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DAVID C. GAVSIE

From the Chair...

Again this year, on behalf of the Alcohol and Gaming Commission of Ontario, I have the privilege of extending to all of our clients and stakeholders the very best wishes for a healthy, happy and successful New Year.

Busy year

In 2009, the AGCO began the move from a liquor enforcement-based agency to a compliance-focused operational model encompassing a strategy that includes risk-based licensing and enforcement, monetary penalties and a broadened licensee educational program. At year's end, we will be close to having this model fully in place province-wide. Early indications are that our stakeholders are increasingly satisfied with and appreciate the new approach. We look forward in the new year to working closely with our client groups in making any necessary adjustments that will bring about even better efficiencies and modernization of our liquor licensing and enforcement responsibilities.

Safer roads

In this edition of Licence Line, we cover the *Ontario Safer Roads for a Safer Ontario Act*, legislation that is aimed at reducing fatalities on the province's roads and highways as a result of drinking and driving. Licensees should be expressly aware of this public safety measure when operating a liquor licensed establishment.

“Warn range”

Drinking and driving countermeasures

Holders of an Ontario liquor licence should be aware of this legislation. While the new rules are the responsibility of the Ministry of Transportation, liquor licensees must always keep in mind their responsibility regarding the sale and service of liquor to intoxication patrons.

On May 1, 2009, new measures came into effect that relate to drivers of vehicles caught with a **blood alcohol concentration (BAC)** measuring from **0.05 to 0.08**. This is called the “warn range”, and has been put in place in order to achieve the goal of Ontario having the safest roads in the world.

The new rules are the responsibility of the **Ministry of Transportation** and are contained in the *Ontario Safer Roads for a Safer Ontario Act, 2007*. They are aimed at improving driver behaviour and targeting collision-related fatalities and injuries.

New sanctions

Drivers caught with a BAC in the “warn range” are now subject to longer administrative licence suspension periods and additional sanctions as follows:

- Three-day suspension at roadside for a first occurrence and a \$150.00 administrative monetary penalty (AMP)
- Seven-day suspension at roadside for a second occurrence within a five-year period, a \$150.00 AMP and a requirement that drivers take a remedial alcohol education program
- 30-day suspension at roadside for a third occurrence within a five-year period, a \$150.00 AMP, a requirement that drivers take a remedial alcohol treatment program and have an ignition interlock condition on their driver's licence for six months.

Continued on p. 2 See *Chair's column* Continued on p. 2 See *Drinking and driving*

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Continued from p. 1 *Drinking and driving*

The new escalating sanctions replace Ontario's previous 12-hour licence suspension.

Although the legal limit falls at 0.08 BAC, drinking drivers with a BAC measuring in the "warn range" are 7.2 times as likely to be involved in a fatal crash as drivers who had not been drinking.

Collisions costly

In 2006, one of every four drinking drivers fatally injured on Ontario's roads had a measurable level of alcohol of less than 0.08 BAC.

Research indicates that of 769 fatalities on Ontario roads in 2006, 190 (about 25%) resulted from drinking and driving collisions.

Social and economic costs of drinking and driving have been estimated at nearly \$3 billion per year in this province. ■

Continued from p. 1 *Chair's column*

As well, we highlight our tip sheet relating to the sale or use of drugs in bars and nightclubs, serving hours for New Year's Eve, and continue the series of Board member profiles.

Safe holiday

All successful organizations require competent and dedicated management and staff in order to achieve meaningful public policy objectives.

In this regard, I want to thank my fellow members of the Board of the AGCO, our CEO Jean Major for his strong and steady leadership, and our hard-working employees who all together made for another year of substantial achievement on behalf of the government and people of Ontario.

To all, a happy and safe Holiday Season, and best wishes for the coming year.

David C. Gavrie
Chair ■

New Year's Eve hours of operation

Licensed establishments are permitted to serve alcohol until 3:00 a.m. on New Year's Eve (December 31), one hour later than normal service time (this does not apply to licensees who have a condition on their licence restricting the hours of alcohol service). For those who may hold Special Occasion Permits (SOPs), the New Year's Eve hours are extended to 2:00 a.m.

