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From the Chair...

CLARE LEWIS

Commission staff and board members have become increasingly aware of the sometimes negative impacts of large nightclubs on their communities. These clubs are often clustered together in the entertainment districts of urban centres and attract large numbers of young patrons who congregate in the club area throughout the evening.

Our inspectors, local police, and residents have voiced concerns about overcrowding, intoxication, noise, alcohol service to minors, fights, and public disturbance. Competitive drink pricing practices among some clubs risk promoting immoderate consumption. Cities bordering jurisdictions with higher drinking ages and shorter hours are particularly susceptible to these risks.

Police in all club cities have responded to public complaints, and are frequently charging club owners and staff with Liquor Licence Act offences. Commission inspectors are

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Correction

Under the New board members column in the Fall 1998 Licence Line, it should have stated that "Mr. Russell Browne was appointed as a member on September 30, 1998 and is a lawyer who resides in Oakville."

Big response to AGCO questionnaire

In the Fall 1998 edition of **Licence Line**, we included a survey to seek the opinions and views of readers (including some 18,000 licensees) of this publication in order to make the information we provide more useful and informative.

The response was outstanding (almost 1,000 responded) and we greatly appreciate and sincerely thank all of those who responded to the questionnaire.

The results:

How often should Licence Line be published?

- 63% wanted it to remain a quarterly publication: 33% said we should publish it every second month. 4% suggested everything from a monthly all the way to "not at all" (0.2 %).

What is the overall opinion of Licence Line?

- 34% said it was excellent. 60% said good. 6% considered the publication fair or poor. Readers rated the writing skills as either excellent or good 83%: appearance was judged by 77% as favourable: and 81% of respondents said

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New Minister Robert Runciman Leeds-Grenville MPP responsible for Ontario's liquor policy

Premier Mike Harris has appointed Robert Runciman MPP for the eastern Ontario riding of Leeds-Grenville (Brockville region) as the new Minister of Consumer and Commercial Relations (CCR). First elected to the Ontario Legislature in 1981, he was re-elected in 1985, 1987, 1990, 1995 and most recently, at the June 3, 1999 general election.

Mr. Runciman was Solicitor General and Minister of Correctional Services prior to his new appointment on June 17, 1999. Before entering politics, he worked as a reporter for two eastern Ontario newspapers and followed that career with employment in production management in the chemical industry. He was a municipal councillor in Brockville where he was born. Mr. Harris also appointed the Minister as Chair of Cabinet and a member of the Cabinet Committee on Economic and Resource Policy.



John O'Toole

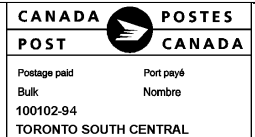
John O'Toole, MPP for the Riding of Durham East has been appointed Parliamentary Assistant to the Minister of Consumer and Commercial Relations. Mr. O'Toole was first elected to the Ontario

Legislature in 1995 and re-elected in the General Election of June 3, 1999. Born in Peterborough, he now makes his home just outside of Bowmanville. Mr. O'Toole graduated with a B.A. from the University of Toronto and completed postgraduate studies in business. He was employed by General Motors prior to entering politics.

Alcohol and Gaming Commission of Ontario
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Mail to:

Address Label Here



Decision Summary

The following establishments were recently brought before the Commission for disciplinary hearings. Suspensions for similar infractions may vary in length according to the specifics of each case. Details about these decisions are now available on QUICKLAW.

