

Alcohol and Gaming
Commission of Ontario

Liquor Advertising Guidelines

Liquor Sales Licensees and Manufacturers

October 2016



3099E (2016/10)

AGCO

Alcohol and Gaming
Commission of Ontario



Alcohol and Gaming Commission of Ontario

90 SHEPPARD AVE E ● SUITE 200

TORONTO ON M2N 0A4

Fax: 416 326-8711

Tel: 416 326-8700 or 1 800 522-2876 toll free in Ontario

© Queen's Printer for Ontario, 2016 ● Disponible en Français

Website: www.agco.on.ca

TABLE OF CONTENTS

Introduction.....	4
Definitions.....	5
Pricing and Promotion of Liquor by Liquor Sales Licensees.....	6
Guidelines for Liquor Sales Licensees and Manufacturers	9
Manufacturers' Promotions.....	14
Prohibition Against Inducements by Manufacturers.....	16

INTRODUCTION

The *Liquor Licence Act* (LLA) states that no person shall advertise liquor except in accordance with the regulations enacted pursuant to the Act.

Section 87 of Regulation 719 and section 5 of Regulation 720 under the LLA permit the holder of a liquor sales licence or a manufacturer of liquor to advertise liquor within specified criteria and in accordance with these guidelines. These guidelines focus on specific concerns regarding advertising liquor and provide interpretations of the various criteria set out in the regulations. The notes following each guideline assist in interpretation and are by no means exhaustive in their scope.

Although obtaining the prior approval of the Alcohol and Gaming Commission of Ontario (AGCO) for advertising by holders of liquor sales licences or manufacturers of liquor is not necessary, it is their responsibility to ensure that advertising carrying its business or brand name, or endorsed by it, falls within the parameters set out in the regulations and in these guidelines.

Advertising that is beyond the permissible scope may result in disciplinary proceedings being initiated by the Registrar of Alcohol and Gaming and/or the issuance of an order of cessation by the AGCO Board. Violations of the LLA or the regulations enacted there under may result in compliance or enforcement action.

Proposed advertising should be considered on the basis of both the express as well as any implied message, which is conveyed. The guidelines apply to all aspects of the advertisement such as the more obvious copy, graphics, lyrics, script and video, as well as the less obvious but influential aspects such as background music, voice inflection, etc.

Manufacturers and liquor sales licensees are responsible for all advertising (including merchandise) bearing their identification including corporate or brand identification that is displayed or distributed by any person. This will include all authorized advertising done on a manufacturer's or sales licensee's behalf. The manufacturer or liquor sales licensee is not responsible where it has not authorized advertising and has been diligent in its efforts at stopping the advertising once it has become aware of it. The manufacturer or liquor sales licensee must show it has exercised reasonable care and employed suitable precautions to ensure compliance.

Interpretations of the guidelines may be published from time to time.

DEFINITIONS

“Advertising” means any public notice, representation, or activity, including promotional and marketing activities, that is intended to attract attention to liquor, the brand name of liquor, the name of the premises where liquor is available, or the name under which the holder of the licence carries on business and “advertise” and “advertisement” have corresponding meanings.

“Public Service Advertising” means any advertising carrying a strong message against irresponsible use of liquor where the message does not contain any direct or indirect endorsement of liquor, the brand name of a type of liquor or of the consumption of liquor.

- (i) For the purpose of these guidelines “advertising” refers to the act of making the company, brand, or product generally or publicly known. This will include categories previously known as public service advertising, corporate advertising, brand advertising, promotional activities, media buys, and general marketing practices.
- (ii) References to products, manufacturers, licensed establishments, etc. in editorial material will not be viewed as advertising.

“Liquor” means beer, wine and/or spirits or any combination thereof.

“Registrar” means Registrar of Alcohol and Gaming.

Pricing and Promotion of Liquor by Liquor Sales Licensees

The following directives form part of the Liquor Advertising Guidelines for Liquor Sales Licensees and Manufacturers and provide guidance on defining practices that may tend to encourage the immoderate consumption of liquor. Liquor sales licensees are prohibited from engaging in or permitting practices which may tend to encourage patrons' immoderate consumption of liquor by s.20 (1) of Regulation 719 under the *Liquor Licence Act*.

Liquor sales licensees in Ontario are required to offer, promote, sell, and serve liquor in accordance with these directives.

