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ELEANOR MESLIN

FROM THE CHAIR...

In our Holiday Edition of Licence Line we bring to the attention of licensees a number of items that

are relevant at this time of year. Among these are hours of operation for New Year's Eve, the importance of ensuring overcrowding does not occur at any time, particularly during busy "festive" events, that adequate security measures are in place, and that close attention is made to ensure immoderate consumption and unruly behaviour do not take place on the premises.

There are articles that focus on other aspects of service operations that are popular during the holiday season, such as drink packages on New Year's Eve, changing drink prices during the day, and the planning of special events.

A busy year

This past year was a busy one which included a very successful second year for the Best Bar None (BBN) Program, an industry-led accreditation and awards program for liquor licensed establishments. This year, the awards program was expanded in Toronto and also included the Ottawa ByWard Market District. Plans for 2015 are now underway and will be announced shortly.

Ontario also launched a two-year pilot project that allowed Ontario wineries to sell Vintners Quality Alliance (VQA) wines at farmers' markets across the province. More than 75 wineries and 130 farmers' markets took part in this program. It will continue in the new year.

Free Seminar

Our very well received free Educational Seminars will continue to be available to licence holders and their staff throughout the province next year. By the end of 2014, we will have conducted about 220 seminars and visited more than 125 Ontario communities. Details on dates and locations for these events are available on the AGCO website at www.agco.on.ca

And I would remind our licensees that we have available a wide selection of print and online materials that cover most aspects of the sale and service of beverage alcohol

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Holiday Season

New Year's Eve hours of operation



Licensed establishments can serve alcohol until 3:00 a.m. on New Year's Eve (December 31), one hour later than

the 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 eligible hours for New Year's Eve service is also extended to 3:00 a.m.

Licensees and SOP holders are reminded they must remove all signs of alcohol service (including all glasses and bottles, whether empty or only partially consumed) within 45 minutes of closing time. On New Year's Eve this means 3:45 a.m. Failure to adhere to this regulation may lead to sanctions including a monetary penalty of up to \$4,000.

Celebrating

While New Year's Eve is a traditional time to celebrate, licensees and staff are reminded that permitting intoxication and promoting immoderate consumption are contrary to the *Liquor Licence Act* and may lead to sanctions including a monetary penalty of up to \$6,000, or suspension or revocation of the liquor sales licence.

Holiday season crowds: check capacity

The capacity of a licensed establishment has been set for the safety and health of staff and patrons. Exceeding that limit can jeopardize the safety of everyone inside, especially if there is an emergency, and can also jeopardize your liquor licence.



With the busy holiday season underway, licensees should take extra care to ensure that the number of persons on the licensed premises does not exceed the capacity as stated on the liquor licence. This number includes all staff and management. Overcrowding may lead to sanctions including a monetary penalty of up to \$10,000, or suspension or revocation of the liquor sales licence.

Alcohol and Gaming Commission of Ontario
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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/or revocations for the period beginning October 1, 2014 ending November 30, 2014. For details on the Licence Appeal Tribunal, visit www.lat.gov.on.ca.

Establishment	Infraction	Sanction
None		
Other Suspension/Revocations		
Suspensions of 14 days or more and revocations where the licensee did not request a hearing.		
Establishment	Infraction	Sanction
Cache, St. Catharines	Breach of Act for breaching condition; not financially responsible in conducting its business; past conduct; provided false information	Licence Revoked
Coco Karaoke Restaurant, Toronto	Failure to clear signs of service; service outside of prescribed hours	14 days
G's Chill & Grill Sports Bar, Scarborough	Overcrowding; failure to clear signs of service	45 days
Hoai Thuong Karaoke, Toronto	Permitted removal of liquor from premises; failure to clear signs of service; service outside prescribed hours	21 days
Tenka Sushi Japanese Restaurant, Windsor	Failure to pay monetary penalty	Licence Revoked

"Last Drink" Program: AGCO partners with community police services to reduce impaired driving and enhance public safety

In July 2011, the AGCO launched its **Last Drink Pilot Project**, a public safety initiative designed to improved public safety and reduce impaired driving on Ontario's highways. The pilot has since evolved into a permanent program that complements the AGCO Risk-based Enforcement (RBE) Strategy.



[Risk-based enforcement focuses on liquor licensed establishments that pose the greatest risk to public safety, especially premises that have a history of not complying with the liquor laws].

