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AGCO to post Public Notice of liquor sales licence applications on its website

Effective September 30, 2013, the AGCO will post Public Notices of liquor sales licence applications on its website (www.agco.on.ca). This initiative is a result of AGCO’s ongoing review and amendment of its policies and practices to increase transparency in operations, improve public access to information, enhance appropriate public participation in liquor licensing decisions, and remove barriers for businesses.

Public Notices for the following types of liquor sales licence applications will be posted to the AGCO’s website:

- Where an application for a liquor sales licence has been filed with the AGCO and there has been no liquor sales licence at that address for at least six (6) months;
- Where an existing licensee wishes to license an outdoor space such as a patio;
- Where an existing licensee wishes to increase the licensed capacity of the establishment (indoor or outdoor) by more than 25%; and
- Where the Registrar of Alcohol and Gaming may require public notification due to the location or the past compliance history of an establishment.

Members of the public have historically been advised of these types of applications by a large Public Notice placard posted in the window of the establishment for up to 30 days and by the publishing of a formal Public Notice in the English and French language newspapers (where applicable) of the municipality in which the establishment is located. While a Public Notice placard will still be required to be posted in the window of the affected establishment, after September 30, 2013, the newspaper posting requirement will be replaced by the AGCO’s website listing of applications that will be updated weekly.



ELEANOR MESLIN

FROM THE
CHAIR...

In this issue of Licence Line we cover a wide range of topics that focus attention on key areas of the liquor industry in Ontario.

Best Bar None

Together with Tony Elenis, President of the ORHMA, I had the great pleasure of attending the first awards ceremony of the Best Bar None program earlier this year. BBN is an industry-led accreditation program aimed at recognizing excellence in operations and

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“Open Ontario” pilot project looks
to streamline inspections process
across agencies

Since April, the AGCO has been working together with the City of London/Middlesex-London Health Unit and other government ministries and agencies which regulate businesses on a pilot project to improve the inspections experience for restaurants, bars, lottery retailers and convenience stores. The “Open Ontario” pilot project will also help educate business owners on their responsibilities and the steps they need to take to maintain compliance with the law.

Continued on p. 2 See *Open Ontario*

Alcohol and Gaming Commission of Ontario
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Toronto, Ontario
M2N 0A4



Decision Summary

The following establishments requested a hearing before the Licence Appeal Tribunal regarding compliance issues and received suspensions of 14 days or more and revocations for the period beginning June 1, 2013 ending August 31, 2013. Sanctions for similar infractions may vary in length according to the specifics of each case. For details on the Licence Appeal Tribunal visit www.lat.gov.on.ca

ESTABLISHMENT	INFRACTION	SANCTION
Point Dining Lounge (The), Woodlawn	Liquor sold to person who appears to be intoxicated; permitted drunkenness	45 days
Truc Karaoke, North York	Licensee failed to ensure control of premises was maintained; breach of condition of the establishment’s liquor licence	43 days ¹
Suspensions of 14 days or more and revocations where the licensee did not request a hearing.		
ESTABLISHMENT	INFRACTION	SANCTION
Canadian Lounge, Sault Ste Marie	Liquor sold to person who appears to be intoxicated; permitted drunkenness; failure to facilitate inspection; encouraged immoderate consumption; service outside prescribed hours; failure to clear signs of service; licensee failed to ensure control of premises was maintained	21 days
G’s Chill & Grill Sports Bar, Scarborough	Overcrowding; failure to clear signs of service	14 days
Lakeshore Hotel, Keewatin	Liquor sold to person who appears to be intoxicated; permitted drunkenness; permitted removal of liquor from premises	45 days
Lion Restaurant & Bar (The), Orillia	Liquor sold to person who appears to be intoxicated; permitted drunkenness; violent and disorderly conduct; licensee failed to ensure control of premises was maintained; licensee failed to ensure reasonable measures taken to deter disorderly conduct, or minimize the harm caused from it, in the vicinity of the licensed establishment; breach of condition of the establishment’s liquor licence	21 days
My Bar & Restaurant, Toronto	Sale not under licence; liquor not purchased under licence	30 days
Patti’s Good Food, Mississauga	Not financially responsible in conducting its business due to <i>Retail Sales Tax Act</i>	Licence Revoked
Petite Lounge, Etobicoke	Past conduct	Licence Revoked
Romeo Bouzouki Lounge, Toronto	Service outside prescribed hours; failure to clear signs of service; obstructing an inspection	24 days
To The Lounge, Woodstock	Past conduct; liquor not purchased under licence	14 days

¹Suspension served from May 30, 2013 to July 12, 2013

Vaporizing alcohol not permitted for sale or service in Ontario licensed establishments

Recent news reports have indicated that some distributors may attempt to market a liquid vaporizer to Canadian bars and restaurants. Vaporizing liquor, also known as “smoking alcohol” and “alcohol without liquor” (AWOL) is a mixture of alcohol and oxygen, or other gases, to produce a mist for inhalation.

