



AGCO

Alcohol and Gaming
Commission of Ontario

Licence Line

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In This Issue

Decision Summary
Chair's Column cont'd
AGCO window decals
p. 2

Liquor establishment owners may provide complimentary drinks

Licensees no longer need to obtain a stadium endorsement

Product sampling in licensed premises

Outdoor public events involving liquor sales licensed establishments
p. 3

Licensing of areas where the public is normally permitted

New and updated liquor materials now available

AGCO website has lots of information
p. 4

New Director of Investigations appointed

Taking responsible measures cont'd

Overcrowding in liquor licensed establishments
p. 5

Know the Liquor Laws Educational Seminars
p. 6

September 2012
Edition



ELEANOR MESLIN

From the Chair...

In this edition of Licence Line we feature a number of items that reflect the changing nature of liquor regulation in Ontario. The Liquor Licence Act is an evolving piece of legislation that takes into consideration the dynamics of a modern multi-cultural community while at the same time focusing strongly on social responsibility towards the sale and service of beverage alcohol.

Liquor policy in our province is established through a wide range of public consultations,

stakeholder meetings that help bring together ideas for keeping our liquor legislation up-to-date and providing more flexibility to licensees to operate successfully.

One of the most important functions at the AGCO is the enforcement of the province's liquor laws. But even here, we have moved from a previous strictly enforcement-focussed model towards regulation based on achieving compliance by licensees.

Removing restrictions

By removing barriers and restrictions for liquor sales licensees and providing more flexibility in the liquor sector, the Province has been able to introduce many innovative changes to ensure we keep in step with marketplace realities and reflect current lifestyles.

Continued on p. 2 See *Chair's column*

Taking responsible measures

Licensees responsible for conduct outside their premises — helps keep the neighbourhood safe and peaceful

Under **Regulation 719** of the *Liquor Licence Act* (LLA) liquor sales licence holders must ensure that reasonable measures are in place and reasonable efforts are made to prevent **disorderly** conduct on property adjacent to and in the vicinity of the licensed premises.

Responsible behaviour

This means that licensees are responsible for the behaviour of patrons waiting to enter the premises or leaving the facility. Previously,

when a fight occurred inside the premises, staff at some establishments would break-up the fight and toss the combatants outside, effectively "washing their hands" of any further responsibility. But the liquor laws (revised **July 2007**) require the licensee and staff to make "reasonable efforts" to ensure patrons are acting in a manner that is respectful to the neighbourhood where the licensed facility is located. This may include licensees calling the police in appropriate situations.

Continued on p. 5 See *Taking responsible measures*

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Decision Summary

The following establishments did not request a hearing before the Licence Appeal Tribunal regarding compliance issues and received suspensions of 14 days or more and revocations for the period beginning **July 1, 2012** and ending **July 30, 2012**. Sanctions for similar infractions may vary in length according to the specifics of each case.

ESTABLISHMENT INFRACTION SANCTION

Big League Comedy, London	Past conduct; permitted drunkenness; liquor sold to person who appears to be intoxicated; service outside prescribed hours; failure to clear signs of service; licensee failed to ensure control of premises was maintained	Licence Revoked
Limit Exotic Lounge, Prescott	Past conduct; permitted narcotics on premises; breach of condition of the establishment’s liquor licence	Licence Revoked ¹
Red Quarter Lounge, Hamilton	Failure to facilitate inspection	14 days
Unlovable (The), Toronto	Past conduct; overcrowding; non-compliance with <i>Fire Protection and Prevention Act</i>	18 days ²

¹ Licence Revocation took effect on March 23, 2012

² Suspension started June 15, 2012

Continued from p. 1 Chair’s column

We report changes to the liquor laws relating to the licensing of ancillary areas, tiered seating, outdoor public events, complimentary drinks and product sampling.

There are stories on licensee responsibility for outside security and overcrowding. Of great importance to maintaining patron and community safety and security relating to licensed establishments is the licensee’s responsibility to ensure their premises always operate in the public interest. Licensees are expected to be good neighbours and have in place reasonable measures to address any disorderly conduct that may originate from their establishments. We draw attention to our “Responsible Service Tip Sheet” which provides useful suggestions on this subject.

At the same time, we also reference the regulations regarding capacity and the penalties for overcrowding.

Educational seminars

The fall schedule for our on-going free educational seminars can be found on page 6. The seminars have been very popular with licensees and their staff. Please sign up early for these sessions as they fill up quickly.