1. **A standard-sized drink may not be sold or supplied for less than \$2.** As outlined in ss.20 (3) of Regulation 719, licensees may not offer for sale or supply a serving of liquor for a price below the minimum price of \$2, including taxes, whether the liquor is sold separately or as part of a package that includes other goods or services such as food, a haircut or a spa treatment. A serving of liquor is defined as follows:
 - (a) 341 ml (12 oz) of beer, cider or cooler;
 - (b) 29 ml (1 oz) of spirits;
 - (c) 142 ml (5 oz) of regular wine;
 - (d) 85 ml (3 oz) of fortified wine.

2. **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 shall 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	284 ml (10 oz)	455 ml (16 oz)	568 ml (20 oz)	1.7 L (60 oz)
Minimum Price	\$1.67	\$2.67	\$3.33	\$10

Regular Wine	170 ml (6 oz)	500 ml (18 oz)	750 ml (26 oz)	1 L (35 oz)
Minimum Price	\$2.40	\$7.20	\$10.40	\$14

Spirits	14 ml (0.5 oz)	43 ml (1.5 oz)	57 ml (2 oz)	85 ml (3 oz)
Minimum Price	\$1	\$3	\$4	\$6

- 3. Responsible drink price flexibility is permitted.** A licensee may vary the purchase price of liquor as long as it remains above the minimum price, whether offered in combination with food or other goods or services, such as 'wine with dinner', 'beer with wings', or 'a cocktail with a spa treatment' or for a specified time. For example, a licensee may offer a different price for a glass of wine provided with a certain meal on a regular basis, a different price for martinis on a certain day or a different price for domestic beers, house wine and bar shots during a certain period of a day as long as the cost of the liquor itself remains at or above the minimum price. It is important to remember that licensees are prohibited from requiring patrons to purchase liquor to enter or remain on the premises and are therefore required to offer other goods and services that do not require the purchase of alcohol.
- 4. Revised drink prices must always be posted or provided to patrons.** If there is a temporary change in the price of liquor, served alone or in combination with food or other goods or services, the licensee must post or provide a notice specifying the change and make it visible or available to all patrons attending the premises while the change is in effect to comply with s.53 of Regulation 719.
- 5. Liquor prices must be the same for all patrons.** A licensee is required to offer uniform liquor pricing to all patrons. Promotions that target certain segments of the population, such as students or women, are not permitted. A licensee, however, is permitted to offer different liquor prices in separate locations of their establishment. For example, a licensee may offer liquor prices to patrons in a patio area that are different from those offered in an indoor area. A licensee may accept items such as discounted gift cards for the purchase of liquor and food or other goods or services as long as the items are available to all segments of the population.
- 6. Drink prices may not be based on the purchase of other drinks.** A licensee is not permitted to offer a difference in the price of liquor which is contingent on another purchase of liquor or is offered at regular intervals. For example, promotions such as '2 for 1 drinks', '2nd drink is ½ off' or 'every 3rd drink is \$2' are prohibited under all circumstances.
- 7. Prices and promotions may be advertised outside of the establishment.** A licensee may advertise or post liquor prices and promotions outside of the licensed premises. For example, postings on a 'sandwich board' may include such items as time periods prices are in effect, food or other goods or services included in a promotion, brands and generic categories like "domestic beers", "margaritas" or "a glass of our finest wine".

- 8. The posting and advertising of prices and promotions must be responsible in nature.** A licensee is not permitted to advertise or post liquor prices and promotions, inside or outside of the licensed premises, in a manner that may promote immoderate consumption. For example, the use of the terms “Happy Hour” or “Cheap Drinks;” or something similar, is prohibited.
- 9. Patrons may be provided complimentary drinks under certain circumstances.** A licensee and/or the employee of a licensee may purchase liquor for a patron at the established listed price for purposes such as recognizing regular patronage, celebrating special events, expressing friendship, or acknowledging poor service. Liquor may not be purchased for patrons as part of a promotion or at regular intervals, or indiscriminately for patrons at the establishment.* For example, a licensee or employee may not purchase liquor to entice patrons to enter the establishment, make further liquor purchases, or advertise or announce the availability of liquor purchases for patrons in any manner.
- 10. All-inclusive vacation packages.** As outlined in ss.20(8) of Regulation 719, licensees may offer for sale a package including the cost of liquor and one or more of a trip, accommodation, food or other services. This enables premises such as resorts and hotels to package liquor with travel and vacation goods and services, such as offering one price for liquor service with a hotel stay, or food and drink vouchers to be used at the resort’s restaurant or bar. As well, travel related licensees such as airport lounges, boats and railway cars may package liquor with the cost of a ticket.