Celebrating

Licensees and SOP holders are reminded they must remove all signs of alcohol service (including consumption) within 45 minutes of the closing time. This means 3:45 a.m. for licensees and 2:45 a.m. for SOP holders.

While New Year's Eve is a traditional time to celebrate, licensees and staff are reminded that permitting intoxication and promoting immoderate consumption is illegal and not allowed. ■



ATTENTION ALL LICENSEES—We want to hear from you!

*Licence Line is a publication intended to provide practical and timely information to liquor licensees and interested parties in Ontario's beverage alcohol industry relating to licensing, regulation and enforcement under the **Liquor Licence Act** and its Regulations.*

The publication is free of charge and mailed to liquor licensees and others, generally on a quarterly schedule.

To ensure Licence Line continues to print helpful and useful material, the Editor is requesting licensees and

other interested parties to send along ideas for stories you feel would be beneficial in explaining the liquor laws of Ontario, and that may help you to better operate your licensed establishment.

Please address all correspondence to:
The Editor, Licence Line
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or by e-mail to: editor@agco.ca ■

Tip Sheet: Just saying “No” to drugs is not enough*

The Regulations under the *Liquor Licence Act* state that a liquor licence holder may not permit a person to “have, use, distribute or sell controlled substances in his or her establishment.” *The Controlled Drugs and Substances Act* regulates certain dangerous drugs and narcotics (now known as “controlled substances”) such as cocaine and marijuana, among others. Possession of these substances without proper authorization can result in federal charges (this includes the unlawful possession of prescription drugs).

Liquor licence holders cannot permit illegal drug use or drug dealing on licensed premises. This applies during the operating hours of licensed establishment and also when the establishment is closed.

Licensees can be held accountable for illegal activities and must take reasonable steps to prevent illegal drug use and dealing anywhere in the licensed establishment.

Steps a licensee can take

To discourage the presence of illegal drugs, a licensee can create an environment unsuitable for drug users and dealers by taking the following steps:

- Provide proper lighting to avoid dark corners/areas.
- Have all tables visible to staff and other patrons.
- Employ and educate security staff.
- Use reputable security staff.
- Place security in areas of concern (bathroom entrance, side stage, doors, entries and exits).
- Refuse entry/service to anyone suspected of participating in the sale or use of illegal drugs on the licensed premises. Eject the individual and contact police.
- Have well-lit and monitored parking areas and outside service areas.
- If a licensee thinks a staff member may be dealing or using drugs on the premises, contact the police for assistance. If necessary, install security cameras to monitor staff/patron activities.
- Create and enforce a strict house policy that clearly states the establishment’s “zero-tolerance” towards illegal drugs.
- Educate staff on drug awareness. Crime Prevention Officers with local police services will give presentations on drug identification, trends, etc.
- Watch for gangs as they are often involved in drug use and trafficking. Some gangs identify themselves with coloured bandannas, jackets, boots with coloured laces, tattoos, etc. Suspected gang activity should be reported. *Altercations should be dealt with by police!*
- Check the premises every night after closing for stashed drugs or weapons, especially in washrooms.
- Drug users cluster in washrooms for access to water (needed for mixing heroin) and privacy. Deny them that privacy and they will go elsewhere. All found drugs or weapons should be reported to police.
- Check for hypodermic needles taped under, behind or inside the water cisterns, behind the toilet bowl, or in a false ceiling. When searching, use your eyes—not your hands—to prevent accidental stabbing.