Using a device, sometimes called a “Vaportini”, the resulting vapor product is inhaled. The alcohol fumes enter the bloodstream faster and its effects are more immediate than regular alcohol drinks.

In Ontario, only alcohol in its original form is permitted to be sold and served at licensed establishments as per Regulation 719/90, so licensees are reminded that they are

prohibited from permitting the use of AWOL or vaporizers in their establishment.

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For six months, all participants will carry out their own inspections while sharing information on alleged infractions. For example, a health inspector may see some violations of the *Liquor Licence Act* while inspecting a bar and will report these to the AGCO, while an AGCO inspector may notify the Health Unit about unsanitary conditions in a restaurant’s kitchen.

At the end of the six month pilot project, the results will be analyzed to see where improvements can be made to the overall inspections regime in Ontario, and what types of administrative relief might be made available to businesses which remain compliant with the law.

“Open Ontario” supports the Ontario government’s desire to eliminate duplication and work with the business community to improve and streamline a variety of different inspections that businesses currently undergo.



Successful launch of new awards program for Ontario’s liquor licensed establishments

Best Bar None (BBN), an international industry led promotional and accreditation program, held its inaugural awards ceremony at Toronto’s Hyatt Regency Hotel in May. BBN Ontario 2013 operated as a pilot project focussed on Toronto’s Entertainment District. Over 40 bars, clubs, pubs, hotels and lounges which applied received accreditation and were eligible for awards in seven categories. The winners are:

- Best Overall — The Bier Markt*
- Best Bar/Lounge — The Bier Markt*
- Best Restaurant — 360 Restaurant at the CN Tower*
- Best Pub — Fionn MacCool’s*
- Best Club — Footwork*
- Best Members Club — The Spoke Club*
- Best Hotel Lounge — Intercontinental Toronto Centre*

Sponsored by Ontario’s wine, spirits and beer manufacturers and distributors, BBN aims to:

- Promote responsible management service and operations of licensed establishments;
- Reduce the number of alcohol-related issues;
- Raise the standards of licensed establishments; and
- Build positive relationships among operators, industry partners, law enforcement and the community.

Speaking at the awards ceremony, Eleanor Meslin, Chair of the AGCO, said BBN Ontario “is a unique opportunity for establishments to voluntarily raise their standards to improve the safety of their venues and their communities”.

Said **Tony Elenis**, President of the Ontario Restaurant, Hotel and Motel Association, “We were looking for a program that would be able to bring partners and stakeholders together and we’ve managed to work with the AGCO, the LCBO, residents association, city police, licensees and other partners. It’s industry-driven and completely voluntary, and driven more by compliance than enforcement”.



Bier Markt wins best overall award. Pictured left to right are **Jean Major**, CEO (AGCO), **Tyrone Gale**, GM (The Bier Markt) and **Tony Elenis**, Pres. and CEO (ORHMA)

He added, “The program mirrors one begun in the U.K. in 2003, meaning that it was tried and true before it was unveiled here”. Mr. Elenis, who led the industry’s involvement, said his organization will evaluate the pilot project before opening up the application process for 2014.

For more information on the BBN Ontario program, please visit: www.bbnontario.ca

Pricing and promotion of liquor for liquor sales licensees

Minimum liquor pricing in Ontario is intended to provide licensees with the ability to offer responsible drink price flexibility through the setting of a floor price for liquor sold in licensed establishments.

A standard-sized drink may not be sold or supplied for less than \$2.00 including taxes whether the liquor is sold separately or as part of a package that includes food.

- A serving of liquor is defined as follows:
- 341ml (12 oz) of beer, cider or cooler
 - 29ml (1 oz) of spirits
 - 142ml (5 oz) of regular wine
 - 85ml (3 oz) of fortified wine

The minimum price changes depending on the size of the serving of liquor provided to the patron. If a licensee offers for sale a serving of liquor that differs in size from those listed above, the minimum price for that serving will increase or decrease in direct proportion to the difference in volume of liquor contained in that serving.

For easy reference, the following chart provides some examples of the minimum price for various common sizes in which liquor is served.

