



The
New
Chair...

IAN D.C. McPHAIL

*I*an D. C. McPhail Q.C. has been appointed by the Lieutenant Governor in Council as the chair of the Alcohol and Gaming Commission of Ontario. The announcement was made by Consumer and Commercial Relations Minister Robert Runciman.

Mr. Runciman said, "During his career and in his service to the community, Mr. McPhail has shown the leadership and vision that the AGCO needs to promote a supportive business climate through clear rules, streamlined procedures and initiatives that allow for increased flexibility on the part of the beverage alcohol and gaming industries."

The new chair replaces Clare Lewis Q.C. who recently became Ontario's Ombudsman (see story on page 6).

Mr. McPhail is a graduate of Bishop's University, Quebec and a graduate of Osgoode Hall Law School, Toronto.

Said Mr. McPhail, "I am honoured to have the opportunity to help guide the AGCO in its efforts to balance revenue generation, economic growth and development and the regulatory control of beverage alcohol and gaming sectors".

Mr. McPhail has practiced law in Toronto for more than 25 years. He was appointed a federal Queen's Counsel in 1992.

He has recently been Chair (A), vice-chair and a director of TVO, a former instructor in the Bar Admission Course, former chair, Toronto Grace Hospital and vice-president, Toronto Chinese Community Services Association.

The appointment is for three years and he will assume his responsibilities on May 15, 2000.

Government licenses brew-on-premise sector

The **Ontario government** has approved a new regulatory regime to bring under licence brew-on-premise operations for several reasons: to establish an appropriate level of customer involvement in the manufacturing process, to set out clear and enforceable standards to "level the playing field" among all operators and to provide for consistent treatment for all sectors of the beverage alcohol industry.

Brew-on-premise operations, also commonly known as u-brews, are facilities that provide a convenient means for hobbyists to make their own beer and wine. They began to operate in the mid-1980s, and have expanded rapidly from a single operator in 1986 to about 600 facilities at the present time.

Contributing to the popularity of these outlets is the public's ability to make the beverage alcohol products cheaper than purchasing at normal beer and wine stores; and the enjoyment and convenience of making your own product at an outlet.

New rules affecting u-brews and u-ferments

To regulate and license the brew-on-premise sector, the Liquor Licence Act (LLA) has been amended (Bill 57) and new regulations made to set out specifically the role of the operator and the duties of the customer.

These are as follows:

- ◆ U-Brew / U-Ferment operators will now be licensed (the application fee for a new licence is \$1000 and covers the first two years; licence renewals will be \$450.00 for 3 years)

(continued on page 2 see Brew-On-Premises)



TERENCE YOUNG

New Board Member

Terence Young, Oakville, Ontario has been appointed by the Lieutenant Governor in Council as a member of the AGCO Board of Directors. His appointment is for 3 years and became effective on March 16, 2000.

A former member of the Ontario Legislature, Mr. Young is president of a consulting firm specializing in public policy.

Page 2

Crackdown on illegal liquor

Fake ID cards

Fatal accident

Page 3

Decision Summary

Page 4

Decision Summary

Move to curb illegal activities

Page 5

Intoxication

Page 6

Changes at AGCO

New Ombudsman

Licenses not big cost

Question and Answers

Alcohol and Gaming Commission of Ontario
20 Dundas Street West, 10th Floor
Toronto, Ontario
M5G 2N6



continued from page 1 Brew-On-Premises

- ◆ Operators are permitted to assist customers to make their own beer or wine by carrying out certain steps but may not perform the steps reserved to the customer
- ◆ Operators are subject to advertising and promotions regulations and guidelines in the same way as licensees and manufacturers, including pre-approval (advertising the availability or the price of beer or wine cannot be done without prior approval of the AGCO. However, an operator can provide a list of the goods and services available, including types of materials such as beer wort, wine juices or wine concentrates and their prices, without prior approval)
- ◆ Beer and wine must be for personal or family use only (operators must not keep for sale, offer for sale or sell beer or wine which belongs to—or was made by a customer; or give beer or wine or permit the exchange of product made on the premise)
- ◆ Wine or beer clubs, where customers manufacture beer or wine on behalf of others are prohibited (customers are not allowed to manufacture beer or wine on behalf of others)
- ◆ Operators are required to maintain detailed production and sales records for at least one year
- ◆ Although Operators are not permitted to deliver product they may assist customers by carrying out finished product to a waiting vehicle.
- ◆ Violations of rules and procedures can result in disciplinary action by the Board including licence suspensions and revocations.