While these directives provide guidance on certain responsible practices, other practices that generally promote immoderate consumption, including the over-service of patrons and permitting contests, challenges and events requiring or encouraging the consumption of liquor, are not permitted and may lead to administrative sanction.

It is also important to note that liquor sales licensees remain under general obligations not to serve intoxicated individuals and/or permit drunkenness in their establishments and must continue to operate in accordance with the other provisions of the Liquor Advertising Guidelines for Liquor Sales Licensees and Manufacturers, as well as all other applicable regulations and laws.

* The holder of a licence to sell liquor that applies to premises in which the Ontario Lottery and Gaming Corporation conducts and manages lottery schemes with respect to any part of the premises to which public access is restricted and which are approved by the Registrar of Alcohol and Gaming may be exempted from this provision. For purposes of this exemption, the premises may include the gaming floor of a casino and ancillary premises, such as a hotel, that are under the control of the licence holder.

Guidelines for Liquor Sales Licensees and Manufacturers

Except for public service advertising, the holder of a licence to sell liquor or a manufacturer of liquor may advertise or promote liquor or the availability of liquor only if the advertising:

(1) is consistent with the principle of depicting responsibility in use or service of liquor;

- (i) An advertisement cannot promote excessive consumption or depict excessive or prolonged consumption, or excessive quantity of liquor, or occasions of use or drinking situations, which are likely to involve risk to those present. An example of excessive consumption, which cannot be implied, is consumption of more than three drinks on an occasion.

(2) promotes a general brand or type of liquor and not the consumption of liquor in general;

- (i) Advertisements may not promote the merits of consumption.
- (ii) Advertising, produced by individual manufacturers or organizations representative of a group of manufacturers, pertaining to generic categories of liquor, is permitted provided the advertising is consistent with all other advertising regulations.
- (iii) Advertisements may not make claims, direct or implied, of healthful, nutritive, curative, dietetic, stimulative or sedative benefits of the liquor product. However, factual attributes of the liquor product which are commonly accepted by recognized authorities (such as the Centre for Addiction and Mental Health, Health & Welfare Canada, or national or provincial medical associations) may be stated in the advertisement provided the attributes relate to the particular brand or type of liquor and does not promote the consumption of liquor in general.

(3) does not imply that consumption of liquor is required in obtaining or enhancing:

- (a) social, professional or personal success,**
- (b) athletic prowess,**
- (c) sexual prowess, opportunity or appeal,**
- (d) enjoyment of any activity,**
- (e) fulfilment of any goal, or**
- (f) resolution of social, physical or personal problems.**

- (i) Endorsement of a liquor product by well-known personalities shall not directly or indirectly suggest that the consumption of any liquor has contributed to the success of their particular endeavours.

(4) does not appeal, either directly or indirectly, to persons under the legal drinking age, or is not placed in media that are targeted specifically at people under that age;

- (i) No well-known personality may be used in liquor advertising who may reasonably be expected to appeal, either directly or indirectly, to persons under the legal drinking age if the advertisement contains any direct or indirect endorsement of liquor or the consumption of liquor. This may include historical, political, religious and cultural figures as well as celebrities and sports figures. (This would not apply to public service advertisements provided there is no direct or indirect endorsement of liquor or consumption of liquor by the well-known personality.)
- (ii) Children's songs, fictional characters etc., or the imitation thereof, may not be used in advertising.
- (iii) A sales licensee or manufacturer may donate corporate or brand identified scholarships, bursaries and scholastic prizes to be awarded to post secondary school students.
- (iv) The use of a medium that is targeted at persons under the legal drinking age is not permitted. For example advertisements may not appear in magazines targeted specifically at people under the legal drinking age. Advertisements may run in conjunction with movies in movie theatres or on videos which have a "Restricted to persons 18 or older" (R) rating and may not run in conjunction with movies which have a "Suitable for All" (G) rating. Subject to the Ontario Film Review Board guidelines, movies with "Parental Guidance Recommended" (PG), "Persons younger than 14 must be accompanied by an adult" (14A) and "Persons younger than 18 must be accompanied by an adult" (18A) ratings will have to be dealt with cautiously to ensure the movie itself is not targeted specifically at persons under the legal drinking age. Stationary outdoor advertising should not be placed within 200 metres of a primary or secondary school.
- (v) Advertisements should not be placed within areas which are specifically targeted at persons under the legal drinking age if the advertisement directly or indirectly endorses liquor or the consumption of liquor. Statistics indicating that 51% of the audience are above the legal drinking age may not in itself avoid the targeting restriction since a medium or venue may be