Beer	284ml (10 oz)	455ml (16 oz)	568ml (20 oz)	1.7l (60 oz)
Minimum Price	\$1.67	\$2.67	\$3.33	\$10
Regular Wine	170ml (6 oz)	500ml (18 oz)	750ml (26 oz)	1l (35 oz)
Minimum Price	\$2.40	\$7.20	\$10.40	\$14
Spirits	14ml (0.5 oz)	43ml (1.5 oz)	57ml (2 oz)	85ml (3 oz)
Minimum Price	\$1	\$3	\$4	\$6

- Tips for pricing and promotion of liquor
- You may change your drink prices multiple times a day.
 - Revised drink prices must always be posted or provided to patrons.
 - Liquor prices must be the same for all patrons.
 - Drink prices may not be based on the purchase of other drinks.
 - Prices and promotions may be advertised outside of the establishment.
 - The posting and advertising of prices and promotions must be responsible in nature.

Liquor sales licensees are under the general obligations not to serve intoxicated individuals or minors, permit drunkenness on their premises and/or promote immoderate consumption.

For more detailed information on pricing and promotion of liquor sales in licensed establishments, please refer to our Information Bulletin No. 014 on the AGCO website (www.agco.on.ca) or contact AGCO Customer Service at (416) 326-8700 or toll free in Ontario at 1-800-522-2876.

Ontario Human Rights Tribunal rules on medical marijuana

On July 4, 2013, the Ontario Human Rights Tribunal issued a decision dismissing a complaint against a liquor licensed establishment accused of discrimination for not allowing a patron to smoke “medical marijuana” outside the establishment’s front door. In the decision, the Tribunal stated that “...the complainant has not established that he has any disability-related need to smoke marijuana in close proximity to the restaurant’s entrance, or that the [licensee’s] requirement that he not do so created any disadvantage for him in relation to disability.”

The Tribunal added that “... the [licensee’s] requirement that marijuana not be smoked in close proximity to the restaurant’s entrance is reasonable,” and that permitting the complainant to smoke marijuana in close proximity to the restaurant’s entrance would have given rise to undue hardship for the licensee.

The licensee had said he was warned that he could lose his liquor licence if anyone were caught smoking marijuana on the restaurant property, per Section 45(2) of Regulation 719 of the *Liquor Licence Act*, which states:

“The licence holder shall not permit a person to hold, offer for sale, sell, distribute or consume a controlled substance as defined in the *Controlled Drugs and Substances Act* (Canada) on the premises or in the adjacent washrooms,

liquor and food preparation areas and storage areas under the exclusive control of the licence holder.”

For a complete text of this decision, see Human Rights Tribunal of Ontario File #HR-1294-07.

Earlier decision*

This decision is similar to one dated September 19, 2011, where the Tribunal found that while licensed medical marijuana users may keep marijuana in their possession at a liquor sales licensed establishment, they are not entitled to smoke marijuana anywhere at the establishment (including a patio, whether covered or uncovered) because of the potential effects of sidestream marijuana smoke on other persons.

The result of these decisions is that a liquor sales licensee must not permit any patron to smoke marijuana at his/her establishment, regardless of whether or not the patron possesses a medical marijuana licence, and permitting marijuana use can lead to an administrative sanction against the licence.

*See story published in Licence Line Volume 11 • Issue 3 • 2011 (page 7).

Reminder

Buy liquor only from a government store, and only on licence



Licensees are required by law to purchase liquor for sale and service at their licensed establishment only from a “government store”. Liquor not bought from a government store (i.e. LCBO, Brewers Retail Inc. or an AGCO authorized winery, distillery or brewery retail store) is considered illegal liquor. Licensees should ensure that all liquor on your premises has been legally purchased under your establishment’s licence.

If you have recently taken over an establishment from another operator, make sure that all current stock was purchased under the liquor sales licence.

Licensees found with illegal liquor anywhere on the premises, including offices, food preparation areas and storage rooms, can face sanctions under the *Liquor Licence Act*, including a suspension of the liquor licence.

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.



The “Big 5” infractions are the primary focus for AGCO inspectors

In Ontario, there are a wide range of rules to ensure that beverage alcohol is sold and served responsibly. The province’s liquor regulatory regime flows from the *Liquor Licence Act* and Regulations which are periodically amended to ensure regulatory objectives continue to be met.

While the *Liquor Licence Act* is broad ranging and covers everything from licences to sell and serve liquor to outlining appropriate compliance tools to establishing penalties for misconduct, there are a number of sections in the legislation that deal with issues that generally pose the greatest risk to the public interest. These provisions are often referred to as the “Big Five” and include:

Serving minors

No licensee shall permit a person who appears to be under nineteen years of age to have or consume liquor in the licensed premises.

Serving intoxicated patrons

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

Overcrowding

The licence holder shall ensure that the number of persons on the premises to which the licence applies, including employees of the licence holder, does not exceed the capacity of the licensed premises as stated on the licence.