Industry supports changes

The amendments to the LLA and the new regulations come into effect on March 30, 2000. The Brew-on-Premise Association of Ontario, the Wine Council of Ontario, the Canadian Home Wine and Trade Association and the Brewers of Ontario helped to develop the regulatory principles that now guide this sector. There is strong support for the new rules from within the brew-on-premise sector.

In a joint news release the associations said they welcomed the change which, “ensures that everyone in the brew-on-premise sector is on a level playing field”. They said the industry worked very cooperatively with the government to get the changes approved to legitimate this sector of the economy”.

Said Consumer and Commercial Relations Minister Robert Runciman, “The regulation will both encourage the long-term viability of the industry and eliminate the potential for illegal activities.”

Detailed information is available by contacting the AGCO Customer Service line at (416) 326-8700 or toll free in Ontario at 1-800-522-2876.

Fake ID no excuse for selling to underage

In another court decision, the Ontario Court of Appeal has recently ruled that a gas station clerk who unwittingly sold cigarettes to an underage person with a fake ID must suffer the consequences of not “scrupulously” checking age.

The ruling tightens responsibility on store owners. The Court said the clerk should have rejected the student card and insisted on seeing one of the legally sanctioned forms of identification such as — an Ontario drivers licence, LCBO ID card, Canadian passport, Canadian citizenship card or Canadian Armed Forces card.

Must be vigilant

Said, Mr. Justice James

MacPherson, writing for the Court, “The message to vendors is a simple one. You must be scrupulously vigilant in ensuring that you do not sell tobacco products to minors.”

While the Court decision, in this case, related to the selling of tobacco to minors—liquor licensed establishment operators and owners should also be reminded and fully conscious of their responsibility under the Liquor Licence Act and Regs. (Section 30) that applies to serving underage or a person who “appears to be under nineteen years of age”— and the possible future action that could emerge from a similar decision from the Courts.

Crackdown on Illegal Liquor

The Chair of the Liquor Control Board of Ontario, Andy Brandt, has announced that the sale of illegal liquor in the province has been reduced by \$200 million in 1999. He said illegal liquor sales in 1991 was estimated at a \$800 million and now is about \$600 million and dropping.

Brandt said most of the illegal liquor is spirits smuggled from the United States and homemade wine.”The wine has not been tested in terms of making sure that the product is healthy and safe for consumption, “he said.

In one case, inspectors from the Alcohol and Gaming Commission (AGCO) found rat poison in wine served in a restaurant. The AGCO inspectors searched the cellar and found a hose used to siphon wine out of barrels and straight into carafes. It had come in contact with rat poison on the floor.

It is an offence against the Liquor Licence Act and Regulations (section 27) for licensees to sell liquor products not purchased through an approved government store. The penalty if found guilty of possession of illegal liquor on a licensed premise is revocation, suspension or conditions put on a licence.

Licensee convicted of serving intoxicated patron that lead to fatal crash

An Uxbridge, Ontario bar owner has been found guilty of supplying liquor to an intoxicated person who subsequently was involved in a 1999 collision that killed a person in a head-on collision.

Durham Regional Police said it’s the first time the force has laid charges against a bar under the Liquor Licence Act flowing from an allegedly alcohol related collision.”This is the dawn of a new era, specifically in our police service, looking at the cause and effect issues. We’ve been attributing a number of alcohol-related collisions to drivers and to licensed venues and we’re looking at all aspects of prevention”, said Police Constable Jeff Haskins, who is in charge of liquor licence enforcement for the Region.

Protect community

He said, “If we can educate (the industry) that’s great, but if not then hopefully the end result will be high fines and suspensions or revocation of liquor licenses”.

The Durham police force believes that licensed establishments have a responsibility to “protect the community when customers are leaving their venue” and promise a greater level of police enforcement.