The key principles of the **Last Drink Program** are:

- Enhancing public safety, preventing over service of beverage alcohol and impaired driving

- Identifying drunk driving linked to licensed establishments
- Proactive partnership with local law enforcement agencies
- Stakeholder education and awareness; and
- Promoting compliance with Ontario's liquor laws and regulations

Under the Last Drink Program, participating police services notify the AGCO of incidents of impaired driving where the driver identified a liquor licensed establishment as the last place where they consumed alcohol.

Identifying problems

This information allows the AGCO to identify opportunities to assist licensees through education, and to support licensees in meeting their legal and regulatory obligations. In some cases, the AGCO will focus additional regulatory attention on establishments identified in the Last Drink Program multiple times within a 6-month period.

The **Last Drink Program** is a tool to assist the AGCO and liquor licensees in identifying a problem and collaborating to formulate a solution to that problem.

Currently, all Ontario Provincial Police (OPP) detachments and 14 municipal and regional police services are participating and contributing to the Last Drink Program. ■

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.



Minimum price is required

Changing drink prices during the day



Licenseses have a lot of flexibility when it comes to being able to change drink prices throughout the business day. There is no limit on the number of times licenseses can change drink

prices in their establishments, however there are some important things to remember:

The price of the drink must remain at or above the minimum price of \$2 per serving, including taxes. This minimum price is required whether the drink is offered at a specific time of the day or in combination with food or other goods or services, such as “beer with wings,” “wine with dinner” or “a cocktail with a spa treatment”

The size of the serving of liquor will affect the minimum price. A serving is defined as: 341 ml (12 oz) of beer, cider or cooler; 29 ml (1 oz) of spirits; 142 ml (5 oz) of regular wine; or 85 ml (3 oz) of fortified wine. If the drink contains more than a serving, the price must be adjusted upwards accordingly. If the drink contains less than a serving of alcohol, the price can be adjusted downwards accordingly.

Price changes must be posted

Temporary drink price changes must be posted. Whether served alone or in combination with food or other goods or services, licenseses 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.

Posting and advertising of prices and promotions must be responsible in nature. Postings or ads that may promote immoderate consumption are not permitted. For example, the use of the terms “Happy Hour” or “Cheap Drinks;” or something similar, is prohibited.

Drink prices must be the same for all patrons. Promotions that target certain parts of the population, such as women or students, are not permitted. All customers must be treated equally.

Prices may not be based on the purchase of other drinks. Promotions such as “2 for 1 drinks,” “2nd drink is ½ off” or “every 3rd drink is \$2” are not permitted.

Prices and promotions may be advertised outside of the establishment. Ads (including on sandwich boards) may include information such as the time period prices are in effect, food or other goods or services included in a promotion, and brands and generic categories like “domestic beers” or “margaritas.”

Indoor/outdoor pricing

Different drink prices can be offered in different locations of an establishment. For example, licenseses may offer drink prices to patrons in a patio area that are different from those offered in an indoor area.

Complimentary drinks are only permitted under certain circumstances. Licenseses and/or their employees 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. ■

Limited circumstances

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

Many licenseses assume they are permitted to offer “all you can drink” packages on New Year’s Eve. This is not the case. 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:



- 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.
- 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;
- 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;
- attendees are not charged a fee for admission to the event or for liquor or food;
- the event organizer or the organizer’s delegate remains on the premises at all times during the event;
- the time for which alcoholic drinks may be provided to attendees without charge to the attendee does not exceed eight hours;
- 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
- the licence holder keeps all contracts relating to the event for at least one year after the event takes place.

Service by the bottle

Generally, licenseses are permitted to serve liquor by the bottle on New Year’s Eve as well as any other time during regular licensed operating hours.

The prohibition against engaging in practices that may tend to encourage immoderate consumption remains in place at all times.

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

Responsible Service Tip Sheet

Important information for licensees who get involved in planning special events, concerts or festivals

The AGCO has created a Responsible Service Tip Sheet which explains the various requirements for all of those who are involved in planning a special event where alcohol will be sold or served.

All event partners, including liquor sales licensees/caterers, need to have a clear understanding of how the event will unfold—and to be aware of the laws respecting catered events where liquor is available.

The Tip Sheet is a guide to some important aspects of the licensed area/s covering dates and hours of operations, access by minors, safety and security and alcohol ticket sales and refunds.

For a copy of the Responsible Service Tip Sheet, “Planning Special Events, Concerts or Festivals”, please refer to our website www.agco.on.ca or contact the AGCO Customer Service office at 416 326-8700 or toll free in Ontario at 1 800 522-2876.