Allowing drunkenness, violent, unruly or disorderly behavior/illegal drugs

The licence holder shall not permit drunkenness, unlawful gambling, 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 exclusive control of the licence holder.

The licence holder shall not permit a person to offer for sale, sell, distribute or consume a controlled drug or substance as defined in the *Controlled Drugs and Substances Act* (Canada) on the licensed premises or adjacent washrooms, food preparation or storage areas under the exclusive control of the liquor licence holder.

Serving after hours

The licensee shall ensure that liquor is sold or served only during the hours specified on the liquor licence, and that evidence of liquor served and consumed on the premises is removed within forty-five minutes after the end of the period which liquor may be sold and served under the licence.

Licensees have full responsibility

As a result of the AGCO’s risk-based enforcement approach, the Big Five form the primary focus of AGCO regulatory assurance activities and compliance efforts. While disciplinary action may be pursued for any infraction of the *Liquor Licence Act*, breaches of the Big Five will frequently lead the AGCO to propose a monetary penalty, suspension and/or revocation of the liquor licence.

Licensees are reminded they are fully responsible for complying with all liquor laws and regulations in the operation of their licensed establishment. For full details on monetary penalties, suspensions and other administrative sanctions, as well as a link to the full text of the *Liquor Licence Act* and regulations, please visit our website at www.agco.on.ca

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responsible service of beverage alcohol. Operating successfully in the U.K., Florida and Alberta, Ontario launched BBN as a pilot project in Toronto’s Entertainment District. The driving force for this initial effort was Tony Elenis who worked especially hard and successfully with a group of other organizations from the hospitality industry, community organizations and government agencies such as the AGCO and the LCBO. Altogether, it was a very successful event. On behalf of the AGCO, I want to congratulate all of the winners and accredited establishments, and thank all who made such a fine effort to ensure a good beginning to what I hope will be a BBN program expanded across the province in the coming years.

The “Big Five”

We also highlight in this edition areas of non-compliance with liquor laws that draw special attention from our inspection staff. Generally referred to as the “Big Five”, these liquor related offences almost always lead to disciplinary action such as a monetary penalty or suspension of a liquor licence.

Marijuana and vaporized liquor

Other stories focus on the prohibited use, possession and sale of controlled drugs and substances, including marijuana, in a licensed

establishment; the law against allowing vaporized alcohol; and the requirement to purchase liquor from a government store.

Advertising changes

In an effort to reduce red tape and costs for liquor sales licensees and applicants, we have removed the requirement to place advertisements in newspapers for some types of liquor sales licence applications. These changes will come into effect on September 30, 2013.

Of some general interest, we cover liquor pricing and publish an up-to-date calendar for our ongoing Educational Seminars.

I trust the articles in this edition are informative and useful to all licensees.



Eleanor Meslin, Chair

Know the Liquor Laws

Free Seminars for liquor sales licensees, management and staff

The AGCO will lead you through information to better understand your responsibilities.

This 2 ½ hour seminar includes:

Part 1

- Liquor laws that apply in the day-to-day sale and service of alcohol including new opportunities
- Understanding liability
- Where liquor can be sold, served and consumed
- Handling an AGCO Inspector’s visit smoothly
- Open Question and Answer period

Break

Part 2

- Advertising, pricing and promotion flexibility
- Relationships with manufacturers and their licensed representatives
- Keeping your liquor licence in good standing
- Open Question and Answer period

Educational Seminars Calendar

SEPTEMBER 2013	
Kapuskasing.....	Wednesday, September 11
Toronto (Central)	Wednesday, September 18
Brockville.....	Tuesday, September 24
Hawkesbury.....	Wednesday, September 25
Perth	Thursday, September 26

OCTOBER 2013	
Burlington.....	Wednesday, October 9
London.....	Tuesday, October 22
Sarnia.....	Wednesday, October 23
Windsor	Thursday, October 24
Mississauga	Wednesday, October 30

80%+ of over **8,000** participants said they would recommend attending because they found the information useful and learned something

- Since this program began the AGCO has conducted more than 180 educational seminars and visited some 65 Ontario cities and towns (with multiple trips to the larger centres).
- Over the next several months we expect to conduct an additional 40 seminars - with new stops added for Kapuskasing, Hawkesbury, Perth, Bancroft and Elliot Lake.
- During the educational seminars, AGCO staff have distributed more than 61,000 pieces of informational materials relating to the sale and service of beverage alcohol.

“Very good session – long overdue”
— London

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

“Very informative and interesting questions”
— Hamilton

NOVEMBER 2013	
Cambridge.....	Tuesday, November 5
Fort Erie	Wednesday, November 6
St. Catharines	Thursday, November 7
Toronto East	Wednesday, November 20

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.

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