ESTABLISHMENT	INFRACTION	SUSPENSION
Buddha's Chicken Pizza & Video, Sioux Lookout	Illegal liquor, knowingly serving minors	Licence revoked
Waikiki Restaurant, Newmarket	Breach of condition, no light meals available, illegal liquor	14 days
Ministry the Niteclub, Toronto	Permitted narcotics on premises, failure to clear	14 days*
Gerry Family Restaurant, Gloucester	Past conduct (not financially responsible in conducting business due to Retail Sales Tax Act)	Licence revoked
Maria Fulo Bar & Grill, Toronto	Illegal liquor, liquor not in original container, adulterated liquor, breach of condition	14 days
Joe Buttinsky's Bar & Grill, Hamilton	Illegal liquor	14 days
Santo Cristo Social Club of London, London	Past conduct (not financially responsible in conducting business due to Retail Sales Tax Act), breach of condition - did not contest	Licence revoked
Red Wing, Markham	Premises non-compliant with Building and Fire code - did not contest	Licence revoked
Stooges Bar & Grill, Niagara Falls	Liquor not in original container	21 days
Hyang Chon - Korea Hut, Toronto	Illegal liquor, failure to retain records of sales and purchases of food and liquor, failure to give access	14 days
Flamingo Restaurant and Banquet, Scarborough	Liquor sold to person who appeared to be intoxicated, service outside prescribed hours, failure to clear, permitted drunkenness	14 days
Lucas on the Grill, Windsor	Past conduct (not financially responsible in conducting business due to Retail Sales Tax Act) - did not contest	Licence revoked
Maple Court Restaurant, Kanata		14 days*
Hard Wood Billiards & Cafe Inc., Ajax	Illegal Liquor, serving minors	14 days
Green Dolphin Restaurant, Toronto	Liquor sold to person who appeared to be intoxicated	45 days
Greenhurst Dance Pavillion, Dunsford	Liquor sold to person who appeared to be intoxicated, no light meals available, breach of condition	14 days
Inntowner Tavern, Thunder Bay	Liquor sold to person who appeared to be intoxicated, permitted drunkenness	17 days
T.J.'s Roadhouse Restaurant, Bowmanville	Liquor sold to person who appeared to be intoxicated	24 days
Rose Stone Angel Restaurant, Toronto	Liquor sold to person who appeared to be intoxicated, serving minors, permitted drunkenness, no light meals available, failure to ensure variety of non-alcoholic beverages available at moderate price	14 days
Siren Nite Club, Oshawa	Liquor sold to person who appeared to be intoxicated, no light meals available, permitted drunkenness, failure to post sign concerning suspension	17 days
Cocamo Tavern, Kingston	Permitted drunkenness	14 days*
Silver Dollar Room /The Comfort Zone, Toronto	Liquor sold to person who appeared to be intoxicated, serving minors	14 days
Chan's Garden Restaurant, Bancroft	Obstructing an inspection, serving minors, permitted drunkenness	21 days
Brandees, Kingston	Illegal liquor, liquor not in original container, adulterated liquor	20 days*
Quinze Bar & Grill, Toronto	Adulterated liquor, illegal liquor	14 days
Deluxe Cocktails	Illegal liquor, overcrowding	14 days
Richie's Bar and Grill, Scarborough	Breach of condition, liquor sold to person who appeared to be intoxicated, permitted drunkenness - did not contest	Licence revoked
Ara Restaurant Take Out, Toronto	Permitted a narcotic on premises, no light meals available, failure to retain records of sales and purchases of food and liquor, breach of condition, past conduct	Licence revoked
Runway 109, Cornwall	Illegal liquor, liquor not in original container	Licence revoked
Peking Tomato House, Etobicoke	Liquor sold to person who appeared to be intoxicated, serving minors, permitted drunkenness	21 days
Father & Sons Tavern Restaurant, Ottawa	Past conduct (not financially responsible in conducting business due to Retail Sales Tax Act) - did not contest	Licence revoked
Peony Chinese Restaurant, Windsor	Past conduct (not financially responsible in conducting business due to Retail Sales Tax Act) - did not contest	Licence revoked
The Sands Motor Inn, North Bay	Illegal liquor, failure to clear - did not contest	Licence revoked
Power Entertainment Facility, Toronto	Overcrowding, permitted narcotics on the premises	Licence revoked
The Glenevis Inn, Toronto	Premises in non-compliance - did not contest	Licence revoked
Spring Villa Chinese Cuisine, Markham	Illegal liquor	21 days
Shorasheem, Thornhill	Illegal liquor	21 days*
Lion's Bar & Grill, Toronto	Permitted drunkenness and permitted a narcotic on the premises	21 days
Karyee Chinese Restaurant, Woodbridge	Illegal liquor	14 days*
Main Street Station Restaurant, Orangeville	Liquor not in original container	14 days
Main Street Station Restaurant, Orangeville	Permitted drunkenness and violent disorderly conduct, permitted narcotics on premises	30 days*
MYE Japanese Restaurant, Oakville	Illegal liquor	21 days
McGregor Roadhouse, Anderson Township, McGregor	Breach of condition, past conduct (not financially responsible in conducting business due to Retail Sales Tax Act) - did not contest	Licence revoked
Friendly's Tap & Grill, Windsor	Serving minors, failure to inspect identification, liquor sold to person who appeared to be intoxicated, permitted drunkenness and violent conduct	Licence revoked
Got Manghaljip, North York	Serving minors, liquor sold to person who appeared to be intoxicated, failure to inspect identification, alcohol content over prescribed maximum, removal of liquor from premises, breach of a condition	Licence revoked
E-On restaurant, Toronto	Illegal liquor	14 days
Grandma Lee's Bakery and Eating Place, Ottawa	Past conduct (not financially responsible in conducting business due to Retail Sales Tax Act) - did not contest	Licence revoked
Atria Bar & Grill, Oshawa	Service outside of prescribed hours, removal of liquor from premises, failure to inspect identification, permitted drunkenness, liquor sold to a person who appeared to be intoxicated, serving minors	19 days

