



SPECIAL EDITION

SEVERE SANCTIONS FOR ILLEGAL GAMING MACHINES

In 1996, it was estimated by the Ontario Provincial Police Illegal Gaming Enforcement Unit that about 20,000 illegal video gambling machines were operating in Ontario

The Alcohol and Gaming Commission of Ontario (AGCO) want to remind all of our licensees that it is an offence under Part VII of the Criminal Code of Canada to keep or allow to be kept on licensed premises any device or machine for gambling or betting.

Both the Liquor Licence Act (LLA) and the Gaming Control Act, 1992 (GCA) provide the AGCO with the authority to refuse, suspend or revoke a licence or registration where past conduct of the licensee or registrant affords grounds for belief the applicant will not carry on business in accordance with the law and with integrity and honesty. Past conduct would include conviction of possession of illegal gaming devices.

CRIMINAL CODE

Machines may be illegal depending upon design, construction and use. Licensees are responsible for the equipment on your premises. Any licensee or registrant should ensure that all equipment used for playing of games on his/her premises is not in contravention of the Criminal Code; and also, ensure a premise is not used for other illegal gaming activity.

If a licensee is not certain whether a machine or device on their premise conforms to the law they should immediately seek independent legal advice. **Do not contact the AGCO for advice in this regard. The AGCO cannot offer opinions on potential violations of the Criminal Code.**

Sanctions for use or installation of illegal gaming machines are severe. As noted above, a conviction can lead to revoking or suspending a liquor licence. As well, penalties under the Criminal Code can result in imprisonment for up to two (2) years.

Some licensees also hold, under the Gaming Control Act, a licence to sell break-open-tickets (BOTs). For those who hold both a liquor and BOT licence it is worth

noting a conviction for allowing illegal gaming on their premises could lead to the revoking of both licences.

FOR THE RECORD

In November 1996, the Ontario government announced that in order to help combat illegal gambling in the province, an additional \$7 million annually would be provided to increase the number of police officers, crown attorneys and forensic specialists dedicated to eradicating illegal gambling and targeting organized crime.

From April 1,1997 to December 31, 1998 a total of 905 individuals were charged with 1,580 offences under the Criminal Code. This resulted in gaming paraphernalia seizures of about \$4 million dollars and over \$400,000 in cash. A total of 1,176 video gambling machines were seized.

SOME ILLEGAL GAMING CHARGES

- February 1998:** OPP Illegal Gaming Unit seizes more than 200 illegal VLTs in Cornwall, Hawkesbury, Vankleek Hill and Alfred townships in Eastern Ontario. Hundreds of charges are laid following a 10 month investigation called "Project Dove".
- April 1998:** "Operation Northern Lights" in Sudbury and Timmins resulted in 85 charges against 31 business owners. Machines were seized. (By December 1998 several convictions in Timmins had been acquired).
- May 1998:** In Brampton and Mississauga 70 people face charges after raids on restaurants. Machines were seized.
- June 1998:** Ontario Illegal Gaming Enforcement Unit, with the assistance of the OPP Western Division Crime Unit and members of the Woodstock, Tillsonburg and Haldimand-Norfolk

Police Services, charged owners/or employees from ten establishments with 25 illegal gaming related offences. Machines and cash were seized.

POSTSCRIPT

The presence of illegal gaming machines on licensed premises, or illiegal gambling of any kind, is a matter of public interest under both the Liquor Licence Act and the Gaming Control Act. The AGCO, will seek lengthy suspensions or revocations of licences if establishments are convicted of Criminal Code illegal gaming offences.

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CHANGES TO LIQUOR LICENCE ACT AFFECT APPLICATION PROCESS, RESIDENCY AND CITIZENSHIP REQUIREMENTS, FINANCIAL RELATIONSHIPS AND SOPS

(During the last session of the Ontario Legislature David Tsubouchi, the Minister of Consumer and Commercial Relations, who is also responsible for the Alcohol and Gaming Commission of Ontario, introduced several amendments to the Liquor Licence Act that were part of a broader legislative initiative entitled Bill 25, an Act to Reduce Red Tape. The legislation was passed by the Ontario Legislature on December 17, 1998 and has now been proclaimed.)