Interim Chair

AGCO window decals: “Licensed to Sell and Serve Alcohol”

The Alcohol and Gaming Commission of Ontario (AGCO) is the provincial agency responsible for regulating beverage alcohol across the province. As part of this mandate, the AGCO issues liquor sales licences to establishments in order that they may sell and serve wine, beer and spirits to their patrons.

that their establishments are licensed, the AGCO has introduced a full colour, cling vinyl decal that clearly indicates the premises are “**Licensed to Sell and Serve Alcohol**”.

To order decals in English or French please contact AGCO Customer Service at 1.800.522.2876 or 416.326.8700.

To assist licensees in communicating to the public



Licensed to Sell and Serve Alcohol

www.agco.on.ca

AGCO | Alcohol and Gaming Commission of Ontario

CAJO | Commission des alcools et des jeux de l'Ontario



Certain conditions apply

Liquor establishment owners may provide complimentary drinks

Ontario’s liquor laws now allow licensees to offer complimentary drinks to their customers under certain circumstances. A licensee and/or a staff member of a licensee may purchase liquor for a patron, at the established listed price, for such purposes as:

- Recognizing regular patronage
- Celebrating special events
- Expressing friendship
- Acknowledging poor service

The complimentary service must be limited to specific purposes and must not be part of regular operating practices.

In addition, providing complimentary drinks must not be used as an enticement to patrons as a way to encourage them to make further liquor purchases.

Liquor sales licensees remain under general obligations not to promote immoderate consumption, nor to serve intoxicated individuals or permit drunkenness in their establishments.

The complimentary service for certain occasions must not be part of any advertising or promotional campaign and may not be mentioned in any signage outside the establishment, marketing, advertising or promotional material.

Tiered seating change

Licensees no longer need to obtain stadium endorsement

Previously, licensees who wished to sell and serve liquor in areas that contained tiered seating were required to apply for a “stadium endorsement” and comply with regulations respecting the stadium endorsement. Recent changes to Ontario’s liquor regulations permit licensees to sell and serve liquor in areas with tiered seating (fixed or bleachers) without having to acquire an endorsement. The category “stadium endorsement” no longer exists.

If a licensee wishes to occasionally sell/serve liquor at a tiered seating venue either at their own establishment, or

at an off-site establishment, they must apply for and obtain a temporary tiered seating approval by completing the application for Changes or Additions to Licensed Areas (Form 1221). There is no fee relating to this application. A risk-based licensing assessment will be conducted and condition(s) may be added to their licence. During the event the location will be considered a licensed area and as such the licensee must comply with all police, building, fire and health regulations.

A licence holder who has received the temporary tiered seating approval

must notify the Alcohol and Gaming Commission a minimum of 30 days in advance of the events where the sale and service of liquor will occur at the tiered seating area within their establishment.

A licensee who has obtained the Registrar’s approval is now allowed to cater in a tiered seating location off-site in conjunction with their caterer’s endorsement. All the conditions of the caterer’s endorsement will apply. The licensee must complete and submit the caterer’s notification at least 10 days in advance of the proposed event date where liquor will be sold/served in the tiered seats.

Check sampling guidelines

Product sampling in licensed premises

Many licensees are approached by liquor manufacturers to hold a sampling event in their establishments. Sampling events can be very successful, but licensees should be aware of the sampling guidelines and how these events are to be conducted.

Liquor manufacturers or their representatives may purchase an individual serving of liquor from a holder of a liquor sales licence for a patron of the licensee in order for the patron to sample the product.

This form of product promotion is permissible under the following conditions:

- The sample is purchased from the licensee at full menu price

- The sample is served to the patron by the licensee or its staff
- The serving of the sample product is to the patron on a one-to-one basis
- The manufacturer’s representative may not purchase a “round” for the house
- The manufacturer’s representative is required to discuss the product with the patron.

Please note that liquor product sampling at catered events under a licensee’s catering endorsement is not permitted.

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For more detailed information on complimentary drinks and liquor sampling, please refer to the AGCO Liquor Advertising Guidelines for Liquor Sales Licensees and Manufacturers and AGCO Information Bulletin #003 — Guidelines for Sampling Purposes (November 27, 2002) on our website at www.agco.on.ca

Outdoor public events involving liquor sales licensed establishments

Liquor sales licensees and a **Public Event Special Occasion Permit (SOP)** holder may jointly participate in an outdoor public event that allows patrons to carry a single serving of liquor between the licensed area and the area covered by the SOP.

A **Public Event SOP** is issued for events that are open to the general public such as charity fundraisers, outdoor street festivals and community festivals, etc.

Outdoor public events involving liquor sales licensed establishments require a municipal resolution.

In the case of a street festival this joint effort could mean that a patron can take a serving of alcohol from the area covered by the Special Occasion Permit (a beer tent) to the licensee’s adjacent indoor or outdoor licensed area or vice versa.

