

WHEN AND HOW TO FILE A BREACH OF THE PEACE REPORT IN TEXAS

AUTHOR: KYLE HILL, JACK MARTIN & ASSOCIATES.

DATE: SEPTEMBER 2012

The Texas Alcoholic Beverage Code has long required retail license and permit holders (collectively, “permittees”) to report breaches of the peace occurring on their licensed premises. However, until recently, the Texas Alcoholic Beverage Commission (“TABC”) had not adopted a rule to clarify what incidents gave rise to a reportable breach of the peace or when and how they should be reported. [TABC Rule §35.32](#), which became effective August 2011, established standards for reportable incidents and procedures for reporting them.

Under Rule §35.32, an incident constitutes a breach of the peace and must be reported to the TABC whenever law enforcement or emergency medical services personnel are called to the permittee’s licensed premises, **or** when a disturbance is created at the premises by a person:

- shooting, stabbing or murdering a person;
- causing bodily injury to another person;
- threatening another person with a weapon;
- discharging a firearm on the licensed premises; or
- destroying the permittee’s property, if the incident is reported by the permittee or licensee to a law enforcement agency.

Except for a shooting, stabbing or murder, or an incident involving serious bodily injury, conduct identified in the bullet points above creates a disturbance that is considered to be a reportable breach of the peace, when it:

- occurs at a time when the permittee, or any person allowed by the permittee, is on the licensed premises, **and**
- interferes with, interrupts, or intrudes upon the operation or management of the licensed premises.

A shooting, stabbing or murder, or an incident involving serious bodily injury, on the licensed premises is always a “disturbance,” and, therefore, always a reportable breach of the peace.

Any breach of the peace on a licensed premises involving a shooting, stabbing or murder, or an incident involving serious bodily injury, must be reported not later than 24 hours from the time of the incident. Otherwise, breaches should be reported as soon as possible, but not later than five calendar days after the incident. Failure to promptly report a breach of the peace to TABC could result in a fine or suspension for the first two (2) violations and fine, suspension, or cancellation for the third.

The TABC Breach of the Peace Report can be completed and filed on-line at <https://www.tabc.state.tx.us/BreachOfPeace>

. Word and Adobe PDF versions of the Breach of the Peace Report form can also download at http://www.tabc.state.tx.us/laws/breach_of_peace.asp

The completed forms can be filed (i) in person at any local TABC field office, (ii) by fax to the TABC local office, or (iii) by e-mailing the form to breachofpeace@tabc.state.tx.us .

Given the complexities involved with the new rule, it's advisable for permittees to incorporate information on the standards for reportable incidents and procedures for reporting them in their internal alcoholic beverage policies and procedures. This should help make managers aware of a permittee's reporting responsibility and encourage employees to immediately notify management of any potential breach of the peace incidents occurring on the licensed premises.

Author Info : Kyle can be reached directly at (512) 614-2009 or by email at khill@jmartinlaw.com