Changes to the LLA steered through the Legislature last fall by Consumer and Commercial Relations Minister David Tsubouchi will eliminate "red tape" that inhibits the province's hospitality and alcohol sectors.

The changes include:

- Removing the requirement for applicants for a liquor sales licence to be Canadian citizens or landed immigrants and ordinarily resident in Canada, and if the applicant is a corporation, for the majority of board members to be Canadian citizens or landed immigrants and ordinarily resident in Canada.

This has been considered an unnecessary barrier to business that may discourage foreign investments. Under current practice, if prospective liquor licence holders were disqualified because of these residency requirements, they could create a corporation with Canadian directors to hold the licence.

FRIVOLOUS COMPLAINTS

- Removal of the requirement for the AGCO to hold a public hearing where objections to an application for a liquor sales licence are, in the opinion of the Commission, frivolous or vexatious. Frivolous would include objections from licensees or others who want to reduce competition. Prior to this amendment, an application would be held up to deal with these kinds of objections while an applicant could suffer financial loss or even bankruptcy. The Commission has the authority to determine that a public hearing is unnecessary if the only objections submitted can be considered to be frivolous or vexatious. At the

same time, the Commission will not, however, eliminate the legitimate need for public hearings or reduce any of the existing controls around the liquor licence process. (The AGCO holds up to 100 public meetings a year.)

SALES LICENCES

- Allowing the AGCO discretion, when granting liquor sales licences, for liquor manufacturers (brewers, wineries and distillers) to have a financial interest in the business of licensees, if it determines that the issuance of the licence is not contrary to the public interest. Exemptions by regulation have been made in the past in such cases as the SkyDome, Maple Leaf Gardens and the Molson Amphitheatre, among others.

The Commission will continue to have the obligation to enforce requirements against direct ownership and the promotion of a single manufacturer's products through manufacturer inducements, and to ensure that financial interests or control are not used to achieve these ends. This will make it possible for some people associated with a manufacturer, such as shareholders, sales staff and tenants to apply for a liquor sales licence, but a liquor manufacturer would still not be eligible for a licence.

SPECIAL OCCASIONS PERMITS

- The Commission will now have the authority to re-instate Special Occasion Permits (SOPs) to establishments. The AGCO previously had only the power to disqualify establishments of this privilege. This amendment will allow the Commission to cancel an order disqualifying premises from receiving SOPs if there has been a significant change in circumstances on which the Commission based the order.

ADVERTISING

- Allowance for the AGCO to advertise new liquor licence applications in any manner deemed appropriate by the

Commission. The aim is to make the public more aware of liquor licence applications. The Commission currently is required to notify the public of an application in the newspaper and to post a notice on the premises. Now the AGCO will be able to notify residents in other ways such as via the Internet, community newsletters and flyers etc.

SAKE (RICE WINE)

- And, the LLA is also amended to provide a new definition of "Ontario wine". This new change includes "cereal grains" to define sake as a wine to allow the production of sake (rice wine) in Ontario and its sale from the manufacturer to the LCBO.

NOTE: The descriptions of the amendments to the Liquor Licence Act in this publication are for information purposes only. For correct technical and legal definitions please consult Bill 25, The Red Tape Reduction Act, 1998, Sections 166 to 175, available from Publications Ontario, 50 Grosvenor Street, Toronto, Ontario M7A 1N8. Telephone (416)326-5300.

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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QUESTIONNAIRE A SUCCESS

In the Fall 1998 edition of Licence Line, we included a Questionnaire asking readers to express your views on how we can improve this publication and make it better and more relevant to licensees and others. The response has been beyond expectations. We are now compiling the results. We will be publishing more on this in the next edition of Licence Line. In the meantime, we want to express our early thanks to all those who returned the survey and who have provided some very thoughtful, and extremely useful ideas and suggestions.