These types of arrangements must be for outdoor events, and the agreement filed with the AGCO at least 30 days prior to the event taking place. The agreement must be signed by the licensee(s) and the holder of the Special Occasion Permit and outline various details about how the event will be operated.

All *Liquor Licence Act* and regulatory provisions apply to such events such as no service to minors, no service to intoxicated persons, no unruly behavior, etc.

Ancillary areas

Licensing of areas where the public is normally permitted

Recent changes to Ontario’s liquor regulations now make it unnecessary for licensees to file an application for permitting patrons of licensed premises to take their drinks to washrooms, hallways and stairwells (WHS). As such, there is no longer a requirement to submit an application for limited licensing of washrooms, hallways, stairwells or other similar areas, as previously required.

If a licensee wishes to allow patrons to consume liquor in any indoor ancillary areas which are under their exclusive control, they must complete and submit an application for Changes or Additions to the Existing Licensed Areas (Form 1221). The licensee must also submit a sketch clearly highlighting the ancillary areas. This application is designed to allow all indoor ancillary

areas such as hallways, entrance areas, stairwells and washrooms to be fully licensed. Patrons are permitted to carry and consume their drinks in these areas, and licensees may sell and serve liquor to patrons in these locations.

No increase in capacity

An application fee will not apply if these ancillary areas do not result in any increase in the overall capacity of the licensed establishment. No separate capacity will be assigned to these areas.

To qualify for licensing, these areas must be indoors and they must adjoin a licensed area. They must be under the exclusive control of the licence holder.

Licensees who already have this washroom, hallway, stairwell endorsement on their liquor licence, and are

now in the process of renewing it, will automatically have it indicated on their licence upon renewal.

A reminder

However, licensees are reminded that an application form (Form 1221) and application fee are required for changes or additions to existing licensed areas that increase the capacity of an existing area, adding a new licensed area (indoor or outdoor) or changes to boundaries from the original layout.

For more information on licensing of ancillary areas, please contact AGCO Customer Service at 416.326.8700 or toll free 1.800.522.2876 or visit our website at www.agco.on.ca

New and updated liquor information materials now available

The AGCO has a wide range of new and updated liquor information materials available, designed to help inform and educate liquor sales licensees and their staff about the province’s liquor laws. The materials include:

- **You and the Liquor Laws:** A short booklet for employees of liquor sales licensed establishments.
- **You and the Liquor Laws-Plus:** A guide for owners and managers focusing on the operational aspects of maintaining a liquor licence in good standing.
- **Know the Liquor Laws:** A CD containing complete copies of the *Liquor Licence Act* and regulations.
- **Responsible Service Tip Sheets:** A series of topic specific information bulletins covering important requirements of the *Liquor Licence Act* and regulations.
- **Annual Reports:** These cover the AGCO yearly operational activities and related liquor information.
- **Licence Line:** A publication regularly distributed free to all liquor sales licensees and others interested in liquor matters. It covers changes to the province’s liquor laws and other information of interest to the beverage alcohol industry.
- **Sandy’s Law Poster:** A colour poster (8” x 10”) relating to fetal alcohol spectrum disorder (FASD) that is to be prominently displayed in liquor licensed establishments.
- **AGCO window decals:** Indicating the establishment is licensed to sell and serve beverage alcohol.
- **And don’t forget to visit our website at www.agco.on.ca.** Here you will find many new features like “mini sites” for key stakeholders, application forms, licensing requirements, decision summaries, how to request a hearing and a lot of general and specific information pertaining to the sale and service of beverage alcohol in Ontario.

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.



New Director of Investigations appointed



Inspector Andrew Ferguson, a 20 year member of the Ontario Provincial Police (OPP) has been appointed the new Director of the AGCO's Inspection and Investigation Branch.

Insp. Ferguson began his police career in the Western Region, Guelph Detachment. In 2000, he

was promoted to Sergeant and assigned to the Midland Detachment where he spent 12 years. In 2007, he was promoted to Staff Sergeant and was a Crisis Negotiator over the 10 year period from 2000 to 2010.

On July 23, 2012, he was given the rank of Inspector and moved to the AGCO. He has extensive experience at both the Provincial Commanders Office and Field Support Bureau.

Continued from p. 1 *Taking responsible measures*

Maintaining control

Whether inside or outside, licensees and/or their management must always maintain control over their establishments.

