other state offenses.
 - c. In these cases, bond is required; I-bond is an option
- E. If a person is obviously incapacitated or extremely ill due to alcohol consumption, medical assistance should be summoned and/or provided.
- F. **Providing detoxification assistance** (Conor's Law, as established in 50 ILCS 705/10.17-5):
- a. If an individual under 21 years of age is arrested while under the influence of alcohol or drugs, and the officer believes the individual is still under the influence while in custody and there are signs of impairment, the officer must make a reasonable attempt to contact a responsible adult who is willing to take custody of the intoxicated individual.
 - b. If a responsible adult is not available or is unwilling to take custody of the minor, the individual shall be offered the opportunity to take a breathalyzer or other chemical test(s) to ensure they are sober prior to release.
 - c. When responding to parties or other incidents where alcohol or drugs are being consumed, in addition to any appropriate enforcement efforts, officers shall accommodate a request from a person under the influence of alcohol or drugs to safely withdraw or sober themselves in a controlled environment, and offer assistance such as providing or arranging their transport to a medical facility, treatment facility or the police station, where the officer determines it to be appropriate and as resources permit.
- G. If a person is unable or refuses to sign their copy of the complaint or bond form, the officer should write "unable to sign" or "refused to sign" in the blank.
- H. **Conducting ID checks** ; officers may be assigned to check ID's at liquor establishments to ensure that patrons are 21 years of age or older and/or to check city liquor licensing compliance. Officers should complete a two-fold investigation:
- a. identification and arrest of underage offender(s)
 - b. investigating possible violations by the establishment and/or its employees in allowing minors in or serving minors alcohol
 - c. Officers should include the following information on the report:
 - 1. the elements of the offense
 - 2. what ID, if any, was used
 - 3. what became of the ID after use; e.g., passed to another person, given back to its owner, etc.
 - 4. how closely the ID and physical description of the violator match
 - 5. the identification of the doorman, if any, who allowed the minor in; and what means the doorman was using, if any, to check ID's
 - 6. the identification of any employee who served alcohol to the minor
 - 7. if there is video from the establishment of the minor entering
 - 8. other pertinent liquor licensing violations
 - d. Officers obtaining a false ID should:

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1. confiscate the ID.
2. make a photocopy of the ID to include with the report so it can be viewed without removing it from evidence.
3. log the ID into evidence.
4. once the case is disposed of, the ID can be:
 - a. returned to the rightful owner, if the owner was unaware of its use.
 - b. forwarded to the Secretary of State with a copy of the report for potential further action against the offender(s).

II. Forwarding Liquor Reports

- A. Alcohol violations that are charged under city ordinance should have the complaint and a copy of the entire report forwarded to the city legal department.
- B. State alcohol violation charges will follow the usual distribution of the state complaint and related paperwork.
- C. A shift commander shall forward a copy of any case report in the following circumstances to the Chief of Police:
 1. When any minor under the age of 18 has illegally been in a liquor establishment or has possessed or consumed alcoholic liquor in a liquor establishment.
 2. When any owner, manager, or employee of any liquor establishment has been arrested for or suspected of violating the local or state liquor laws.
 3. When any owner or manager of any liquor establishment is charged with a felony by any police agency.
 4. Any occurrences that call into question the procedures, activity, or cooperation on the part of any owner, manager, or employee of a liquor establishment that jeopardizes the safety of persons present or impedes the ability of police officers to perform their duties.
 5. Any other situation or concerns that the shift commander feels should be brought to the attention of the Chief of Police, City Administrative Staff, the Liquor Commissioner, and/or the Liquor Commission.

III. Community Relations / Prevention Programs:

- A. Officers are encouraged to advise violators of the dangers of underage drinking, such as intoxication, alcohol poisoning, risk of arrest, medical problems, diminished mental awareness and physical abilities, higher potential for becoming victim to assault or other crimes, etc.
- B. Community relations officers or other designated officers may be assigned to conduct presentations at schools, on campus, or other locations to educate minors and others about the dangers and consequences of illegal or excessive alcohol use.
- C. The City conducts annual programs for liquor establishments, educating their employees about proper ID checks and liquor licensing restrictions.

Policy originally issued 8-21-03; this revision becomes effective on 1-1-19 by authority of the Chief of Police.

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NOTE: This policy and procedure summarizes the department's position on this specific matter. This policy is for general direction and guidance primarily designed for use by the department's members. This policy is for internal use only and does not create or enlarge an officer's liability in any way. This policy shall not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of an internal departmental complaint and then only in a non-judicial administrative setting.