* All managers and servers must take Smart Serve responsible trainer program.

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the articles were timely.

How many articles in each edition of Licence Line are read?

- 85% of respondents said they read all of the articles and 14% said they read about one-half of the material (0.3% said none and some did not answer the question).

In responding to the most popular topics covered and those that should be kept.

- Decision summaries: 86% favourable
- Information on legislation and regulations: 92% favourable
- Questions and Answers: 85% favourable

Should the AGCO have a separate newsletter for both beverage alcohol and gaming?

- 50% wanted a separate publication: 48% thought a single newsletter was best—and 2% had no opinion.

Should the AGCO provide information only through the Internet or should we continue to print and distribute a hard copy of Licence Line?

- The response was overwhelming with 92% saying the AGCO should continue to distribute **Licence Line** in a hard copy form.

Should Licence Line remain the name of the publication or should a new name be created?

- 78% want to keep the name of **Licence**

Line: 12% want a change and 10% had no opinion.

Is Licence Line circulated to all staff in licensed establishments?

- 83% of respondents said the publication is made available to all their staff.

Editor’s note:

We received over 900 individual comments from respondents. Although only 12% wanted a new name for **Licence Line** we were offered 51 different names from ‘Cheers’ to ‘Ontario’s Cash Cow’ and ‘Booze and Bucks Magazine’. Respondents told us they want more information on advertising guidelines, how to stem the tide of illegal liquor, information to help servers, changes to liquor laws, and helpful hints on operating a bar efficiently and profitably; and much, much more. We intend to use the responses to help us determine ideas for future stories in the publication. In the meantime, as our readers have indicated, we will keep the name **Licence Line** but will change the layout. It will remain a quarterly publication and hard copies will be distributed to almost 20,000 on the mailing list.



The new Deputy Minister of the Ministry of Consumer and Commercial Relations (MCCR) is **Sandra Lang**.

Prior to this appointment by **Premier Mike Harris**, she had served as an Assistant Attorney General, Deputy Minister of Community and Social Services, and as Deputy Minister was responsible for the day-to-day operations of the Ontario government’s biggest department, the \$19 billion annual budget of the Ministry of Health.

Ontario wineries can now deliver to bars and restaurants

Direct delivery by Ontario wineries to licensed bars and restaurants is now allowed provided the wines are produced under the **Vintners Quality Alliance (VQA)** standards. As a result, grape-growers predict 200 new jobs and the Wine Council of Ontario estimates the number of wineries will grow from 30 presently to around 200—giving consumers greater product choice in the future.

Previously, wine delivery had to take place through the **Liquor Control Board of Ontario** which assessed a 58% markup on all Ontario wine sold to licensed establishments.

VQA (Vintners Quality Alliance) was established in 1988 to clearly define objectives for the production of premium quality Ontario wines; and to ensure strict standards that could meet or exceed those of other wine-producing countries.

Clare Lewis, Chair of the Alcohol and Gaming Commission of Ontario has announced the appointment of Mr. Breen Keenan as a member of the board of directors. Mr. Keenan is a chartered accountant who resides in Sudbury and was appointed to the board effective May 17, 1999. Mr. Lewis said, “I welcome him and his valuable experience to the board.”

Further, Lewis said “It is with regret I advise you that Mr. John McCombie has resigned from the board of directors to join the Ottawa Police Services Board. He was a valued member of the board of both the LLBO and the AGCO. I wish him all the best in his future endeavours.”

