



**EXISTING RULE:**

**Appendix VIII: Texas A&M University Alcohol Rules That Apply to Student Organizations, and Others**

(Revised: 2006)

**I. Introduction**

Individuals must be at least 21 years old to purchase, possess, or consume alcoholic beverages. Texas A&M University is an educational institution dedicated to the pursuit of excellence, the promotion of academic achievement and the advancement of knowledge. Because of the university’s interest in the intellectual, physical and psychological well being of the campus community, it is important that the university take steps to curtail the abusive or illegal use of alcoholic beverages. Educating students about the effects of misuse and use of alcohol will help accomplish these goals.

**Legal Requirements Concerning the Use of Alcohol**

This summary is intended to provide general information to students of Texas A&M University. It is for reference only and is not intended to provide legal advice. Specific advice regarding an individual person or situation should be requested from an attorney. The use of alcoholic beverages by members of the Texas A&M University community is at all times subject to the alcoholic beverage laws of the State of Texas. Such laws include:

**A. Provisions Relating to Age**

1. Punishment for Alcohol-Related Offense by Minor. The following penalties apply for Minor in Possession Violations (MIP) which include Attempted Purchase, Purchase, Possession, Consumption of Alcohol, and Misrepresentation of Age. ABC§106.071

<b>Penalties for Minor in Possession (MIP)</b>					
<b>Offense</b>	<b>Fine</b>	<b>Community Service</b>	<b>Loss of License</b>	<b>Education</b>	<b>Jail</b>
<b>1st</b>	Up to \$500	8-12 hours	30 days	Required	None
<b>2nd</b>	Up to \$500	20-40 hours	60 days	Judges’ option	None
<b>3rd</b>	\$250-\$2000	None	180 days	Judges’ option	Up to 180 days

Deferred Adjudication is considered a conviction for enhancement (See Section C-2 below).

2. Expunction of Conviction of a Minor. Any person convicted of not more than one alcohol-related violation while a minor, on attaining the age of 21 years, may apply to the court to have the conviction expunged. The applicant shall be released from all disabilities resulting from the conviction, and the conviction may not be shown or made known for any purpose. ABC§106.12

3. Purchase of Alcohol by a Minor. A minor commits an offense by purchasing an alcoholic beverage; punishable by §106.071. (For penalties, see Section A-1 above). ABC§106.02

4. Attempted Purchase of Alcohol by a Minor. A minor commits an offense by an act amounting to more than mere preparation to purchase an alcoholic beverage; punishable by §106.071 (For penalties, see Section A-1 above). ABC§106.025

5. Sale to Minors. A person commits an offense by selling an alcoholic beverage to a minor through an act of criminal negligence. This is a Class A misdemeanor. (For penalties, see Section C below). ABC§106.03

117 John J. Koldus Student Services Building  
 1256 TAMU  
 College Station, TX 77843-1256

Tel. 979.845.4728 Fax. 979.845.3320  
 studentaffairs.tamu.edu

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6. Consumption of Alcohol by a Minor. A minor commits an offense by consuming an alcoholic beverage; punishable by §106.071. (For penalties, see Section A-1 above). An order of deferred adjudication under this section is considered a conviction of an offense. ABC§106.04

7. Driving Under the Influence of Alcohol by a Minor (DUI). A minor commits an offense if the minor operates a motor vehicle in a public place while having any detectable amount of alcohol in the minor’s system. This is a Class C misdemeanor except if the minor has been previously convicted at least twice of an alcohol-related offense. Deferred Adjudication is considered a conviction for enhancement. A Minor is not eligible for deferred adjudication on 3rd offense. (For penalties, see the following chart and Section C-1 below. See also Sections B-8, 9). ABC§106.041

<b>Penalties for DUI by a Minor</b>						
<b>Offense</b>	<b>Fine</b>	<b>Community Service</b>	<b>Loss of License</b>		<b>Education</b>	<b>Jail</b>
			<b>Failing*</b>	<b>Refusing*</b>		
<b>1st</b>	Up to \$500	20-40 hours	60 days	180 days	Required	None
<b>2nd</b>	Up to \$500	40-60 hours	120 days	2 years	Judges’ option	None
<b>3rd</b>	\$500- \$2000	40-60 hours	180 days	2 years	Judges’ option	Up to 180 days

