

Liquor Licensing 101:
Ontario's *Liquor Licence Act*

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Alcohol & Gaming Commission of Ontario

Disclaimer:

This presentation is intended to provide a general overview of some provisions of the *Liquor Licence Act*.

It should not be regarded as a substitute for specific legal or government advice on any matter.

Liquor Regulation in Ontario

Part I

- Overview of the AGCO
- History and Principles of the LLA
- Interested Stakeholders

Part II

- Prevention, Deterrence and Response
- Differences Between Liquor Licensees and Special Occasion Permits (SOPs)
- Recent Trends and Changes

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Part I:

Alcohol and Gaming Commission of Ontario (AGCO)

- Background
- Created February 1998, assumed responsibilities of the Liquor Licence Board of Ontario and Gaming Control Commission
- 450 positions, including 150 seconded OPP
- Head Office, Toronto
- 9 Regional Offices

AGCO (cont'd)

- Responsible for administering:

Gaming

- Gaming Control Act
- Lottery Licensing Order-in-Council

Alcohol

- Liquor Licence Act
- Wine Content & Labelling Act
- Parts of the Liquor Control Act

History

- Pre-Prohibition Era (-1916)
 - 1878, Canada Temperance Act; 1890, Liquor Licence Act
 - Municipalities permitted to ban the sale of liquor
 - Little other regulation
 - Many bar owners encouraged immoderate consumption, which was viewed with disapproval
 - Widespread problems with alcohol



History (cont.)

- Prohibition Era (1916-1927)
 - 1916, Ontario Temperance Act
 - No alcohol sale or service was permitted
 - Consumption went underground, criminal elements became deeply involved
 - Problems persisted with alcohol, were more difficult to trace



History (cont.)

- Post-Prohibition Era (1927-1990)
 - 1927, *Liquor Control Act*
 - sale of liquor through government stores permitted
 - 1934
 - hotels and clubs permitted to serve beer and wine with meals
 - 1946
 - sale of spirits permitted along with beer and wine, if approved by plebiscite by individual municipalities
 - restaurants, taverns and public houses also permitted to serve beer, wine and spirits

History (cont.)

– 1971

- Mixed gender public houses permitted
- Liquor service was heavily regulated
 - e.g. regulations on waiters' dress, layout of kitchens, specific licence types by establishment
- Consensus that liquor could not be eliminated, but should be tightly controlled and regulated
- Perception of moderate problems with liquor that could be contained



History (cont.)



- Current Era (1990-)
 - 1990, *Liquor Licence Act*
 - Liquor service continues to be regulated
 - Consensus that liquor is potentially dangerous, and should be regulated to minimize harm
 - Introduction of a one-licence system, collapsing of classes
 - Introduction of equivalency re: spirits, wine and beer

Principles behind LLA (1990)

- Major concerns the LLA attempts to address are:
- Public Safety and Security
- Overservice and Intoxication
- Service to Minors
- Disorderly Conduct, Violence, Riotous or Unruly Behaviour and Crime
- Fire and Health Code Violations

Interested Stakeholders

- Ministry/Government
 - makes laws and regulations
- AGCO
 - issues liquor licences
 - enforces law and regulations
 - advises Ministry
 - Board of AGCO holds hearings re NOPs

Interested Stakeholders

- Other Governments' Agencies
 - e.g. Association of Liquor Licensing Authorities of Canada
 - Other Provincial Liquor Boards
 - Ontario Government Ministries, e.g. Public Safety
- Committees
 - e.g. Double Cohort Committee
 - Inter Agency Committee on Impaired Driving

Interested Stakeholders

- Liquor Control Board of Ontario (LCBO)
 - sells liquor to licensees, SOP holders, public
 - administers SOP programme
 - advises Ministry
- Municipalities and Police
 - enact, change local by-laws
 - provide input into AGCO decision-making processes