targeted at persons under the legal drinking age and still have an audience which is predominantly above the legal drinking age. An example of this would be a children's concert which is attended by a large number of parents.

- (vi) Songs, which have a specific appeal to persons under the legal drinking age, shall not be used for advertising.
- (vii) A contest run by an organization other than the manufacturer, which the manufacturer is sponsoring, is not required to be limited to persons of legal drinking age provided the contest is not specifically targeted to persons under the legal drinking age. However, if the manufacturer is presenting a contest, participation is limited to persons of legal drinking age.
- (viii) Portrayals of well-known personalities which would generally be prohibited due to the potential that the personality may appeal to persons under the legal drinking age may be used provided the use of the personality is incidental to the advertisement and the use of the personality does not make the advertisement appealing to persons under the legal drinking age.
- (ix) Notwithstanding this subsection, any advertising of a licensed establishment, which does not refer to the availability of liquor, may appeal to persons under the legal drinking age and may be placed in media targeted specifically at people under the legal drinking age. For example, a family restaurant may wish to sponsor an event targeted at people under the legal drinking age. This may be done provided the references to the licensed establishment do not include any references to the availability of liquor.

(5) does not associate consumption of liquor with driving a motorized vehicle, or with any activity that requires care and skill or has elements of danger;

- (i) Persons should not be depicted with liquor prior to, in anticipation of, or while engaging in any activities which involve care and skill or elements of physical danger. (An activity includes work, sports, recreation, crafts, and hobbies.) Some examples of activities, which are considered to be activities, which involve care and skill or elements of physical danger, are:

skiing	swimming	hockey	child care	hunting
football	baseball	working	volleyball	racing
studying	boating	carving	surfing	etc.

- (ii) Consumption should not be associated with the performance of any aspect of any activity, which calls for a high degree of skill if imitation by the unskilled or underage could be considered dangerous.
- (iii) The depiction of an activity which involves care and skill or elements of physical danger must clearly establish that the individuals shown with liquor are merely spectators or have completed that activity for the day and are then depicted with the product.
- (iv) Vehicles involved in races, competitions, contests, exhibitions, or public displays may be used as a medium for liquor advertising; however, graphics of the product (i.e. bottles, cans, glasses, etc.) and specific references to alcohol content (% alcohol / volume) are not permitted.

(6) does not depict motorized vehicles in motion in advertising showing consumption of liquor, unless the motorized vehicle is a form of public transportation;

- (i) Persons should not be depicted with liquor prior to, in anticipation of, or while operating a motorized vehicle. There cannot be any indication, direct or implied, that an individual who has been depicted with liquor will then be operating a motorized vehicle.
- (ii) Motorized vehicles should not be shown in motion in an advertisement, which includes a consumption scenario unless the vehicle is a form of public transportation. Parked vehicles, or vehicles such as buses, trains, planes, taxicabs, licensed boats, etc., in motion, may appear in advertisements with consumption scenarios.
- (iii) Motorized vehicles involved in races, competitions, contests, exhibitions, or public displays may be used as a medium for liquor advertising, however, graphics of the product (i.e. bottles, cans, glasses, etc.) and specific references to alcohol content (% alcohol / volume) are not permitted.

(7) does not suggest any illegal sale, illegal purchase, illegal gift, illegal handling or illegal consumption of liquor.

- (i) An advertisement may not depict a licensee gifting any patron with liquor, or an individual gifting a person under the legal drinking age with liquor.
- (ii) The illegal handling of liquor may not be depicted. For example smuggling liquor across a border may not be depicted.

