

## UDABC Guidelines for Restaurants – Confirmation of Intent to Order Food

In May 2013, legislation was passed to codify a safe harbor that allows a patron to be served an alcoholic product once the restaurant has **confirmed** the patron's intent to order food.

It is clear that the statute requires some action on the part of the licensee. Therefore, intent should never be presumed. The restaurant must make some effort to determine the patron's intent to order food. For example, walking into a restaurant, signage stating that food is required and/ or having a menu available is not sufficient to obtain safe harbor under the statute.

If a patron says he or she is not hungry, and just wants to have some drinks, the server needs to promptly explain the food requirement for alcohol service in restaurants. If the patron persists, the server should not serve the alcohol, and notify other employees and supervisors of the situation.

**That said, many licensees have asked what is the minimum standard required to ensure compliance with the statute?**

A "minimum" would demonstrate to a reasonable person observing the situation that the restaurant had confirmed the patron's intent. The simplest way to accomplish this goal is to verbally establish the patron's intent to order food. The most obvious examples are asking the patron when they order an alcoholic beverage, "Will you be dining with us this evening?" or having the hostess greet each party and ask "how many in your party will be dining with us" upon entry into the establishment.

We find that some servers have expressed a reluctance to ask a patron if they are going to order food. If your restaurant has a policy in place that is reasonable for your business model and accomplishes statutory compliance, some of these fears can be alleviated.