Alcohol and Gaming Commission of Ontario Board of Directors

- | | |
|----------------------------|------------------------|
| Clare Lewis, Q.C. | Chair, Toronto |
| G.R. (Randy) Barber | Vice-Chair, Thornhill |
| Elaine Kierans | Vice-Chair, Toronto |
| Joel Kuchar | Vice-Chair, Thornhill |
| John Rossetti | Vice-Chair, Woodbridge |
| Stephanie Ball | Member, Whitby |
| Russell Browne | Member, Oakville |
| Anne Guillemette | Member, Welland |
| Kirsti Hunt | Member, Sudbury |
| Breen Keenan | Member, Sudbury |
| Dr. Lynn Lightfoot | Member, Oakville |
| William Liske | Member, Brampton |
| Vaughan Minor | Member, London |
| Mark Poudrier | Member, North Bay |

Licensees may not purchase beverage alcohol from LCBO agency stores

Since 1962, the **LCBO** has authorized independent retailers to provide service in communities that are not able to support a regular **LCBO** outlet. There are just over 100 agency stores in Ontario, most of them located in Northern Ontario, usually hosted within a general store or tourist outfitter.

Agency stores sell beer, wines and spirits to the general public, but may not sell to licensees. Unlike the **LCBO** and **The Beer Store**, agency store operators are not set up to handle licensee sales. Selling to licensees, who are entitled to a discount, would decrease an agency store operator’s profit. The operator would also incur additional costs involved in calculating and administering the fees associated with licensees’ purchases.

Licensees in many smaller communities may have an **LCBO** agency store located there. However, their designated **LCBO/Beer Store** will be in a nearby, larger community. Licensees are reminded that purchases must be made under their licence and only at their designed **LCBO** or Beer Store.

Major Mack hotel liquor licence revoked

Following a decision by the Court of Appeal of Ontario to dismiss an appeal by the owners of a Richmond Hill licensed establishment to maintain their licence, the Alcohol and Gaming Commission of Ontario (AGCO) has now revoked the liquor sales licence of the Major Mack Hotel, located on Yonge Street in York Region just north of Toronto.

After more than four years in the courts, and almost 7 years since morality police raided the **Major Mack Hotel's** strip club and bar called the **Fantasia**, the hotel's liquor licence has been taken away.

In June 1992, **York Regional Police** laid over 55 charges against the hotel owners including conspiracy to keep a common bawdy house, prostitution, obstruction of police and possession of the proceeds of crime and endangering life. These matters have now been completed with various guilty pleas.

In June 1994, the **Liquor Licence Board of Ontario (now the AGCO)** ordered the revocation of the hotel's liquor licence in the "public interest" for serving to intoxicated persons, narcotics on the premises and permitting drunkenness, riotous, violent and disorderly conduct.

Hotel appeals

The hotel owners appealed the decision first to Divisional Court (which upheld the **AGCO** Board's decision) and subsequently to the **Ontario Court of Appeal**. After a series of delays, adjournments and scheduling difficulties stretching over 4 years, the Appeal Court heard the case on April 26, 1999.

In handing down its decision to dismiss the appeal on May 3, 1999, the Court ruled, "the public interest" provision in the **Liquor Licence Act** should attach to issues which result from existing patrons of a licensed establishment and occurring outside its walls, "including noise, disturbance, profanity, parking infractions, driving infractions, fighting, violent behaviour, urinating, defecating, vomiting and passing out on public streets and on private property and littering same, such litter including needles and condoms."

The hotel owners' appeal was mainly based on the Board's action of December 19, 1994 claiming that the Board held a hearing and not a meeting, and therefore, the public was not entitled to attend and or make representations; in other words, residents should have had no standing at the December 19, 1994 event. The hotel owners argued there is no provision in the LLA for the holding of a public meeting to consider a proposal to revoke a licence. Accordingly, they said, the Board holding of a meeting was *ultra vires*.

Court responds

The Court responded by saying, "Having regard to the purpose of the hearing and the circumstances which gave rise to it, the course of action taken by the Board is unobjectionable. It appears to us (*the Court*) to be at least implicit, if not express, in the *Act*. To accept the hotel's submission, that at a hearing to consider a proposal to revoke a licence, the residents of the area have neither rights nor voice, would be to emasculate the *Act*."

(The residents complained at the Hearing of disorderly behaviour, drunkenness, intoxicated hotel patrons, sale of narcotics on the premises, etc.)