\*Failing a breath/blood test means there was ANY detectable amount of alcohol present. Due to Implied Consent, refusing to take the breath/blood test results in higher penalties. TC§724.035

8. Possession of Alcohol by a Minor. A minor commits an offense by possession of an alcoholic beverage; punishable by §106.071 (For penalties, see Section A-1 above). Exceptions: a minor may possess an alcoholic beverage while in the course and scope of employment, or in the visible presence of an adult parent, guardian, or spouse. ABC§106.05

9. Purchase of Alcohol for a Minor; Furnishing Alcohol to a Minor. A person commits an offense by purchasing an alcoholic beverage for a minor, or by furnishing an alcoholic beverage to a minor through an act of criminal negligence. This is a Class A misdemeanor. (For penalties, see Section C-1 below). ABC§106.06

10. Misrepresentation of Age by a Minor. A minor commits an offense by falsely stating or presenting any document indicating that the minor is 21 years of age or older to a person engaged in selling or serving alcoholic beverages. This is a Class C misdemeanor. (For penalties, see Section C-1 below). ABC§106.07

**B. Intoxication and Alcoholic Beverage Offenses**

1. Definition of Intoxication. "Intoxicated" is either 1) not having the normal use of mental or physical faculties due to the introduction of alcohol or other drugs into the body; or 2) having an alcohol concentration of 0.08 or more. PC§49.01

2. Public Intoxication. An individual commits an offense by appearing in a public place while intoxicated to the degree that the individual may endanger the person or another. This is a Class C misdemeanor. (For adult penalties, see Section C-1 below. For minor penalties, see Section A-1 above). PC§49.02

3. Possession of Alcoholic Beverage in Motor Vehicle. A person commits an offense by knowingly possessing an open container in a passenger area of a motor vehicle that is located on a public highway, regardless of whether the vehicle is being operated or is stopped or parked. This is a Class C misdemeanor. (For penalties, see Section C-1 below). PC§49.031

4. Driving While Intoxicated. A person commits an offense if the person is intoxicated while operating a motor vehicle in a public place. If at the time of the offense the driver had an open container of alcohol in their immediate possession, the offense is a class B misdemeanor, and the minimum term of confinement is six days. A second DWI within 5 years will cause installation of a breath test device on the vehicle to prevent operation if ethyl alcohol is detected in the operator's breath.



If the driver had a passenger who is younger than 15 years of age, the DWI is a state jail felony, instead of a Class B misdemeanor. The fact that the driver is or has been entitled to use the alcohol, controlled substance, drug, dangerous drug, or other substance is not a defense. Each year, the Department of Public Safety (DPS) assesses a surcharge on the driver's license of drivers who during the past 3 years were convicted of DWI. The surcharge is \$1,000 per year for 3 years. A second DWI conviction costs a surcharge of \$1,500 per year for 3 years. If the driver had an alcohol concentration of 0.16 or more, the surcharge is \$2,000 per year for 3 years. Driver licenses can be suspended for one year for DWI. Driving with a suspended license is a Class B misdemeanor with increased license suspension time. In addition, the DPS assesses a \$250 surcharge on the license per year for 3 years. (For penalties, see the following chart and Section C-1 below. See also Section B-8, 9 below). PC§49.04

<b>Penalties for Driving While Intoxicated</b>			
	<b>Fines</b>	<b>License Loss</b>	<b>Jail</b>
<b>1st Offense</b>	Up to \$2,000	90 days - 1 year	72 hours – 180 days
<b>2nd Offense</b>	Up to \$4,000	180 days - 2 years	30 days – 1 year
<b>3rd Offense or more</b>	Up to \$10,000	180 days - 2 years	2 – 10 years