Said David Lakie, a lawyer involved in the case,” This is a developing area of the law aimed at holding bar owners and employees accountable and this is simply a reflection of that trend. It means anyone serving liquor is going to be held accountable for the carnage that follows”.

The bar owner faces a maximum fine of \$250,000. The establishment has since closed.

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
27's Restaurant & Lounge, Etobicoke	Overcrowding, served outside prescribed hours, failure to clear, contracted out the sale and service of liquor, permitted removal of liquor from premises, past conduct - did not contest	Licence revoked
Antica Trattoria, Toronto	Illegal liquor, liquor not in original container	30 days*
Barcode, Toronto	Permitted removal of liquor from premises, failure to inspect identification, serving minors	14 days
Blue River Restaurant, Toronto	Liquor sold to person who appears to be intoxicated, failure to retain records of sales and purchases of food and liquor, overcrowding	21 days
Bon Apetit B.B.Q., Toronto	Illegal liquor	21 days
Chan's Garden Restaurant, Bancroft	Permitted drunkenness, encourage immoderate consumption	30 days
Club Platinum / Empire the Other Room (Ent. Comp.), Etobicoke	Served outside prescribed hours, failure to clear, permitted removal of liquor from premises, permitted drunkenness, permitted narcotics on premises	21 days
Connections 2 Night Club, Toronto	Past conduct, public interest, overcrowding, permitted drunkenness	Licence revoked
Dat's Amore, Oakville	Illegal liquor	60 days
Delux Cocktails, Toronto	Public interest, past conduct, contravene Act, overcrowding, breach of condition - did not contest	Licence revoked
El Sitio, Toronto	Failure to retain records of sales and purchases of food and liquor, illegal liquor, permitted drunkenness, overcrowding, failure to clear	14 days
Flamingo Banquet Hall, Toronto	Illegal liquor	14 days
Gala Banquet Halls & Restaurant, Woodbridge	Illegal liquor, liquor not in original container	14 days*
Glass Lounge, Toronto	Overcrowding	30 days
House of San Francisco, Toronto	Non compliance with all zoning bylaws	Licence revoked
La Suhaag Banquets, Brampton	Permitted drunkenness	28 days
Lambada Sports Bar, Toronto	Illegal liquor, liquor not in original container, failure to retain records of sales and purchases of food and liquor	30 days*
Milbat Café, Toronto	Permitted drunkenness, failure to ensure sales and service of liquor supervised by authorized employee, failure to clear, conditions imposed	21 days*
Ministry The Niteclub, Toronto	Permitted narcotics on premises, failure to clear, permitted drunkenness, breach of condition of licence - 45 days effective 01-Nov-99 Past conduct, liquor sold to person who appears to be intoxicated, permitted drunkenness, permitted narcotics on premises - did not contest - Licence revoked effective 02-Dec-99	Licence revoked
Music Studio Café, Toronto	Illegal liquor	14 days
NCC Entainment and May Café, Toronto	Illegal liquor, alcohol content over prescribed maximum, failure to retain records of sales and purchases of food and liquor	39 days*
Noodles E. Noodles, Peterborough	Illegal liquor	21 days
More Decision - Page 4		

Decision Summary continued from page 3		
ESTABLISHMENT	INFRACTION	SUSPENSION
O'Tooles Roadhouse Restaurant, Toronto	Liquor sold to person who appears to be intoxicated, permitted drunkenness, overcrowding - did not contest	Licence revoked
Pine Valley Racquets Club, Woodbridge	Failure to ensure sale and service of liquor by authorized persons, failure to ensure that employees take a server training course, illegal liquor	14 days
Playland Sports Bar, Kitchener	Permitted narcotics on premises	30 days*
Plaza Flamingo Fruit Market Eatery, Toronto	Illegal liquor - waiting for dates of suspension	14 days*
Red Raven Restaurant, Toronto	Failure to inspect identification, serving minors, contravened a condition of the licence	14 days
Red Rose Adult Entertainment Club, Toronto	Serving minors, failure to inspect identification, breach of condition	28 days
The Nudie Bar, St. Thomas	Not financially responsible in conducting business due to Retail Sales Tax Act	Licence revoked
The Shot Pool Pub, London	Past conduct, not financially responsible in conducting business due to Retail Sales Tax Act, breach of condition	Licence revoked
Tux Billiards and Sports Bar, Hamilton	Obstructing an inspection, served outside prescribed hours, failure to clear, permitted drunkenness, permitted narcotics on premises, permitted removal of liquor from premises	34 days
Ziggy's Bar & Grill, Niagara Falls	Permitted narcotics on premises	Licence revoked
* All managers and servers must take Smart Serve responsible trainer program.		