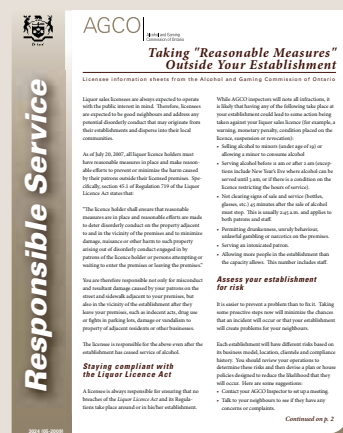
A licensee must provide proper supervision over his/her establishment. Licence holders and/or their management must maintain control over the licensed premises including who is permitted to enter or remain and the activities that are permitted to occur there. Sufficient control will be determined on a case-by-case basis and licensees may face compliance actions if they do not provide adequate supervision over their establishments. For example:

- A licensed establishment should be adequately staffed.
- Depending on the type of premises and patrons, all entrances should be properly supervised.
- Patrons should always be sufficiently monitored to ensure that no improper activities are taking place.

Illegal activities (such as selling or using narcotics, illegal gambling, etc.) have never been permitted in licensed establishments and licensees should never create an

environment that makes it easier for these activities to occur. Licensees are obligated to maintain proper control and proactively ensure that they have the proper mechanisms and procedures in place to effectively control their establishments, as well as to limit potential problems before they happen or become serious.

Even if you have house policies in place to prevent incidents, occurrences may arise that require intervention by you or your staff. You should have contingency plans in place.



A Responsible Service Tip Sheet entitled **"Taking 'Reasonable Measures' Outside Your Establishment"** with further information on this subject is available on our website at www.agco.on.ca.

Overcrowding in liquor licensed establishments

Every licensed area, whether indoor or outdoor, has an assigned capacity which is indicated on the liquor sales licence. In most cases, capacity is set by the local building department and represents the number of persons — including staff — that is permitted to be in that space at any one time. To ensure the safety of staff and patrons and to avoid overcrowding, licensees must not allow the number of persons in any licensed area to exceed capacity.

Licensees and staff must keep track of the number of persons entering and leaving the facility. Depending on the size of the venue, this could be done using mechanical counters or clickers.

Combined counts

Separately listed licensed areas cannot be combined into one large capacity. For example, if the first floor is licensed for 100 and the second floor is licensed for 100, the licensee cannot allow 200 people on a single floor. In another example, if the indoor capacity is 50 and the outdoor capacity is 50, the licensee cannot allow 100 people in the indoor area if the patio area is closed.

Licensees who are in contravention of this regulation can be assessed a monetary penalty of up to \$5,000.00 and/or in some cases have their liquor sales licence suspended or revoked.

Know the Liquor Laws

Register Now for the Fall of 2012 –
Guarantee your spot early

The AGCO continues to host **FREE** seminars across the province for liquor sales licensees, management and staff to better understand your responsibilities regarding the sale and service of alcohol.

Topics in this 2 ½ hour (two part) training seminar include:

Part 1 (for owners, managers and staff)

- The AGCO's role and your obligations under the *Liquor Licence Act* and Regulations
- Liability and personal accountability
- Responsible selling and serving of alcohol
- Where liquor can be sold, served and consumed

Part 2 (for owners and managers)

- Advertising, pricing and promotion
- Defining relationships with manufacturers' representatives/licensed representatives
- Keeping your liquor licence in good standing



"Very informative – will send more management & staff on your next visit"

— Manager, St. Catharines

"Should be mandatory for anyone involved in the liquor industry" — Manager, Kenora

+ 8,000 owners, managers, bartenders, servers and security staff attended

+ 80% said they would recommend attending this seminar because they found the information useful and learned something



Have Questions Answered

One of the most popular and worthwhile aspects of these seminars is the opportunity to seek clarification during the open Question and Answer portions of the seminar.

AUGUST 2012

Peterborough Tuesday, August 14
Trenton Wednesday, August 15
Kingston Thursday, August 16
Oakville Wednesday, August 22
Toronto (Central) Wednesday, August 29

SEPTEMBER 2012

Kenora Wednesday, September 12
Thunder Bay Thursday, September 13
St. Catharines Tuesday, September 18
Burlington Wednesday, September 19
Guelph Thursday, September 20
Toronto (East) Wednesday, September 26

OCTOBER 2012

Walkerton Tuesday, October 16
Owen Sound Wednesday, October 17
Collingwood Thursday, October 18
Toronto (West) Tuesday, October 30

NOVEMBER 2012

London Tuesday, November 20
Sarnia Wednesday, November 21
Windsor Thursday, November 22
Toronto (North) Thursday, November 29

Detailed information on these Educational Seminars is available on our website at www.agco.on.ca

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.

Editor, Licence Line

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Disponible en français



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