Not permitted

Marijuana use not permitted in liquor licensed establishments

Regulations under the *Liquor Licence Act* (LLA) state that a liquor licence holder may not permit a person to have, use, distribute, or sell controlled substances in their establishment.

Illegal drug use or drug dealing in a licensed establishment may lead to sanctions under the *Liquor Licence Act*.

These sanctions may include a monetary penalty of up to \$15,000, or suspension or revocation of the liquor licence.

Dismissing complaint

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, “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 a disadvantage for him in relation to disability.”

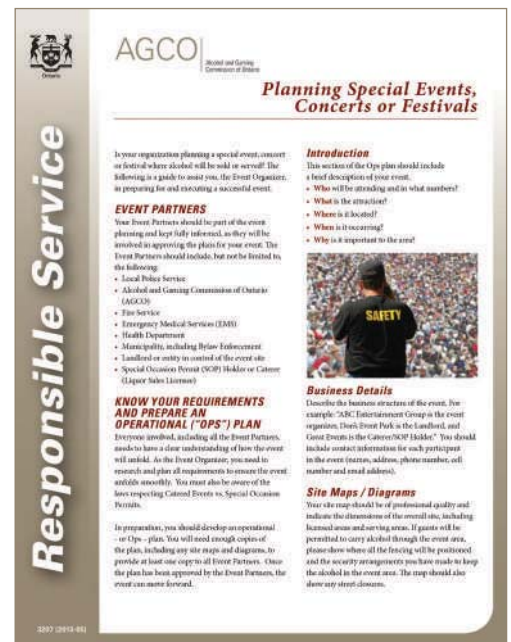
The Tribunal added that “...the [licensee’s] requirement that marijuana not be smoked in close proximity to the restaurant’s entrance is reasonable”. And that permitting the smoking of a controlled substance on the premises would have given rise to “undue hardship” for the licensee—such as receiving a monetary penalty or having his liquor licence suspended or revoked.

The Regulation

Subsection 45(2) of Regulation 719 of the LLA 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 Substance Act* (Canada) on the premises or in the adjacent washrooms, liquor and food preparation areas and storages areas under the exclusive control of the licence holder.”

Licensees should note that persons with a valid authorization to possess marijuana may possess marijuana while in a liquor licensed establishment, but should not be permitted to smoke the substance on the premises.

For more information on this subject, please refer to the AGCO Responsible Service Tip Sheet, “Just saying “NO” to drugs is not enough” on our website at www.agco.on.ca



Reminder

Bring your own wine / take home the rest

Licensees are reminded that they may choose to participate in the “bring-your- own-wine” (BYOW) and “take home the rest” (THTR) programs.

These policies allow patrons to bring commercially-made wine to participating licensed establishments and to remove partially consumed wine from a licensed premise.

Licensed establishments wishing to offer BYOW service to their patrons must first obtain a BYOW Endorsement from the Registrar of Alcohol and Gaming. There is no charge for this requirement.

Licensees participating in BYOW are subject to all the rules, regulations and policies governing the sale and service of liquor. Commercially-made wine brought in by a patron would be served in the same manner as wine selected from the menu. Although not a requirement, eligible licensed establishments that choose to provide BYOW may charge a “corkage fee” for this service.

No fee required

Under the THTR policy, liquor sales licensees are permitted to reseal a partially consumed bottle of commercially-made wine so that patrons can take home the undrunk portion to enjoy later. This policy applies only to wine. It does not apply to liquor or beer. A liquor licence endorsement is not required. There is no fee for this program.

For additional information on Bring Your Own Wine and Take Home the Rest, please refer to the Responsible Service information sheets available on our web site www.agco.on.ca or contact our Customer Service Branch at 1 800 522-2876 or 416 326-8700.



Best Bar None Ontario – expands and promotes new opportunities for licensees in its 2nd year!

The **Best Bar None Ontario** program continues to expand and promote new opportunities for licensees in its 2nd year. The program is an industry-led accreditation and awards program, with the Ontario Hotel Restaurant and Motel Association coordinating the program on behalf of the AGCO, the industry and Ontario liquor sales licensees. Since this year's awards ceremonies in the spring, the program has almost doubled the number of licensees that have become accredited in Toronto's downtown and Ottawa's ByWard Market!

Positive relationships

Best Bar None 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 relationship among operators, industry partners, law enforcement and the community.

Can submit applications anytime

Promoting new opportunities for licensees is a focus of the program in its 2nd year. Changes to the application process will better support the program and encourage participation amongst licensees. There is a new "renewal form" for previously accredited licensees. It allows licensees to review their past application and sign off that the information remains current, resulting in a significant reduction in the use of their time to remain accredited. In addition, work is currently underway on implementing a new



BEST BAR NONE

Raising Standards & Rewarding Excellence!