On the matter concerning noise, the hotel argued there is no parallel prohibition in the **LLA** for licensed indoor premises that applies to outdoor premises whereby the Act specifically states, "The holder of a licence that applies to outdoor premises shall not permit noise that arises directly or indirectly from entertainment on the premises or from the sale and service of liquor to disturb persons who reside near the premise". (**LLA** Section 46 Reg. 546/90)

The hotel owners said the Board erred in considering the noise made by its (the hotel's) existing customers since the licensed area was indoor and not an outdoor facility; and therefore, the **regulation** did not apply and the Board exceeded its jurisdiction in this regard.

Appeal fails

The Court responded by saying, " We (the Court) do not accept this proposition". Furthermore the Court ruled, "The public interest having regard to the needs and wishes of the residents of a municipality in which the premises are located is not so uncertain or imprecise a concept as to be beyond legal debate. This ground of appeal must therefore fail".

Said the Chair of the AGCO, **Clare Lewis**. "We are very pleased with the decision of the **Ontario Court of Appeal**".

Safeguards public

Mr. Lewis said, "This decision safeguards the public's ability to object to the issuing of a liquor licence or to provide public input when considering revoking an existing licence during a hearing".

Mr. Lewis said the decision also expands those things the **AGCO** Board can consider when issuing or revoking a licence under "public interest" provisions of the statute that occur outside a licensed premises like noise, profanity, parking and driving violations, drunkenness, fighting and so on.

Editors note: LLA means the *Liquor Licence Act*

A copy of the Court of Appeal decision can be acquired by contacting **QUICKLAW** toll free at 1-800-387-0899 or (416) 862-7656.

Smart serve video training program has been updated

Final touches are being made to the **Smart Serve** training program update. Since the original program was produced, there have been changes. Material and situations illustrated in the video have been updated to reflect today's expanding markets and the changes in regulations and organizational names. The updated program and material will be ready for July 30, 1999.

The new and improved training program continues to teach servers of alcoholic beverages a professional, caring and responsible approach to serving alcohol that will lessen liability, and help increase sales. You will find the information presented in a new way, with more details in the workbook.

For all licensees who purchased a **Smart Serve Training Kit** after June 1, 1999, Smart Serve is offering a special one-time replacement at no cost.

Purchases made prior to June 1, 1999, Smart Serve is offering a special replacement cost of \$50.00 (including taxes and shipping) for the Video Training Kit.

Smart Service will also replace individual Certification Kits (workbook and test) for \$5.00 each.

In order to qualify for this special price, you must return the complete Video Training Kit, (video, facilitator's guide and workbook); and the certification kit (workbook and test).

This offer is valid until September 30, 1999.

Please note that tests written using the original video and workbook are still valid.

Visit Smart Serve's website - www.smartserve.ca for more updates.

Changes to brew pub endorsements

The Ontario government has changed regulations relating to brew pub endorsements to a liquor sales licence to allow liquor licence holders to sell beer brewed on the premise to premises other than the location where the beer was made.

Previously, the regulation restricted the sale of brew pub beer to the place where the beer is made.

Now, the revised regulation (Ontario Regulation 354/99) provides for the sale of this beer at one other liquor licensed location in which the brew pub endorsement holder has a 51% interest and at events which are operated under a caterer's endorsement also held by the brew pub operator.

A brew pub is an establishment licensed to sell and serve beverage alcoholic, where the brew pub operator has an endorsement to the liquor sales licence permitting the brewing of beer for consumption on the premise (now at a second premise-see above).

A caterer's endorsement authorizes the licensee to sell and serve beverage alcoholic, other than their own, at events held off the licensed premise.

The revised regulation was filed on June 10, 1999 and published in the Ontario Gazette on June 26, 1999.

Wrecked vehicles add impact to LCBO billboards



3-D Billboard at Lakeshore & Freelance

Take drinking and driving message to the streets

The LCBO, in partnership with Mothers Against Drunk Driving (MADD) Canada, has unveiled three-dimensional (3-D) billboards with an actual crashed car and the message “Drinking and Driving is no Accident”. The first billboard was located at the corner of Lake Shore Blvd. East and Freelance Street in downtown Toronto, and is part of the LCBO’s

first-ever outdoor advertising campaign, featuring actual crashed automobiles and boats mounted on 3-D billboards in eight other communities.

3-D billboards will appear weekly until mid-August in Barrie/Orillia, Kingston, Sudbury, London, Ottawa, Hamilton, St. Catharines/Niagara and Sarnia.

