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Now in effect

Smoking now banned on outdoor patios in Ontario

The Ontario government has announced 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* prohibits 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 remain in the smoke-free areas.

The new regulation supersedes existing municipal bylaws.

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 \$5000 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

Summertime activities: Tips for Licencees

Apply now!

Licencees 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



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ELEANOR MESLIN

Our lead story in this edition of *Licence Line* highlights the provincial government's decision to ban smoking at outdoor patios and restaurants. This means that liquor licensed establishments will now be smoke-free both

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Alcohol and Gaming Commission of Ontario
90 Sheppard Avenue East, Suite 200
Toronto, Ontario
M2N 0A4



40062446

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 1, 2014 ending March 31, 2015. Sanctions for similar infractions may vary in length according to the specifics of each case. For details on Licence Appeal Tribunal visit www.lat.gov.on.ca

Establishment	Infraction	Sanction
Famous Nightclub, Mississauga	Breach of condition of the establishment's liquor licence	18 days
Other Suspension/Revocations		
Suspensions of 14 days or more and revocations where the licensee did not request a hearing.		
Establishment	Infraction	Sanction
Amber, Toronto	Overcrowding	28 days
Chico's Place, Toronto	Liquor not purchased under licence; permitted unlawful gambling	14 days
Coyote Cutie, Alliston	Permitted drunkenness	14 days
G. Bar & Grill, North York	Permitted unlawful gambling; obstructing an inspection; permitted unauthorized persons behind bar; service outside prescribed hours; liquor not purchased under licence; altered boundaries of licensed premises and other violations of the LLA.	14 days
Incontro Caffè, Toronto	Failure to facilitate inspection; service outside prescribed hours; permitted removal of liquor from premises	18 days
Kenora Travelodge, Kenora	Licensee failed to ensure control of premises was maintained; permitted drunkenness, violent and disorderly conduct; liquor sold to person who seems to be intoxicated	21 days
Kiss-KTV, Toronto	Serving minors; failure to inspect identification; operated business without licence transferred by the Registrar; encouraged immoderate consumption; service outside prescribed hours; failure to clear signs of service; breach of condition of the establishment's liquor licence	30 days
Lost and Found, Toronto	Overcrowding; licensee failed to ensure control of premises was maintained; past conduct	21 days
Neutral, Toronto	Past conduct; failure to facilitate inspection; permitted drunkenness; licensee failed to ensure control of premises was maintained; service outside prescribed hours and other violations of the LLA.	14 days
On The Rox, Concord	Failure to clear signs of service	14 days
Park Theatre & Performing Arts Centre, Cobourg	Not financially responsible in conduct of its business; past conduct	Licence Revoked
Quan Ngon, Mississauga	Past conduct; failure to facilitate inspection; obstructing an inspection; service outside prescribed hours; failure to clear signs of service	Licence Revoked
Reeb Tavern, Port Colborne	Liquor sold to person who appears to be intoxicated; encouraged immoderate consumption	30 days
SVG Bar & Grill, Toronto	Permitted removal of liquor from premises; failure to clear signs of service; service outside prescribed hours	14 days
Time Nightclub, Toronto	Permitted narcotics on premises; encouraged immoderate consumption; service outside prescribed hours and other violations of the LLA.	45 days

Submitting a temporary extension application

The arrival of warmer weather in spring and summer brings an influx of temporary extension applications to the AGCO.

Temporary extensions allow licensees the opportunity to serve alcohol in places not usually licensed. This includes outdoor areas such as a sidewalk or street adjacent to the licensed premises.

Temporary extensions are customarily requested by licensees to hold special events or to participate in a community festival. A temporary extension may be granted for a specific event but will not be granted to an applicant who is waiting for the issuance of a permanent liquor sales licence.



The Registrar of Alcohol and Gaming may approve a temporary physical extension (indoors or outdoors) for a period of fourteen (14) days or less, if the extension is adjacent to the premises to which the licence applies.