5. Flying or Boating While Intoxicated. A person commits an offense if the person is intoxicated while operating an aircraft or watercraft. This is a Class B misdemeanor with minimum jail term of 72 hours. (For penalties, see Section C-1 below. See also Section B-9 below). PC§49.05, §49.06

6. Intoxication Assault. A person commits an offense by causing serious bodily injury to another, by accident or mistake, while operating an aircraft, watercraft, or motor vehicle in a public place while intoxicated. This is a 3rd Degree felony. (For penalties, see Section C-1 below. See also Section B-8, 9 below). PC§49.07

7. Intoxication Manslaughter. A person commits an offense by causing the death of another, by accident or mistake, while operating an aircraft, watercraft, or motor vehicle in a public place while intoxicated. This is a 2nd Degree felony. (For penalties, see Section C-1 below. See also Section B-8, 9 below). PC§49.08

8. Administrative License Revocation. Upon arrest for DWI, Intoxication Assault, or Intoxication Manslaughter, failing the breath/blood (BAC) test can result in license revocation. Revocation may not be probated and there is a \$125 reinstatement fee. An appeal process is available. (For penalties, see the following chart). TC§524.022

<b>License Revocation Penalties for Adults</b>		
<b>Terms of Offense</b>	<b>Failing BAC test</b>	<b>Refusing BAC test</b>
<b>1st Offense</b>	90 days license revocation	180 days license revocation
<b>Previous Revocation due to: Refusal/failure of BAC test</b>	1 year license revocation	2 year license revocation
<b>Previous Revocation due to: DWI or Intoxication Manslaughter</b>	1 year license revocation	2 years license revocation

9. Consent to Taking of Specimen. A person arrested for DUI, DWI, Intoxication Assault, Intoxication Manslaughter, or Boating While Intoxicated, implicitly consents to taking of breath or blood specimens. Analysis of the specimens is to determine the presence or concentration of alcohol or other drugs. The person arrested may consent to submit to the taking of any



other type of specimen (For adult penalties, see the chart in Section B-8. For minor penalties, see the chart in Section A-6 above). TC§724.011

10. Consumption After Hours. Consumption of alcoholic beverages in public areas is restricted in the cities of Bryan and College Station during the hours of 2 a.m. - 7 a.m. Monday through Saturday, and 2 a.m. - 12 noon, on Sunday. "Public place" means any place to which the public or a substantial group of the public has access. This includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops. This is a Class C misdemeanor. (For penalties, see Section C-1 below). An exception to this law is that mixed beverage premises license holders only may also provide mixed beverage service between the hours of 12 noon and 10 p.m. on Sunday. The mixed beverage service may be provided only in conjunction with the service of food.

C. Legal Charges and Penalties

Legal Charges	Fine and/or	Imprisonment
<b>1st Degree Felony Punishment</b>	Up to \$10,000	5 to 99 years
<b>2nd Degree Felony Punishment</b>	Up to \$10,000	2 to 20 years
<b>3rd Degree Felony Punishment</b>	Up to \$10,000	2 to 10 years
<b>Class A Misdemeanor</b>	Up to \$4,000	Up to 1 year
<b>Class B Misdemeanor</b>	Up to \$2,000	Up to 180 days
<b>Class C Misdemeanor</b>	Up to \$500	none

1. Enhanced Offenses and Penalties. Previous convictions for driving, boating, or flying while intoxicated will enhance the offenses and penalties for subsequent DWI convictions. One previous conviction enhances the offense to a Class A misdemeanor with a minimum term of 30 days. Two previous convictions enhance the offense to a 3rd Degree felony. PC§49.09
2. No Defense. In a prosecution of consumption of alcohol in a motor vehicle, DWI, intoxication assault, or intoxication manslaughter, the fact that the defendant is or has been entitled to use the alcohol or other substance is not a defense. PC§49.10

II. Texas A&M University Student Rules

University Student Rules state that "drinking or having in possession any alcoholic or intoxicating beverage(s) in public areas of the campus is prohibited."