Government moves to curb illegal activities in liquor-licensed and non-licensed establishments

The Ontario government is ready to launch a major attack on establishments that cater to all-night “rave” parties whether these events are held at liquor- licensed or non-licensed premises.

The promise emerged from an **Interdisciplinary Enforcement** conference hosted by **Consumer and Commercial Relations Minister Robert Runciman** and attended by **Solicitor-General David Tsubouchi** along with provincial and municipal police forces and enforcement agencies from across Ontario. **The Alcohol and Gaming Commission of Ontario (AGCO)** was in attendance.

The conference was set-up to hear recommendations as to how government agencies could work together to clean up illegal activities, such as underground ‘rave’ parties, and to protect public health and safety.

Licensed premises a problem

Mr. Runciman, the minister responsible for Ontario’s liquor laws, said “Illegal activities occurring in (liquor) licensed premises across the province is a problem”, and that owners where illegal activities take place will be penalized. He said the **AGCO**, local law enforcement, fire and health departments will work together to deal with problem establishments and areas.

Mr. Runciman said the **Building Safe Communities** conference produced a number of recommendations and suggestions that will be summarized in a report and circulated for comment. ■

INTOXICATION

As servers of alcoholic beverages, it is the responsibility of **licensees** to recognize when people have had enough to drink and, if necessary, to use various strategies to either slow down or stop service.

However, if licensee efforts aim more toward prevention you won't have to be as concerned in recognizing intoxication

In a series of **questions and answers**, **Licence Line** explores the issue of intoxication: what it is, how to recognize it, what the law says, and how to prevent it.

Q: What is intoxication and how to recognize it?

A: We have probably all seen or been with people who drink too much. The effects of alcohol on the body and mind can change a person's behaviour and judgement if taken in large enough doses: the slurred speech, bloodshot eyes, poor motor coordination and tiredness. The effects become more pronounced as the amount consumed increases.

Everyone's tolerance to alcohol is different but intoxication can depend on several things: sex, age, height, weight, physical fitness, medication, time and mood.

How much a person has had to drink is measured by **Blood Alcohol Concentration (BAC)** in milligrams of alcohol per 100 millilitres of blood. For example, 80 milligrams of alcohol per 100 millilitres of blood (or 0.08 %) is the limit for being charged with impaired driving in Canada.

Generally speaking, the more body water a person has versus body fat, the lower will be that person's **BAC**. This is because alcohol distributes itself in total body water and not body fat. For example, a woman has a greater degree of fatty tissue than a man does and, everything else being equal, will have a higher **BAC** after the same number of drinks.

Similarly, a person who is in better physical condition can expect to have a lower **BAC** than one who is not if they are the same height, weight, age and have consumed the same number of drinks.

Therefore, a younger, bigger male in

good physical condition will have a lower **BAC** after a couple of drinks than a middle-aged, smaller, out-of shape man.

Whether over-the-counter pre-scription drugs or illegal drugs, mixing them with alcohol can heighten its effects and result in quicker intoxication. Concentrating drinks in a short period of time versus spreading them out can also speed intoxication as can a person's mood.

If initially anxious, once relaxed alcohol's onset can be rapid and pronounced. It should be remembered that alcohol is a drug. Too much can lead to alcohol poisoning and, if not immediately treated, can result in death.

Q: What are some of the warning signs of intoxication?

A: The AGCO's TIP Sheet on intoxication gives 10 main signs of intoxication: inappropriate speech volume for the situation; deterioration of fine muscle control (fumbling or trouble picking things up); change in pace of speech (fast then slow); decrease in attention or alertness; inappropriate sweating; red eyes; a decline in gross motor control (standing or walking upright); affected speech like slurring words; slower, shallower breathing; and tiredness.

Q: What does the law say?