Behaviours to watch for

Management and employees alike need to be aware of commonly noticed behaviours and methods used by people dealing in and/or using illegal drugs. These include:

- Making frequent trips in and out of the licensed premises.
- Making frequent trips in and out of the licensed premises with different people.
- Passing match boxes, folded money or folded napkins to others.
- Customers who arrive sober but quickly show signs of impairment inconsistent with their alcohol use. This is often caused by mixing drugs with alcohol. This is an important sign to be aware of, especially with female patrons who may be the victims of a tainted beverage. If a licensee or staff member suspects or sees drink tampering, notify authorities as soon as possible and retain possession of the beverage for testing purposes to treat the victim. Ensure the victim’s safety.
- Customers who continually visit the restroom. Restrooms are common havens for drug dealing and use. Check them regularly if drug activity is suspected, especially if there is found any syringes, needles, small clear plastic bags, burned matches, bottle caps or other drug paraphernalia on the premises. If syringes or needles are found, they should be reported to the police.

Medical Marijuana

The *Liquor Licence Act* does not include any provisions or exemptions allowing the use of medicinal marijuana in a licensed establishment by patrons who hold a federal permit allowing them to possess marijuana for medical purposes. If a customer uses marijuana in a licensed establishment, this is a breach of the *Liquor Licence Act* and may result in a suspension or revocation of a liquor licence. However, whether or not a sanction is imposed against a licence holder for this or any breach of the *Liquor Licence Act* is always at the discretion of the Registrar of Alcohol and Gaming, who looks at all aspects of a case before recommending any type of administrative sanction.



AGCO

Alcohol and Gaming Commission of Ontario

Responsible Service

2002 (09-2003)

Just saying “No” to drugs is not enough

Licensee information sheets from the Alcohol and Gaming Commission of Ontario

The Regulations under the *Liquor Licence Act* state that a liquor licence holder may not permit a person to “have, use, distribute or sell controlled substances in his or her establishment.” *The Controlled Drugs and Substances Act* regulates certain dangerous drugs and narcotics (now known as “controlled substances”) such as cocaine and marijuana, among others. Possession of these substances without proper authorization can result in federal charges (this includes the unlawful possession of prescription drugs).

As a liquor licence holder, therefore, you cannot permit illegal drug use or drug dealing on your premises. This applies during the operating hours of your establishment and also when the establishment is closed. Even if you and your staff are not personally involved, you can be held accountable for illegal activities in your establishment and must take reasonable steps to prevent illegal drug use and dealing anywhere in your establishment.

Steps You Can Take

To discourage the presence of illegal drugs, you can create an environment unsuitable for drug users and dealers by taking the following steps:

- Provide proper lighting to avoid dark corners/areas.
- Have all tables visible to staff and other patrons.
- Employ and educate security staff. Use reputable security staff.
- Place security in areas of concern (bathroom entrance, side stage, doors, entries and exits).
- Refuse entry/service to anyone suspected of participating in the sale or use of illegal drugs on the licensed premises. Eject the individual and contact police.
- Have well-lit and monitored parking areas and outside service areas.
- If you think a member of your staff may be dealing or using drugs on the premises, contact the police for assistance. If necessary, install security cameras to monitor staff/patron activities.
- Create and enforce a strict house policy that clearly states your establishment’s “zero-tolerance” towards illegal drugs.
- Educate your staff on drug awareness. Crime Prevention Officers with your local police service will give presentations on drug identification, trends, etc.

Behaviours To Watch For

Management and employees alike need to be aware of commonly noticed behaviours and methods used by people dealing in and/or using illegal drugs. These include:

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- Customers who arrive sober but quickly show signs of impairment inconsistent with their alcohol use. This is often caused by mixing drugs with alcohol. This is an important sign to be aware of, especially with female patrons who may be the victims of a tainted beverage. If you suspect or observe drink tampering, notify authorities as soon as possible and retain possession of the beverage for testing purposes to treat the victim. Ensure the victim’s safety.
- Customers who continually visit the restroom. Restrooms are common havens for drug dealing and use. Check them regularly if drug activity is suspected, especially if you find syringes, needles, small clear plastic bags, burned matches, bottle caps or other drug paraphernalia on the premises. If syringes or needles are found, they should be reported to the police.

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To view or download complete information on this *Tip Sheet, please refer to the AGCO website at www.agco.on.ca or contact AGCO Customer Service at 416.326.8700 or 1.800.522.2876.

