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HOW ARE WE DOING?

Reader Survey

Take this brief survey and let us know

WHAT YOU THINK about *Licence Line*.

Please go to:

<https://www.surveymonkey.com/r/licenceline>

Survey will be open until June 17th

May/June 2016

Apply now !

Patio season is around the corner



Licensees interested in applying for a licensed outdoor patio should consider submitting an application to the AGCO as soon as possible. The application process takes about six weeks. If an objection to the application is received from a member of the public this may lead to a hearing and the timeframe could take much longer. To obtain an application form for an additional licensed area, please call our Licensing and Registration Branch at 416.326.8700 or 1.800.522.2876.

Application forms can also be downloaded from the AGCO website at www.agco.on.ca/pdf/forms/1221e.pdf.

Patio noise complaints

Most noise complaints come from local residents who live beside or near licensed premises.

Regulation 719/90 of the *Liquor Licence Act* regulates noise that emanates from a liquor licensed patio that may disturb neighbours. Specifically, Section 46 states:

"The holder of a licence that applies to outdoor premises shall not permit noise that arises directly or indirectly from entertainment on the premises or from the sale and service of liquor to disturb persons who reside near the premises."

If the AGCO receives a noise complaint, it will assign an inspector to the location. These complaints and any related information may result in disciplinary action being taken against a licensee. Licensees should familiarize themselves with local by-law regulations. Most municipalities have strict noise regulations that must be followed. It is in the licensee's interest to be aware of how his or her licensed patio affects neighbours and the surrounding area. If there is (loud) noise from patrons, speakers, live bands, high volume TV sets, etc., necessary adjustments may be required to work harmoniously with neighbours.

A violation of noise regulations can lead to a monetary penalty of up to \$6,000, or a suspension/revocation of the liquor sales licence.

Overcrowding

During the summer months patios become a favourite location for enjoying the warm weather.

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ELEANOR MESLIN

FROM THE CHAIR...

In this edition of Licence Line we feature a number of items that should be of great interest to all licensees.

First of all, as spring has arrived, it is time to focus on the coming warm weather months which means increasing activity in outdoor venues. In this respect, we draw attention to

the province-wide ban on smoking on outdoor patios that came into effect last year. This is also a practical time for those licensees who wish to operate an outdoor facility to apply now for a patio licence, and to put in place measures that require more attention in the summertime such as outdoor security and patrons who may attempt to remove liquor from outdoor licensed areas.

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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 revocations for the period beginning December 3, 2015 ending March 31, 2016. 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
None for this period		
Other Suspension/Revocations Suspensions of 14 days or more and revocations where the licensee did not request a hearing.		
Establishment	Infraction	Sanction
All Star Wings & Ribs, Kitchener	Failure to inspect identification; serving minors; liquor sold to person who appears to be intoxicated; permitted drunkenness	21 days
Cold Tea, Toronto	Overcrowding; permitted removal of liquor from premises	18 days
E & T Karaoke, Markham	Serving minors; failure to inspect identification; overcrowding; permitted free liquor; permitted drunkenness; encourage immoderate consumption	29 days
Frood Hotel, Sudbury	Permitted drunkenness; liquor sold to person who appears to be intoxicated	18 days
Manpasand Indian Cuisine, Toronto	Permitted narcotics on premises; failure to clear signs of service; licensee failed to ensure control of premises was maintained	14 days
Mint Lounge & Karaoke, Toronto	Serving minors; failure to inspect identification; overcrowding; permitted drunkenness; service outside prescribed hours; failure to clear signs of service; failure to post licence in a conspicuous place; breach of condition of the establishment's liquor licence	40 days
Nino Panino, Oakville	Operated business without licence transferred by the Registrar; provided false information	14 days
Rocky Mountain House (The), Renfrew	Permitted drunkenness	18 days
Shoeless Joe's Bar and Grill Waterloo, Waterloo	Permitted drunkenness	14 days

Ontario Provincial Police-led Illegal Gambling Unit

Licensees are reminded that allowing illegal gaming activity on their premises is against the law and can lead to severe penalties if convicted. The Illegal Gambling Unit*, an Ontario Provincial Police led joint forces investigative unit, may lay criminal charges against any person involved in illegal gambling activity. Such charges may negatively impact the individuals eligibility to hold a liquor licence. A licensee, if convicted, is also subject to disciplinary action by the AGCO which may lead to a monetary penalty, a suspension or revocation of the liquor sales licence.

The illegal use of a gaming machine may occur if there is potential for the player to win money, prizes or other valuable consideration from the playing of the machine, or from any person based on the results of a game played on or through the machine.

Sports betting pools

Licensees are advised that sports pool selling is an offence under the *Criminal Code*. It is therefore illegal for anyone to profit from the selling of a pool, share or squares in a pool. Please note that the Registrar of Alcohol and Gaming will not approve specific games.

When it comes to violation(s) of gambling laws, minor variances in the exact nature of the proposed promotion or scheme can make

a significant difference in the legality of the proposed scheme. Licensees are encouraged to seek independent legal advice before undertaking any such activities.

* **The Organized Crime Enforcement Bureau – Illegal Gambling Unit** consists of a partnership of police services from the OPP, Durham, Ottawa, York, Peel, London, Windsor and Hamilton. The Unit is responsible for province-wide illegal gambling investigations pertaining to Part VII of the *Criminal Code of Canada* within the Province of Ontario, with an emphasis on organized crime.



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

By necessity there are a wide range of rules, laws and regulations relating to the sale, service and distribution of beverage alcohol in Ontario.

These rules have been put in place to ensure that alcohol is sold and served responsibly. The province’s liquor regulatory regime is contained in the *Liquor Licence Act* and Regulations, legislation that reflects current public opinion and which is monitored and updated on a regular basis.