**Recognized Student Organizations - Sponsored Events Involving Alcoholic Beverages.** It is expected that all student organizations will have their activities (sponsored, authorized, sanctioned, and/or financed) approved by the group's faculty/staff advisor. The student organization is responsible for assuring that alcohol consumption does not detrimentally affect the health and well being of those attending the event. Recognized student organizations may hold events involving alcoholic beverages under the following conditions:

- A. The possession, sale, use or consumption of alcoholic beverages, in public areas of the campus is prohibited. Any situation sponsored, authorized, sanctioned, endorsed, and/or financed by an undergraduate student organization must be in compliance with any and all applicable laws and rules of the state, county, city, and Texas A&M University, and must comply with either BYOB or third party vendor guidelines. In addition, the event or activity must be approved by the group's faculty/staff advisor.

- B. No alcoholic beverage may be purchased through an undergraduate organization's funds, nor may the purchase of alcohol for members or guests be undertaken or coordinated by any member in the name of, or on behalf of, the undergraduate organization. The purchase or use of bulk quantity or common sources of such alcoholic beverage (i.e. kegs or cases) shall be prohibited.
- C. Open events, meaning those with unrestricted access to non-members of the undergraduate organization, without specific invitation, where alcohol is present, are prohibited.
- D. No members, collectively or individually shall purchase for, serve to, or sell alcoholic beverages to any minor (i.e. those under legal drinking age).
- E. No organization may enter into an agreement to co-sponsor an event with an alcohol distributor, charitable organization or tavern (tavern defined as an establishment generating more than half of the annual gross sales from alcohol) where alcohol is given away, sold, or otherwise provided to those present.
- F. No organization may co-sponsor or co-finance a function where alcohol is purchased by any of the host organizations or groups.
- G. All membership recruitment activities associated with any student organization shall be alcohol free.
- H. No alcohol shall be present at any new member activity of any student organization.
- I. The organization or organizations must establish active precautionary measures to ensure that alcoholic beverages are not served to persons under the legal drinking age or to persons who appear to be intoxicated.
- J. No event shall include any form of "drinking contest" or encourage the rapid consumption of alcohol in the activity or its promotion.
- K. Non-alcoholic beverages and non-salty food must be available at the same place as the alcoholic beverages. Food and non-alcoholic beverages must be featured as prominently as the alcoholic beverages.
- L. University Advertisement Rules Regarding Student Organization-Sponsored Events with Alcoholic Beverages. Advertising of university events where alcoholic beverages will be consumed must be consistent with the educational philosophy of Texas A&M University and follow these conditions:
  - 1. Advertisement for any university event where alcoholic beverages are being served must note the availability of non-alcoholic beverages and food as prominently as the alcoholic beverages.
  - 2. The messages conveyed in the promotion of any event must not encourage any form of misuse of alcohol.
  - 3. Publicity must not convey that consumption of alcohol is the purpose or reason for the event.
  - 4. Promotion must not refer to the amount/quantity of alcohol (5-keg party, etc.).
  - 5. Advertisements for events must not portray drinking as a solution to personal or academic problems nor as necessary to social, sexual or academic success.
  - 6. Alcoholic beverages must not be provided as awards, door prizes, or giveaways to individuals or campus organizations.

#### Penalties for Non-Compliance

A student found guilty of noncompliance with these rules or the laws of the State of Texas has committed a violation of University Student Rules and is subject to sanctions commensurate with the offense and any aggravating and mitigating circumstances.

Recognized student organizations have a responsibility to abide by all conditions of these rules and University Student Rules. Actions of all recognized student organizations are subject to review by the Director of Student Activities or his/her designate. Failure to comply with the rules and/or University Student Rules may lead to the revocation of recognition privileges or any lesser sanction.

#### III. Residence Hall Alcohol Rules

Residents and their guests are required to comply with state and local statutes as well as university and residence hall rules concerning possession, sale, and distribution of alcoholic beverages. Specifically,

- A. In order for alcohol to be allowed in the room, all of the residents (as defined by the Residence Hall Handbook) of that room must be of legal age (21 or older).