The campaign, which runs until January 16, 2000, also includes more than 200 English and French billboards in some 40 communities across Ontario, with full-colour photographs of crashed cars, sport utility vehicles, boats and snowmobiles. A third of these have extensions similar to real road and hazard signs.

continued from page 1 Chair

supporting police action, and when the circumstances warrant are seeking lengthy suspensions and revocation of licences.

Recently, the board which I chair, has imposed interim suspensions in the public interest on three large clubs, and subsequently their liquor licences have been surrendered or revoked. A twenty-one day licence suspension was imposed on a club for one evening’s events including serving minors, permitting drunkenness and violent and disorderly conduct. That club had no prior adverse record with the Commission.

The Ontario Court of Appeal recently ruled in an important case in which the board had revoked the licence of a large club that the board can, in proper cases, determine that a licence may be revoked as contrary to the public interest because of the behaviour of patrons leaving licensed premises “including noise, disturbance, profanity, parking infractions, driving infractions, fighting, violent behaviour, urinating, defecating, vomiting and passing out on public streets and on private property, and littering same, such littering including needles and condoms.” (See story on the Major Mack Hotel.)

Properly run, well controlled nightclubs can provide an important entertainment option. Poorly run, they can be devastating to the communities in which they are located, and unduly demanding on police resources. The Commission is required to fulfill its mandate in the public interest, and is giving serious consideration to evidence of adverse impact of liquor licences on the community. Your licence is important to you. It should not, and need not, be put at risk. Your responsibility. Your choice.

Clare Lewis

Value added beverage alcohol products on licensee orders

Since 1993, the LCBO Value Added Program has offered customers something “extra” when they purchase participating beverage alcohol products from the LCBO. The something “extra” ranges from grocery and convenience items such as pasta and corkscrews, to trial size bottles of beer, wine, spirits and liqueurs.

Throughout the year, products included in the program and the type of value added items will change, but for the duration of a sales period, all bottles of a participating product carry the designated value added item. This means that licensee orders will also include any value-added items featured on beverage alcohol products ordered.

When a value added item is a beverage alcohol product, the value added item is for the licensees’ personal use only. The value added beverage alcohol product may not be used in a licensed premise or any part of the business to which the liquor sales licence applies, such as in mini-bars.

Drive sober message

“Alcohol and driving simply don’t mix - whether the vehicle is a car, boat or snowmobile,” said Bill Kennedy, LCBO Communications Director. “We believe outdoor advertising is an effective way of highlighting this important message and providing a daily roadside reminder to drink responsibly. Test audiences agreed that mounting real crashed vehicles on billboards would attract more attention to our drive sober message and make people think about their own drinking habits”, he said.

Tragic results

“This advertising campaign graphically shows the tragic consequences that can result from impaired driving crashes. Hopefully it will make people think twice about drinking and driving,” says Andrew Murie, National Executive Director, MADD Canada. “We are pleased to partner with the LCBO to help keep our roads, waterways and snowmobile trails safer, by reminding everyone to be sober drivers throughout the year”, he added.

Award winning ad

The LCBO is re-launching its award-winning 90 second cinema commercial with the message, “How far will you let drinking take you?” This hard-hitting commercial is running on 547 Famous Players and Cineplex Odeon theatre screens until July 28. The commercial will again be seen on 285 screens from November 26 - December 31 to emphasize the responsible drinking message over the holiday season. Full-colour ads will also appear in the LCBO’s free in-store consumer magazine Food & Drink.

Q&A

Questions & Answers

Q. What are the five most serious reasons that licensees are likely to be served a NOP (Notice of Proposal) to revoke, suspend or to attach a condition to a liquor sales licence?

- A.
- ♦ serving minors (persons under the age of 19)
 - ♦ overservice/intoxicated customers
 - ♦ after hours service
 - ♦ overcrowding and rowdiness
 - ♦ selling illegal products (illegal liquor and / or illegal drugs on the premise)

All of these are very serious offences under the *Liquor Licence Act* (LLA) and its regulations. A Notice of Proposal (NOP) is a notice from the AGCO informing the licensee that the Commission intends to take a specific action. This may include a proposal to refuse to renew a licence, suspend a licence for a limited period of time, add a condition to a licence or revoke a licence.

If you receive a NOP from the Commission, you are entitled to a hearing. However, in some exceptional cases (such as those deemed to be in the ‘public interest’) the Commission—approved by 2 members of the Board— has the power to suspend or revoke a licence immediately without a hearing.