Tip Sheets are part of a wide range of information available to licensees on under-

standing the requirements under the LLA and Regulations. Tip sheets on other liquor subjects are also available on the AGCO website.

Decision Summary

The following establishments were recently brought before the Board of the AGCO for disciplinary action. The list represents only those licensees that received suspensions of 14 days or more and revocations for the period beginning **September 18, 2009** ending **November 10, 2009**. Sanctions for similar infractions may vary in length according to the specifics of each case. Details about all Board decisions are now available on **QUICKLAW**.

ESTABLISHMENT	INFRACTION	SANCTION
Central Bar & Grill, Toronto	Overcrowding	14 days
Club T'zers, Windsor	Permitted drunkenness	30 days
Crabby Joe's Tap & Grill, Hamilton	Serving minors; failure to inspect identification; failure to clear signs of service	14 days
Endzone Bar and Grill, Hamilton	Failure to clear signs of service; failure to facilitate inspection	14 days
Gar's Bar & Grill, Exeter	Liquor sold to person who appears to be intoxicated; permitted drunkenness	14 days
Pizza Mom Pizza, Scarborough	Liquor not purchased under licence; non-compliance with <i>Fire Protection and Prevention Act</i> ; non-compliance with the <i>Health Protection and Promotion Act</i>	15 days
Shoeless Joe's Restaurant, Welland	Serving minors; overcrowding	14 days
The following is a list of sanctions where the licensee did not request a hearing and received suspensions of 14 days or more and revocations for the period beginning September 18, 2009 ending November 10, 2009 . Any omissions will be reflected in our next edition. Sanctions for similar infractions may vary in length according to the specifics of each case.		
Bellevue Tavern, Kirkland Lake	Permitted drunkenness, quarrelsome, violent and disorderly conduct; permitted removal of liquor from premises; overcrowding; encouraged immoderate consumption; licensee failed to ensure control of premises was maintained; failure to ensure required persons successfully completed approved server training within 60 days of employment start date; failure to post Fetal Alcohol Spectrum Disorder warning sign—did not contest	14 days
Esperado, North York	Permitted drunkenness, quarrelsome, violent and disorderly conduct; failure to clear signs of service—did not contest	24 days
Habesha Lounge, Toronto	Failure to clear signs of service—did not contest	26 days
Jay Deeze Lounge & Grill, Leamington	Permitted drunkenness; permitted narcotics on premises; obstructing an inspection—did not contest	14 days
King George Tavern, Maxville	Permitted drunkenness—did not contest	21 days
Nancy's Bar & Grill, Toronto	Permitted drunkenness, quarrelsome, violent and disorderly conduct; failure to facilitate inspection; obstructing an inspection; service outside prescribed hours—did not contest	21 days
No. 2 Karaoke, Toronto	Permitted drunkenness; failure to clear signs of service—did not contest	21 days

Decision Summary continued from page 4

ESTABLISHMENT	INFRACTION	SANCTION
Pemican Bar & Grill, Toronto	Overcrowding—did not contest	25 days
Pemican Bar & Grill, Toronto	Failure to clear signs of service; overcrowding—did not contest	30 days
The Place Bar & Grill, Brampton	Permitted drunkenness and quarrelsome conduct—did not contest	14 days

Need to Know:

Planning to offer an all-you-can-drink package on New Year’s Eve?



Many licensees believe they are permitted to offer “all you can drink” packages on New Year’s Eve. **This is not true!** The legislation **only** allows packages under limited circumstances. For example, a licensee may offer a package of food and liquor at a fixed price when:

- a) the licence holder and event organizer have entered into a **written contract** that sets out separately the price of the food component and the price of the liquor component of the package.
- b) the price of the food component is the fair market price and represents more than 50 per cent of the total price of the package;
- c) **the event is intended only for the invited guests of the event organizer, is not advertised to the general public and is not open to the general public;**

- d) attendees are **not charged a fee for admission** to the event or for liquor or food;
- e) the event organizer or the organizer’s delegate remains on the premises at all times during the event;
- f) the time for which alcoholic drinks may be provided to attendees without charge to the attendee **does not exceed eight hours;**
- g) the licence holder, the employees and managers of the licence holder and the security personnel other than paid duty police officers acting as security personnel at the event have completed a **server training course** approved by the Board of the AGCO; and
- h) the licence holder **keeps all contracts** relating to the event for at least one year after the event takes place.