Interested Stakeholders

- Industry (licensees and manufacturers)
 - Provide input into government and AGCO
 - Association of Canadian Distillers, Brewers of Canada, Canadian Restaurant and Foodservice Association, Wine Council of Ontario
- Public Interest Groups
 - Provide input into government and AGCO
 - Canadians for Safe and Sober Driving, Centre for Addiction and Mental Health, Medical Officers of Health, Mothers Against Drunk Driving, Ontario Public Health Association

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Part II:

PART I REVIEW

- Items covered in Part I:
- Review of the AGCO
- History of the Act
- Principles of the Act, and
- Interested Stakeholders

Prevention

- General
 - public safety and security
 - licence is a limited entitlement
 - applicants are not entitled to a liquor licence if:
 - on the basis of their financial position, they cannot be expected to be financially responsible in the conduct of their business
 - their past or present conduct affords reasonable grounds to believe they will not carry on business in accordance with the law and with integrity and honesty

Prevention

- General (cont.)
 - on the basis of the the needs and wishes of the residents of the municipality, the licence is not in the public interest

Prevention

- Over-service and Intoxication
 - Smart Serve training
 - light meals
 - no practices that promote immoderate consumption, such as:
 - drink discounts
 - flat rates
 - minimum drink requirements
 - free drinks
 - Participation in programs aimed at drinking and driving



Prevention

- Service to Minors
 - required to check ID if apparent age under 19
 - only government issued photo-ID acceptable
e.g. driver's licence, citizenship card, passport,
armed forces or LCBO BYID card



Prevention

- Disorderly Conduct, Violence and Other Crimes (drug use, illegal gambling, etc.)
- Fire and Health Code Violations
 - violations taken into consideration on an ongoing basis



Deterrence and Response

- Monitoring
 - local police
 - OPP
 - AGCO inspectors
 - coordinated police-AGCO action and joint task forces



Deterrence and Response

- Sanctions

- administrative action

- suspension, revocation and conditions

- LLA offences

- individuals may be imprisoned for up to one year and fined up to \$100 000
- corporations may be fined up to \$250 000



Deterrence and Response

- Liability
 - s. 39, common law
 - partly responsible for costs of injuries, deaths resulting from serving to or past intoxication

Hearing Process

- Disciplinary and application review matters
 - Appellants must request hearing otherwise action proposed by the Registrar will be carried out
 - Hearing conducted by members of Board of Directors
 - Resident objectors can take part in application review hearings as parties to the proceedings with consent of Board Members
 - Decisions of Board are public documents, also available through Quicklaw database

Special Occasion Permits

- Not issued for regular business
 - issued for reception, fundraising, trade show, consumer show, market research, community festival and auction events
- Prevention
 - Inspector and police notification received for permits

SOPs

- Applicants are not entitled to an SOP if:
 - their past or present conduct affords reasonable grounds to believe they will not carry on business in accordance with the law and with integrity and honesty
 - applicant cannot reasonably be expected to be financially responsible
 - Registrar believes they are running an on-going business; provided false information; or are carrying on activities that violate the Act

SOPs

- Sanctions
 - administrative action
 - revocation, conditions
 - police and inspectors have power to stop event
- Liability
 - common law

Recent Trends and Changes



- 2002
 - 3 month grace period for liquor sales licence renewals eliminated
 - manufacturers permitted to donate product to charities holding SOPs for fundraising; records must be kept and produced at AGCO's request
 - Consistent with other licensed establishments, restrictions on alcoholic content, and size of liquor servings at stadiums eliminated; provides equality for spirit-based coolers

Recent Trends and Changes

- Requirements on signage, security and responsible sale and service remain
- Breweries permitted to operate tied houses on production site, leveling the playing field with wineries and distilleries
- Amendments assigned responsibility to Registrar, such as approval of retail stores, concert events
- Ability to appeal decision remains, is better administratively as separates distinction of duties while maintaining independence of the Board

For more info...

- *AGCO Website* www.agco.on.ca
- *Licence Line, available on website*
- *Customer Service 1-800-522-2876*