- B. Alcoholic beverages may be possessed or consumed, but not sold or manufactured, in the privacy of eligible rooms by those residents and their invited guests who are of legal age.
- C. All alcohol that is transported through public areas must be unopened. Possession of open containers and/or consumption of alcoholic beverages is not permitted in the hallways, balconies, lounges, stairwells, courtyards, community bathrooms, parking lots or any public areas on campus.
- D. Bulk or common source alcohol containers (for example, kegs or party balls) are not allowed in the residence halls. Staff will dispose of ALL alcohol in bulk or common source containers. Kegs are not permitted in the residence halls, even when empty.
- E. Open access to alcohol may be considered to have occurred when bulk or common source alcohol containers are available or when more open containers exist than legal age persons present.
- F. If any minor is found consuming and/or possessing alcohol in the room of legal age residents, ALL alcohol in that room will be confiscated. Any alcohol belonging to the individuals of legal age may be claimed from the HD/DHD/AHD after student conduct proceedings have been completed, unless it is determined that the alcohol was being distributed by the legal age resident(s) to minors. In the latter case, disposal of the alcohol will occur.
- G. Alcohol found in a room where alcohol consumption is prohibited will be disposed of, and ALL persons present in the room will be subject to disciplinary charges. If alcohol bottles or containers appear empty but contain small amounts of alcohol residue they will be treated as a violation of the alcohol policy.
- H. Violations of the alcohol rules will be referred to the university disciplinary system for disposition in the same manner as all university and residence hall rules violations.

IV. University Apartments Alcohol Rules

Residents and their guests are required to comply with state and local statutes as well as university and University Apartments rules concerning possession, sale, and distribution of alcoholic beverages. Specifically,

- 1. Alcoholic beverages may be possessed or consumed, but not sold or manufactured in the privacy of the resident's apartment by those residents and their invited guests who are of legal age (21 or older).
- 2. All alcohol transported through public areas must be unopened. Possession of alcoholic beverages is not permitted in stairways, courtyards, parking lots, or any public areas on campus.
- 3. Bulk or common source alcohol containers (for example, kegs or party balls) are not allowed in the University Apartments. Staff will dispose of ALL alcohol in bulk or common source containers. Kegs are not permitted in the University Apartments, even when empty.
- 4. If any minor is found consuming and/or possessing alcohol in an apartment, the University Police will be contacted by staff to handle the situation.
- 5. Violations of the alcohol rules will be referred to the university disciplinary system for disposition in the same manner as all university and University Apartment rules violations.

For more information, call [Student Life Alcohol and Drug Education Programs](#), (979) 845-0280.

**RULE CHANGES:**

<http://student-rules.tamu.edu/append8>

**JUSTIFICATION FOR PROPOSED CHANGE:**

- 1. The changes to content of the Student Rules being proposed are a reflection of national best practices, most notably referencing the *21<sup>st</sup> Century Model Student Conduct Code* (Stoner, E. & Lowery, J., 2004) and the *General Order on Judicial Standards of Procedure and Substance in Review of Student Discipline in Tax Supported Institutions of Higher Education* (45 F.R.D. 133). This General order is recommended reading to anyone seeking to understand the relationship between judicial systems and campus systems regulating student conduct

2. Texas A&M University was involved in litigation over the University's Student Rules in one particular case until appeals were exhausted at the Supreme Court level in spring 2010. The Student Rules were not to be altered in any way until this litigation was resolved.
3. The U.S. Department of Education, through its Office of Civil Rights, issued a "Dear Colleague Letter" on April 4, 2011 providing guidance in procedures in dealing with cases of sexual harassment and sexual violence throughout institutions of education (this includes K-12).
4. There were a number of grammatical and punctuation changes made as well as changes made for consistency of language used in higher education conduct proceedings versus legal system language.

**Submitted by:**

Name: Dr. Anne Reber

Phone # 979.845.3111

E-Mail Address: [a-reber@tamu.edu](mailto:a-reber@tamu.edu)

Department: Dean of Student Life

Mail Stop: 1257

**Approved by Student Rules and Regulations Committee: 4/20/12**

**Approved by Faculty Senate: 11/12/12**

**Approved by President: 12/21/12**