Some helpful tips:

- A single notification letter outlining the details of your event can be submitted to the AGCO indicating local building, fire, health and police departments have been notified accordingly (individual letters to these departments are not required).
- Applications must be signed by the licensee or a manager who has signing authority. The application cannot be signed by a transfer applicant. Only one signature is required from a director or officer of a corporation.
- Applications for temporary extensions to be held outdoors require a letter of non-objection from the municipal clerk in the related municipality. While applications will be accepted without this letter the temporary extension will not be issued until a non-objection letter from the municipal clerk is received.

For further information on temporary extensions please, refer to the AGCO web page noted above or call AGCO Customer Service at **1-800-522-2876** or **416-326-8700**.

Best Bar None Ontario – What's New! Promotions and Awards!



Best Bar None Ontario is an industry-led international accreditation and awards program that rewards excellence amongst responsible liquor sales licensees and encourages everyone to improve their operations. It is supported by a number of industry groups, led by the Ontario Restaurant, Hotel & Motel Association (ORHMA) and by the ACGO, as well as various community groups and associations. The program is offered in a large area of downtown Toronto and also in Ottawa’s ByWard Market.

Best Bar None Ontario aims to:

- Promote responsible management, service and operations of licensed establishments
- Reduce the number of alcohol-related issues
- Raise the standards of licensed establishments
- Improve economic viability of the night-time economy, and
- Build positive relationships among operators, industry partners, law enforcement and the community

Now entering its third year of operations, the program is now creating new opportunities for licensees. BBN Ontario has launched a multi-pronged campaign to promote the program, including social media and an updated website. The program has also added a new corporate sponsor. Tourism Toronto, who will offer wide outreach and promotion. Recent PR activities include the creation of Facebook and Twitter accounts, and a new “establishment profile” on the BBN website, where accredited establishments can add profile information; plus a new BBN Ontario mobile app.

Other changes planned for this third year include an extended application period. Establishments wishing to participate can apply and become accredited at any time throughout the year. However, to be considered for an Award in 2015, establishments had to have completed their applications by March 31, 2015.

For the 2015 Awards, to be held later this year, BBN is implementing a People’s Choice Award, where members of the public will be able to vote for their favourite BBN accredited establishment both in Toronto and Ottawa.

The BBN Ontario program operates as a partnership with local and business representatives, local police services, industry stakeholders and the LCBO, Mothers against Drunk Driving (MADD), the City of Toronto and Municipal Licensing & Standards, the AGCO and is led by ORHMA. For more information visit the BBN Ontario website at: www.bbnontario.ca

Wine sales at Ontario Farmers’ Markets

In May of last year, the provincial government launched a two-year pilot program that allows Ontario wineries to sell Vintner’s Quality Alliance (VQA) wine at Farmers’ Markets across Ontario. In 2014, over seventy-five VQA wineries participated at more than 140 farmers markets.

VQA wines

The program allows wineries to sell their VQA wine at temporary extensions of their on-site winery retail stores at Farmers’ Markets throughout Ontario, provided they manufacture VQA wines and apply to the AGCO for authorization to sell at Farmers’ Markets. Authorized wineries must notify the AGCO in advance of the dates and locations where they will be selling their VQA wine.

Participating wineries must ensure they do not sell to anyone who is intoxicated or under the age of 19. The Registrar’s Sampling Guidelines for Liquor Manufacturers must also be followed and require that all sampling must take place at the winery’s temporary extension (i.e. booth).

Municipalities must approve

Under this program, wineries are able to conduct sales during the same hours that a Farmers’ Market is open, even if they fall outside of the on-site winery retail store’s permitted hours of sale. Wineries must transport their VQA wine to each Farmers’ Market from their retail location on the same day that sales occur and must return any unsold wine back to the on-site retail store at the end of each day. No winery is

allowed to sell for more than 3 days a week at any individual Farmers’ Market, but there is no limitation on the number of Farmers’ Markets at which wineries can sell.

Municipalities have the right to refuse to allow sales of VQA wine at Farmers’ Markets.