Under normal circumstances if you request a hearing, the Commission staff will let you know at least 10 days in advance as to where and when it will be held. Other interested parties (for example, the police or residents who have complained to the Commission) will also be advised of the hearing date.

A hearing is a quasi-judicial proceeding, with sworn testimony and evidence, held before one or more members of the Board of the AGCO. Other participants usually include legal counsel for the Commission and the licensee (if desired), witnesses, and others who have a legitimate interest in the proceedings.

The Commission gives its decision in writing about six weeks following the hearing and all interested parties are notified accordingly, along with the reasons for the action taken by the AGCO. Decisions of the Commission can be appealed to the Divisional Court.

Manufacturers of beverage alcohol are reminded to obtain pre-approval of advertising

The AGCO would once again like to remind beverage alcohol manufacturers of their responsibilities relating to the advertising of liquor. Manufacturer’s must ensure that the necessary pre-approval is obtained from the AGCO as outlined in section 5 of Ontario Regulation 720/90.

Failure to comply with this section of the regulations may result in severe sanctions levied against the manufacturer and their licence. This was illustrated this past November when OPP officers seconded to the AGCO charged Labatt Breweries. In addition, the Commission issued a notice of proposal to suspend Labatt’s manufacturer’s licence for failing to obtain approvals for a Budweiser advertising promotion.

In a Provincial Court appearance on February 23, 1999, Labatt plead guilty and was fined \$80,000. Clare Lewis, Chair of the AGCO, acknowledged, after the conclusion of the court proceeding, that Labatt’s acceptance of responsibility, as evidenced by the guilty pleas,

was a mitigating consideration in the sanction imposed. Mr. Lewis also noted that the steps being taken by Labatt to effect continuing regulatory compliance reflected the importance of the matter to the company.

So what can I advertise??

As with any business where competition to gain customers is an ongoing concern, advertising serves as an effective tool in establishing your presence in the marketplace. Questions, however, as to what is acceptable in advertising liquor are in no short supply. As the holder of a liquor licence, you are permitted to advertise liquor and its availability provided that prior approval from the AGCO is obtained. This is outlined in section 4 of the Commission’s Advertising Guidelines, as well as, certain exceptions where prior approval is not required. These exceptions allow you to state that you have a licence, the name of your establishment and refer in general terms to the types of liquor available at your licensed premises.

So what if you want your advertisement to include more information than just the bare basics? You are certainly not limited to just what is listed above, but, such an advertisement

Factors taken into consideration by the Commission when considering disciplinary action	Disciplinary actions that may be taken by the AGCO
♦ public safety	♦ revoke a licence
♦ the seriousness and particular circumstances of the violation	♦ refuse to issue a licence
♦ past warnings or violations	♦ suspend the licence for a set period of time
♦ whether the licensee has taken steps to prevent a recurrence of the violation	♦ order licensee and staff to take server training
♦ the need to discourage the licensee and others from repeating or committing a violation	♦ refuse to renew or transfer a licence
	♦ attach a condition to a licence (such as limited serving hours, minors not allowed in the licensed premise)

requires AGCO approval prior to its public display. Keep in mind that all advertising must promote liquor in a responsible manner and not target individuals under the legal drinking age.

A common item which licensees often wish to include in their advertisements includes mentioning the names of liquor companies and liquor brand names which they have available. Advertisements of this nature displayed outside of your establishment are acceptable provided that AGCO prior approval is obtained. If including such elements, it would be wise to check with the manufacturer first to ensure that trademark restrictions are not being broken.

One item which is not permitted in licensee advertising is the direct or indirect promotion of the price of liquor, outside of your licensed premises. Discounting of liquor is also prohibited and therefore references to “Specials” where liquor is concerned are unacceptable.

This is just a brief overview of what to consider in developing your own advertising strategy to get the word out and the customers in. For a copy of the Commission’s Advertising Guidelines as well as other prepared literature regarding licensee advertising, please contact the Advertising & Promotions section of the AGCO at (416) 326-0400 for further information.



AGCO

Alcohol and Gaming Commission of Ontario

Licence Line

Licence Line is published quarterly by the Alcohol and Gaming Commission of Ontario to provide licensees and interested parties with information regarding alcohol legislation and related issues. Reader contributions, letters and suggestions are welcome. This newsletter is available free of charge to all holders of an alcohol sales licence in Ontario.

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