Should a licensee be found advertising or holding an “all you can drink” function, such promotion may be cited for several violations under the *Liquor Licence Act* and Regulations. ■

AGCO website has lots of information

If you are looking for general information on beverage alcohol, how to apply for a liquor sales licence or other liquor licensing matters, please visit our website at www.agco.on.ca. You can download and fill out on screen, liquor-related forms such as liquor licence applications, renewals, transfers, etc. ■



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> Acts - Alcohol and Gaming

Mandatory training and certification

Regulatory requirements under the *Liquor Licence Act* state that all liquor sales licensees and liquor delivery services must ensure that persons involved in the sale and service of liquor, including security staff, hold a certificate demonstrating the successful completion of a server training course approved by the Board of the AGCO. Server training must be completed within 60 days of the commencement of their employment at the licensed establishment or liquor delivery service.

Licensees who were issued liquor sale licences prior to 1993 were exempt from the server training requirement. But amendments to liquor legislation effective January 1, 2008, require these licensees and all their staff involved in the sale and service of liquor to complete server training recognized by the AGCO.

In Ontario, the AGCO Board-approved server training course is the Smart Serve program. Smart Serve focuses on recognizing intoxication, legal and liability issues, responsible serving techniques and house policies.

In addition to fulfilling the requirement of holding a liquor sales licence, licensees benefit from the course in many ways:

- Reduced risk of liability
- Possible insurance savings

- Promotion of public safety
- Reduction of staff turnover
- Enhanced professionalism and improved hospitality service
- Increased profitability (servers learn to market food, premium brands, low and non-alcoholic beverages)
- Prevention of excessive consumption by patrons
- Lower compliance and enforcement costs

Regulation 718 of the *Liquor Licence Act* requires all holders of a liquor delivery licence to ensure that all managers and other persons, who are involved with taking orders or liquor delivery, be Smart Serve-certified within 60 days of the commencement of employment.

For more information about the Smart Serve Training Program, please contact:

Smart Serve Ontario

5405 Eglinton Avenue West, Unit 106

Toronto, ON M9C 5K6

Tel: 416.695.8737

Toll-free: 1.877.620.6082

Fax: 416.695.0684

Website: www.smartserve.org/home.asp

E-mail: general@smartserve.ca

Board Profiles

This continues the series of short profiles on members of the Board of the AGCO. These members are appointed to the Board of the AGCO by the Ontario government. They can be appointed as full-time or part-time members. The Board has a quasi-judicial function. It holds hearing and conducts appeals when necessary on certain matters that arise relating to liquor and gaming legislation, regulation and registration. There are currently 12 members of the Board, including the Chair.



JOAN LOUGHEED

Joan Lougheed is a Registered Nurse and entrepreneur who established Educare, a company providing skills upgrades for health professionals. In 1991, she made the decision to run for elected office in the municipality of Burlington. Ms. Lougheed served 15 consecutive years as a city and regional councillor and represented the city at the

Federation of Canadian Municipalities for nine years. She was a leader in initiatives such as the redevelopment of the Burlington downtown and waterfront.



ALEX MCCAULEY

Alex McCauley is a lifelong resident of the Sudbury area. He was a member of the Greater Sudbury Police Service, retiring in 2002 as the Chief of Police. Mr. McCauley served 33 and half years with the Police Service, the last eight as the Chief of Police.

Mr. McCauley has been extensively involved in the community, serving on many Boards and community organizations. He has been a member of the AGCO Board since October 2005. Mr. McCauley is married to Pirkko and they have two grown daughters and four grandchildren.

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

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