For more information on VQA wine sales at Farmer’s Markets, please refer to Information Bulletin No. 034 on our website at www.agco.on.ca or contact Customer Service at **416.326-8700** or (toll free in Ontario) at **1-800-522-2876**



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 sell and serve, 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 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 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 forty-five 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 \$1500 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, 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

Using a catering endorsement for unlicensed premises and areas

At least 10 days before a catered event begins, the licence holder with a caterer’s endorsement must provide the AGCO, the local police, fire, health and building departments with details of the event.

A liquor sales licensee who holds a caterer’s endorsement may sell and serve liquor in an unlicensed area of licensed premises or at a catered event in an unlicensed area away from the licensed premises. The catered event must be sponsored by someone other than the license holder, have light meals available and not be more than 10 days in duration. During the event, the location is considered to be licensed premises. As such, the licence holder is responsible for ensuring compliance with all sections of the *Liquor Licence Act* and Regulations.

- **10 days notice**

At least 10 days before a catered event begins, the licence holder with a caterer’s endorsement must provide the AGCO, local police, fire, health and building departments with details concerning:

- The nature of the event and the name of the sponsor
- The address where the event will be held
- The date/s and hours during which the event will be held
- The estimated attendance for the event

- The boundaries of the area where liquor will be sold and served

Liquor not sold during a catered event must be returned to the licence holder’s stock. A licence holder is not permitted to promote or invite persons to attend a catered event where the licence holder is offering liquor for sale.

For more information and to download a **Liquor Sales Licence Endorsement Application** please refer to the AGCO website at www.agco.on.ca or contact AGCO Customer Service at **1-800-522-2876** or **416-326-8700**.



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Patio season is around the corner

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.”

In some cases, residents keep a log of the noise that is generated by 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. So 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 \$6000, or a suspension/revocation of the liquor sales licence.

Overcrowding

During the summer months patios become a favourite location for enjoying the warm weather. 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 \$4000 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.

Beer buckets

The sale of beer buckets is permitted provided that the liquor licence holder does not engage in practices that tend to encourage the immoderate consumption of liquor. Also, liquor prices must at all times meet the minimum pricing standards as set out in the province’s liquor regulations. See **Information Bulletin #014: Pricing and Promotion of Liquor (July 2007)**.

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inside and outside the premises. The exception is Royal Canadian Legion Branches with uncovered patios created before November 18, 2013.

The new policy is intended to support the government’s commitment to achieve the lowest smoking rate of any province in Canada.

Patio activity

Also, in this edition, we focus on getting ready for summer by urging licensees interested in a patio sales licence to apply early for outdoor patio licences; and to have plans in place to prevent patio noise complaints, overcrowding, the removal of liquor from outdoor facilities and reasonable measures put in place to deter disorderly conduct that may occur on property adjacent to or in the vicinity of the licensed premises.

There is, as well, information relating to the use of catering endorsements and temporary extensions to a liquor licence, items that increase in popularity with the arrival of warmer weather.

Compliance with the law

We remind licensees of their responsibility to comply with Ontario’s liquor laws and the importance of staying in compliance with all regulations, including the new smoke-free provisions now in effect (see the “Big 5” infractions story on page 4).

There is also information on wine sales at Farmers’ Markets and our ongoing “free” Know the Liquor Laws seminars for licensees and their staff.

Cold Winter

Following an unusually cool and seemingly long winter, I know that we all look forward to some warmer weather and sunnier days, and if Warton Willie is to be believed, this should be just around the corner. Here’s hoping anyway!

Eleanor Meslin, Chair

Know the Liquor Laws

Free Seminars for liquor sales licensees, management and staff



The AGCO will lead you through information to help you 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

APRIL 2015	MAY 2015	JUNE 2015
London Tuesday, April 14	Peterborough..... Tuesday, May 12	Sudbury Tuesday June 9
Sarnia Wednesday, April 15	Ottawa (Central) AM & PM Wednesday, May 13	New Liskeard Wednesday June 10
Windsor Thursday, April 16	Cornwall Thursday May 14	Huntsville Thursday June 11
	Oakville..... Wednesday May 27	Toronto (Central)... Wednesday June 24

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 has 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

“Very informative and interesting questions” — Hamilton

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

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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