

## Addressing the Transgender ID Issue to Get Served Alcohol or Enter an Establishment.



This is a bit of a two-fold analysis:

- The changing of a person's physical characteristics.
- The formal changing of a person's gender identity on an identification card may not match what is perceived by a door attendant or licensee.

The identification card must be a **reasonable likeness of the person**. If it is not, then the licensee has a right not to serve the person or access entrance into the establishment that requires persons to be 21 or older for entrance.

This would apply in any situation. The licensee or employee checking the ID will ultimately be judged on a "reasonable person" standard. **Was it reasonable for the person checking the I.D. to refuse service?**

Here are some techniques to follow:

- To check the person's height and eye color first.
- Quiz the cardholder - ask them their address, or other information on the card. If you do this, and the person ends up being underage, you have a defense.
- Establishments should have written policies and procedures in place to instruct employees on how to examine physical differences of all people, not just potential transgender people.
- (This should be a standard practice across the board in any non-transgender examination (e.g., person without facial hair on I.D. but with facial hair in person), then you would be protected in a similar evaluation of any person whose likeness has changed for any reason.
- Request a secondary form of identification or ask for a signature to see if it matches the driver's license or state-issued ID card.
- For years I have emphasized posting house rules indicating that if an ID is not satisfactory, or identify themselves as the cardholder, the establishment has the right to refuse service or entrance into the establishment.
- Our *NOTICE Poster* covers this and has been a good tool for businesses to use.

*The chances of defending a lawsuit successfully are much better if you have policies in place about how they **judge reasonable likeness** for all persons.*