While the *Liquor Licence Act* is quite wide-ranging and covers everything from licensing to selling and serving, enforcement and compliance policies and penalties for misconduct, there are a number of sections in the legislation and regulations that licensees more often breach. These are referred to as the “Big Five”:

- **Serving minors**
No licensee shall permit a person who appears to be under nineteen (19) years of age to have or consume liquor in the licensee’s 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 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 a permit 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 45 minutes after the end of the period which liquor may be sold and served under the licence.

These infractions may lead to disciplinary action by the AGCO in the form of a warning letter, monetary penalty, or suspension and/or revocation of the liquor licence.

Licensees have full responsibility

Violations of the *Liquor Licence Act* and regulations can lead to monetary penalties ranging from \$1,500 up to \$50,000 in the case of a liquor manufacturer. As example, overcrowding or permitting drunkenness and disorderly conduct can draw a maximum penalty of up to \$10,000. Serving minors could result in a monetary penalty or a liquor licence suspension or revocation.

Licensees are reminded they have full responsibility to comply 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

Now in effect

Smoking banned on outdoor patios in Ontario

The Ontario government has put a ban on smoking at outdoor patio bars and restaurants, whether covered or not. This law became effective January 1, 2015.

A restaurant or bar patio is defined as an area:

- **The public can access to eat food or drink beverages, for a fee or at no cost.**
- **Where food or drinks are served, sold or offered by employees.**
- **That is not a private home.**

Regulations under the *Smoke-Free Ontario Act* prohibit smoking tobacco in all enclosed workplaces and enclosed public places as well as other designated places in Ontario.

Canadian Legions that built patios prior to November 18, 2013 are exempt from the regulation.

Restaurants and bar owners or employees are required to ensure that the smoking laws are respected. Owners and employers are expected to give notice to staff, delivery personnel and patrons that

smoking is not allowed in smoke-free areas by posting “no smoking signs” at entrances, exits and in washrooms and other appropriate locations.

Also, no ashtrays or similar items may remain in the smoke-free areas.

An owner or employer of a restaurant or bar (patio) who fails to fulfill their responsibility under the smoke-free laws may be charged with an offence, and if convicted, could face a maximum fine:

- **For individuals - \$1000 for a first offence or \$5,000 for any further offence.**
- **For corporations - \$100,000 for a first offence or \$300,000 for any further offence.**

The provincial government estimates that tobacco kills 13,000 Ontarians a year and costs \$2.2 billion annually in direct health care costs.

For further information on the *Smoke-Free Ontario Act* please visit the Ontario Ministry of Health and Long Term Care at ontario.ca/smoke free

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Often, this can lead to overcrowding. Licensees have an obligation to ensure that the number of persons on the licensed patio area does not exceed the capacity as stated on the liquor licence. This number includes employees of the licensee.

Removing liquor

As well, licensees must ensure that patrons do not remove liquor from the outdoor premises, or any licensed premises, to which the licence applies. There can be a tendency for some patrons to want to take a drink with them to an adjacent parking lot, sidewalk or alleyway for a smoke ([this may become more prevalent with the new no-smoking laws in place](#)), or other purpose. Licensees must have proper monitoring practices and

security in place to make sure these practices do not occur. It is a violation of liquor regulations to allow patrons to remove liquor from the licensed premises. This could lead to a monetary penalty of up to \$4,000 or a suspension of the liquor licence.

Reasonable measures

Licensees should also know that they have responsibility to have in place reasonable measures, and make reasonable efforts, to deter disorderly conduct on property adjacent to and in the vicinity of their premises to minimize damage, nuisance or other harm to such property arising out of disorderly conduct engaged by patrons of the licence holder or persons waiting to enter or leaving the licensed premises.

Continued from page 1 *From the Chair...*

Tips and gratuities

We bring to the attention of all owners of a liquor licensed establishment a new regulation that will come into effect on June 10, 2016, regarding legal requirements involving employee tips and gratuities.

Ontario horse racing

On April 1, 2016, the AGCO took over the regulatory functions of the Ontario Racing Commission. The new responsibility will include licensing, investigations and inspections, officiating for horse racing activity in the province. This adds another assignment to our busy and expanding mandate along with handling the registration, licensing and enforcement activities for liquor, casinos, charitable gaming and lottery retailers.

Reappointment

Finally, on a personal note, I am very pleased that the Ontario government has extended my appointment as Chair of the AGCO

for another year, until February 2017. Over the past 16 years, as a member of the Board, and for the past five years as Chair, it has been a real honour and privilege to work together with all of our clients and stakeholders to make the AGCO a fair and responsive regulator.

At the same time, I would like to sincerely thank the Executive Committee and staff of the AGCO for all of their ongoing support and professionalism.

I look forward to continuing these many valuable relationships as we move forward to another successful year.

Eleanor Meslin, Chair



AGCO given responsibility for regulation of Ontario's horse racing industry



Effective April 1, 2016, the Alcohol and Gaming Commission of Ontario assumed responsibility for the regulation of horse racing in Ontario.

This will include all of the licensing, officiating, investigations and inspections activities previously carried out by the Ontario Racing Commission.

The AGCO already has responsibility for the regulation of the sale and service of beverage alcohol, regulation of the operation of casinos, internet gambling, charitable gaming, OLG lotteries and the *Wine Content Act*.

AGCO Annual Report for 2014/15 fiscal year now available

The Annual Report covers the AGCO organizational structure, strategic goals and planning themes, key activities, operational performance and revenue and expenditures for the fiscal year 2014/15.

The Annual Report is available online at agco.on.ca or by contacting the AGCO Customer Service Department at **416 326 - 8700** or toll free **1 800 522 - 2876**.

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.



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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