A: Section 29 of the Liquor Licence Act states:

◆ No person shall sell or supply liquor or permit liquor to be sold or supplied to any person who is or appears to be intoxicated.

Regulation 719 under the Act prohibits drunkenness in licensed premises:

◆ The licence holder shall not permit drunkenness or riotous, quarrelsome, violent or disorderly conduct to occur on the premises or in the adjacent washrooms, liquor and food preparation areas and storage areas under the exclusive control of the licence holder. **(section 45/1)**

It is the responsibility of the licensee not to serve patrons to intoxication or allow intoxicated people onto the licensed premises. Licensees (or holders of a **Special**

Occasion Permit) may be held legally liable for damages, harms or injury caused by intoxicated persons.

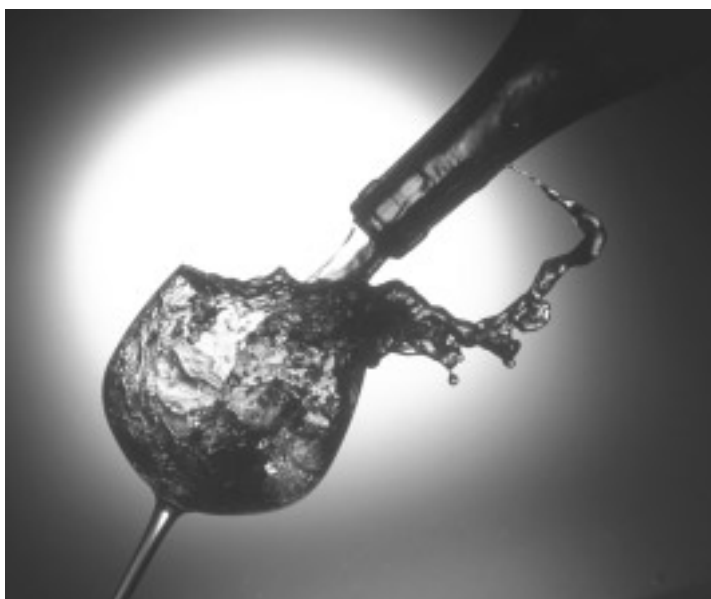
If charged under the **Liquor Licence Act** by the police, the result on conviction could be payment of a fine. If cited by an **AGCO** inspector, suspension or loss of liquor licence could result. If sued in civil court, a liquor licensee could be assessed many thousands of dollars in punitive damages for the actions of an intoxicated person served by a licensee.

Q: How do licensees prevent persons becoming intoxicated?

A: Certain strategies are available to lower the risk of customers becoming intoxicated.

- ◆ **Bar Entry.** First, don't allow persons who are already intoxicated into your premises. Train your door staff and servers to recognize the signs of intoxication and refuse entry or service.
- ◆ **Food.** Serving food is one of the best ways to lower the risk of intoxication. Food delays the absorption of alcohol into the blood stream and gives customers another activity other than drinking.
- ◆ **Alternatives.** Promoting non-alcoholic drinks at reasonable prices or low-alcohol content drinks can provide customers with alternatives to those that are full-strength. Alternatively, refusing to stock "high octane" brands of certain drinks like 7%+ beer can lower the chance of intoxication.
- ◆ **Premium drinks.** Encouraging premium upgrades will have your guests sip and savour a drink rather than down it.
- ◆ **Chat and check.** Chat with your customers before taking their order. It will give you a chance to assess whether or not it is safe to serve them alcohol.
- ◆ **Keep a tally.** Counting a person's drinks will provide you with a benchmark of their consumption over time and if you should slow down or stop service.
- ◆ **Return less often.** If you believe guests have had enough to drink, slowing down service is an effective technique for lowering consumption.
- ◆ **House policy.** Establish in your house policy a statement on not serving to intoxication and print this policy on your tent cards or menu. Train your staff on how to prevent intoxication and back them up if service to intoxicated patrons is halted.

The SMART SERVE® server training program offers detailed strategies to prevent, recognize and deal with intoxication. **SMART SERVE®** can be reached by phone (416-695-8737) or toll-free (1-877-620-6082), fax (416-695-0684) or e-mail: general@smartserved.ca. To get the **AGCO's Tip Sheet on Intoxication or House Policies**, or obtain a list of other **Tip Sheet** topics, call our **Customer Service** toll-free at 1-800-522-2876 or our general inquiry number at (416) 326-8700.