Find out how you can be Accredited today
and Show the World that
Your Establishment is Best... Bar None!

www.BBNOntario.ca



online, user friendly application form to streamline the approach for applicants. Applications are also allowed to be submitted at any time of the year for assessment to better accommodate businesses that have different busy seasons throughout the year.

As part of expanding marketing opportunities for licensees and raising awareness of the program **Best Bar None** will be surveying those who are accredited for materials they would like for distribution to patrons. This holiday season will also see some interesting opportunities for the program so stay tuned !

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

Hells Angels

Licence Appeal Tribunal revokes Famous Flesh Gordon's liquor licence

The **Licence Appeal Tribunal** has revoked the liquor licence of a London bar because its owner is a full-patch member of the Hells Angels. The Tribunal found that the Registrar of Alcohol and Gaming had reasonable grounds to believe that the corporate licensee, whose principal, Robert Barletta, is 100% dedicated to the Hells Angels, would not carry on business in accordance with the law and with integrity and honesty.

At a 2011 hearing, the licensee argued that Mr. Barletta had no outstanding criminal convictions, nor monetary penalties or suspensions under the *Liquor Licence Act*. The Registrar of Alcohol and Gaming sought to revoke the liquor licence on the grounds that the Hells Angels was a criminal organization, membership in which was incompatible with the obligations of a licensee under the *Liquor Licence Act*.

The Board of the Alcohol and Gaming Commission dismissed the Registrar's proposal to revoke the licence because there was no evidence of Mr. Barletta himself having engaged in criminal activities or regulatory breaches.

Criminal record

On appeal, the **Ontario Court of Appeal** held that the Board erred in law when it required evidence that the licensee have a criminal record or commit breaches of the *Liquor Licence Act* before it could find that the licensee was disqualified from holding a liquor licence. The **Supreme Court of Canada** refused to hear the licensee's appeal. The case was sent back to the Licence Appeal Tribunal, the tribunal now responsible for such decisions, to rehear the case.

The Licence Appeal Tribunal heard the matter and has just rendered its decision. It held that the Hells Angels is a criminal organization and that Mr. Barletta had extensive involvement and a leadership role in the organization. He is required to have a good criminal record and put the interests of the club above all others. His deeply held values and beliefs include an obvious lack of respect for obeying the law. Only revocation of the licence, not the imposition of conditions, could overcome the Tribunal's concerns.

The licensee is appealing the decision to the Divisional Court.

Know the Liquor Laws

Attend a **free** seminar for liquor sales licensees and those who sell and serve alcohol, at a location near you.



Learn about liquor laws that affect you in this two-hour seminar:

Topics covered include:

- Understanding liability and responsibility
- Where liquor may be sold, served and consumed
- Inspections and your obligations
- Advertising, pricing and promotion flexibility
- Relationships with manufacturers and their licensed representatives
- Maintaining a liquor sales licence in good standing
- Changes to licensed areas
- Changes in ownership

Question and Answer period

80%+ of over **10,000** participants said they would recommend attending because they found the information useful and learned something

- Since this program began the AGCO has conducted over 200 educational seminars and visited some 100 Ontario cities and towns (with multiple trips to the larger centres)
- During the educational seminars, AGCO staff have distributed more than 75,000 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

“Well done and organized. The information was helpful” — Ottawa

Educational Seminars Calendar

JANUARY 2015	
Kingston	Wednesday, January 14
Bowmanville	Thursday, January 15
Mississauga	Wednesday, January 28

FEBRUARY 2015	
Kitchener	Tuesday, February 10
Hamilton	Wednesday, February 11
Niagara Falls	Thursday, February 12
Toronto East	Tuesday, February 24

MARCH 2015	
CRFA Trade Show	March 1, 2, 3
No seminars in March	

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

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in our province. These materials are free and are designed to inform licensees and their staff about the province's liquor laws.

A Happy New Year

As the year 2014 comes to a close, we at the AGCO want to express our appreciation and thanks to all of our clients and stakeholders for your cooperation in helping to make the year a successful one for the province's beverage alcohol industry. We look forward to 2015 and your continued support as we move forward to modernize and improve on the progress we have made so far.

It is a pleasure to wish all, our clients and stakeholders, the AGCO Board and the management and staff, a very healthy and happy New Year. Season's Greetings to all!

Eleanor Meslin
Chair

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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