- (iii) The consumption of liquor may not be depicted or implied in settings where this would not be legal in Ontario such as public beaches, public parks, private boats without sleeping accommodations, etc.
- (iv) Liquor may be depicted in a setting where consumption is not permitted provided it is clearly a beauty shot with no evidence of people or of previous or imminent consumption.

Manufacturers' Promotions

No person may offer a gift or the opportunity to receive a gift, which requires the purchase of liquor, except for a gift of a nominal value in relation to the regular purchase price of the product.

- Within this section, a value added item may have a nominal value of 20% of the retail value price of the beverage alcohol it is included with, up to a maximum of \$5.00.
- The value of a gift will be assessed by its ordinary retail value rather than the actual cost to the manufacturer.
 - (i) Items may be provided with the purchase of liquor provided the item is of nominal value in comparison with the regular price of the product.
 - (ii) Items worth more than a nominal value in comparison with the regular price of the liquor product may be provided with the purchase of liquor provided the item is not a gift to the purchaser. A charge (which is not less than cost) for the item being received by the customer must be added to the regular price of the liquor product. The item must be clearly visible to the purchaser.
 - (iii) An offer for an item worth more than a nominal value in comparison with the regular price of the liquor product, which is linked to a proof of purchase of the liquor is not permitted. For example an offer cannot be made which indicates that through the presentation of six proofs of purchase the consumer is entitled to receive six glasses.
 - (iv) Ballots for contests cannot be included on the liquor product or within the packaging unless the ballots are made readily available through other means without the purchase of liquor product. Items or ballot forms included with the purchase of liquor product are not considered otherwise readily available unless the alternative method of obtaining the item is apparent at the point of purchase and the procedure is simple, timely and does not require additional expenses.
 - (v) Advertising material placed on liquor product or within packaging may be permitted provided no other advertising regulations are violated. For example, advertising flyers describing the liquor product or brochures describing merchandise which may be purchased through the manufacturer may be inserted into the packaging.

- (vi) An individual shall not be required to have at any time purchased or consumed the liquor product in order to participate in or qualify for a contest or draw (e.g., a qualifying question cannot be about the taste qualities of the liquor product but may be about the packaging if this information could be gained easily without the purchase of the liquor product).
- (vii) Any benefit permitted by this section must be provided at the time of purchase, or directly related to a single purchase. A frequent buyer's club concept would not be acceptable.
- (viii) Coupons redeemable on the purchase of items other than liquor (i.e., snack foods, soft drinks, juices, etc.) are permitted provided they are of a nominal value. Coupons redeemable on the purchase of liquor product are not permitted.
- (ix) Single servings of liquor may be provided as a nominal on-pack promotion. This permits, for example, miniatures to be attached to spirits and single bottles or cans of beer or coolers to be included with cases of those products.

Prohibition Against Inducements by Manufacturers

1. A manufacturer of liquor or an agent or employee of a manufacturer shall not directly or indirectly offer or give a financial or material inducement to a person who holds a licence or permit under the Act or to an agent or employee of the person for the purpose of increasing the sale or distribution of a brand of liquor.

- (i) It is prohibited for a manufacturer to provide a licensee or permit holder with cash, cash rebates, liquor, product rebates, price discounts, or abuse the refunding for leaking kegs, etc.
- (ii) Items essential to the operation of the licensed establishment or permit function which benefit the licensee or permit holder and are not targeted to the consumer for the purpose of raising the profile of the company or product name within the establishment may not be provided by a manufacturer. Examples of these items are:

furniture	carpet	draft equipment	renovations to premises
staff uniforms	dishwashers	food processing/handling equipment	washroom supplies
principle or special function lighting	refrigeration equipment	menus/menu printing	services (cable TV cleaning painting decorating etc.)

- (iii) A manufacturer may provide items which could be viewed as beneficial to the operation of the business provided the volume is insignificant in relation to the overall annual requirements of the licensee and the purpose is to raise the profile of the manufacturer or manufacturer's product with the consumer and not for the benefit of the licensee. This would allow a manufacturer to provide a small quantity of branded glassware, a portion of the menu printing, licensee signage, etc., provided it identifies the manufacturer or brands.
- (iv) A liquor sales licensee may mention a manufacturer's name or brand names in advertising; however, a manufacturer may not pay for a sales licensee's advertising.

2. A manufacturer may provide or assist licensees and their staff with educational programs in the responsible sale and service of beverage alcohol.