Q&A

Questions & Answers

Q. How is the maximum occupancy for a licensed premise determined?

A. It is determined by local building and fire codes. Local government must approve capacity. Consult your local municipality to determine the proper capacity for your establishment and/or licence application. In unorganized townships and areas that do not have a building or fire department, the calculation is based on the standard set out in Regulation 719 under the LLA, which is 1.11metres per person.

Q. What are the current rules relating to the liquor/food ratio?

A. The liquor/food ratio no longer exists. This regulation was revoked through changes to the LLA and Regulations in 1990. Today the requirement is for a reasonable variety of light meals to be available to patrons at all time that liquor is sold and served.

Q. What is a light meal?

A. A reasonable variety of light meals could consist of having available at least five main selections and four side /snack orders. While hot meals are not required a menu must offer customers a choice of meals, either as single orders or by combining choices. Side /snack plates do not include nuts, popcorn, pretzels etc.

Q. Is server training now mandatory?

A. A server- training programme approved by the Board of the AGCO is mandatory for the following groups as required in **LLA Regulation 719**:

- ◆ new sales licensees and sales licence transferees (**section 3**)
- ◆ security and serving staff and their managers in a licensed stadium (**section 86**)
- ◆ all employees of a licence holder with a caterer's endorsement (**section 64/2**)
- ◆ employees involved in the sale and service of liquor from motorized vending carts, as well as, course marshals at a golf course with a golf coarse endorsement (**section 75/1**)
- ◆ for licensees that have a sanction resulting from an **AGCO** Board disciplinary hearing.

Licensees can arrange for server training through the **Smart Serve® Responsible Alcohol Beverage Service Training Programme**, the only Board approved training programme. **Smart Serve®** can be contacted at the toll free number **1-877-620-6082**. ■

Liquor licenses do not have to involve big costs

In Ontario, applicants for a new liquor sales licence do not have to pay big costs in order to qualify for approval to operate a licensed premise.

The cost of a new licence is as low as \$925.00 and can cover all licensed facilities at the same location under the same ownership.

Some applicants want to have multiple licences for the same location. But, this decision will add substantially to the cost of operating a business, inasmuch, as each licence at a multiple-licensed location would require the licensee to operate a separate liquor storage and food preparation area for each licence—not to mention additional legal fees and the need for a separate set of financial records.

Not expensive

A liquor sales licence in the province is an entitlement providing that applicants meet the requirements set out in the **Liquor Licence Act**; including assurances that the applicant will carry on business in accordance with the law and with integrity and honesty.

It is not an expensive or time- intensive process, particularly if an applicant does the necessary homework to ensure that all the details are completed accurately on the application form. ■

Changes at AGCO

The AGCO has announced that effective March 22, 2000 the Commission's Inspections Branch has been integrated into the agency's Investigation and Enforcement Bureau.

Duncan Brown, AGCO Chief Executive Officer, said the integration would consolidate resources under a unified management structure that would streamline operations.

He said the changes would enhance the effectiveness of the Commission's enforcement activities. "This", Mr. Brown said, "will make for better coordination with other provincial and local agencies in an effort to clean up illegal activities at licensed premises, and to protect public safety which was the focus of the recent Building Safer Communities conference held in Toronto.

Detective Chief Superintendent Michael F. Sharland will have responsibility for the operation of the Bureau. **A/Detective R. A. (Rob) Shaw** will be responsible for the beverage alcohol inspection program. ■



Lewis appointed Ontario Ombudsman

Clare Lewis, a former judge, crown attorney and defence lawyer has been appointed as the province's new Ombudsman.

Mr. Lewis had served for the past several years as Chair of the Liquor Licence Board of Ontario (LLBO) and as Chair of the new Alcohol and Gaming Commission when the LLBO was merged with the Gaming Control Commission creating the new agency in 1998.

He has also held a number of other government posts from heading up a task force on police race relations in the late 1980's to Ontario Police Complaints Commissioner.

Mr. Lewis assumed his new position on February 1, 2000. ■