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Chair's Column



ELEANOR MESLIN

While the cold winter lingers on and we all look forward to some warmer weather, licensees who are interested in operating a licensed outdoor patio this

summer need to act now to make their application as soon as possible. The application can take up to six weeks to process, depending on the circumstances. In making an application, it is recommended that applicants pay particular attention to any noise that may emanate from the outdoor premises, as this may have a direct impact on receiving approval for your liquor licence request.

Monetary penalties

In this edition of Licence Line, we draw your attention to the revised schedule of monetary penalties for violations of the LLA and Regulations. Monetary penalties were first introduced in 2009 to act as a bridge between a simple warning and the suspension or revocation of a liquor licence. Besides expanding the number of infractions eligible for monetary penalties

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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.

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Expanding eligible infractions

Changes to monetary penalties under the *Liquor Licence Act* and Regulations

Monetary penalties were first introduced on January 1, 2009 as a bridge between a simple warning and the suspension or revocation of a liquor sales licence for infractions of the *Liquor Licence Act* and Regulations.

They are intended to be used as an additional measure to help ensure licensees stay in compliance with the province's liquor laws.

The amount of an assessed monetary penalty is based on the particular circumstances of the infraction, including the compliance history of the licensee.

Changes to the Schedule of Monetary Penalties include increasing the existing maximum penalty while expanding the type of infractions that are eligible.

For example, monetary penalties may now be assessed against a licensee for selling or supplying liquor to an intoxicated patron (penalty up to \$15,000); and permitting a person under the age of 19 to have or consume liquor in the licensed premises (penalty up to \$20,000).

The only previous sanctions available for the underage and intoxication provisions was a warning letter, suspension or revocation of the liquor licence.

The following chart is a quick reference to some examples of monetary penalties. For

Continued on page 3 See *Monetary Penalties Chart*

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



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 November 1, 2013 ending February 28, 2014. Sanctions for similar infractions may vary in length according to the specifics of each case. For details on LAT visit www.lat.gov.on.ca.

Establishment	Infraction	Sanction
Banshee Bar & Restaurant, Scarborough	Past conduct; change to corporate licensee without Registrar approval; permitted drunkenness; obstructing an inspection; removal of liquor from premises	60 days
Other Suspension/Revocations Suspensions of 14 days or more and revocations where the licensee did not request a hearing.		
Aden, Thunder Bay	Permitted drunkenness; obstructing an inspection	35 days
Amber, Toronto	Overcrowding; service outside prescribed hours	30 days
Double D Bar & Eatery, Niagara Falls	Past conduct; made a false statement; permitted narcotics on premises; licensee failed to ensure control of premises was maintained; operated business without licence transferred by the Registrar	Licence Revoked
Frontline Suga, Toronto	Overcrowding; permitted removal of liquor from premises; permitted narcotics on premises; breach of condition of the establishment's liquor licence	14 days
G's Chill & Grill Sports Bar, Scarborough	Overcrowding	17 days
J.T. Sportsbar & Restaurant, Red Lake	Serving minors; failure to inspect identification; permitted drunkenness and disorderly conduct; permitted unauthorized persons behind bar	14 days
Kasa Sushi, Hamilton	Permitted drunkenness; obstructing an inspection; licensee failed to ensure control of premises was maintained; encouraged immoderate consumption; failure to ensure sale and service of alcohol supervised by authorized employee; permitted contest involving liquor	21 days
Misty's Café, Barrie	Liquor sold to person who appears to be intoxicated; encouraged immoderate consumption; permitted drunkenness	45 days
Ohso Nightclub, Toronto	Permitted drunkenness; overcrowding	30 days
Point Dining Lounge (The), Woodlawn	Permitted drunkenness; liquor sold to person who appears to be intoxicated	28 days
Roosevelt Hotel, Sault Ste Marie	Liquor sold to person who appears to be intoxicated; permitted drunkenness; failure to ensure required persons successfully completed approved server training within 60 days of employment start date	21 days
Snakes & Lattes, Toronto	Sale not under licence; overcrowding; altered boundaries of licensed premises	60 days
Time Nightclub, Toronto	Breach of condition of establishment's liquor licence	18 day
Toranj Resto-Bar, North York	Past conduct; serving minors; failure to inspect identification; permitted drunkenness; permitted removal of liquor from premises; overcrowding; failure to clear signs of service; licensee failed to ensure control of premises was maintained; breach of condition of the establishment's liquor licence	Licence Revoked
Zak's, Stoney Creek	Obstructing an inspection; failure to facilitate inspection; failure to clear signs of service; service outside prescribed hours; permitted drunkenness and violent and disorderly conduct; breach of condition of the establishment's liquor licence	21 days

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.



Continued from page 1 *Schedule of Monetary Penalties*

complete details on monetary penalties, please refer to our website at www.agco.on.ca .

The new Schedule came into effect on February 3, 2014.

It should be noted that amounts listed in the Schedules are maximums and penalties assessed may be lower than the maximum.

For the complete Schedule of Monetary Penalties, please refer to our website at www.agco.on.ca (Information Bulletin #032) or contact the AGCO'S Customer Service Department toll free at 1-800-522-2876 or 416-326-8700 (in the GTA).

Monetary Penalties Chart

Permit drunkenness/disorderly conduct-up to \$10,000

Overcrowding-up to \$10,000

Permitting sale, use or distribution of a controlled substance (drugs) on the licensed premises-up to \$15,000

Permitting patrons to remove liquor from the licensed premises-up to \$4,000

Service outside of prescribed hours-up to \$6,000

Failure to clear signs of service within 45 minutes after closing-up to \$4,000

Allowing on the licensed premises a device known as a AWOL-up to \$2,000

Failure to post FASD warning sign (Sandy's Law)-up to \$2,000

Failure to make available a variety of non-alcoholic beverages-up to \$2,000

Failure to ensure light meals are available-up to \$2,000



Supreme Court of Canada sends Famous Flesh Gordon's back for rehearing

The Supreme Court of Canada has refused to hear an appeal by Famous Flesh Gordon's, a licensed establishment in London, Ontario, of a decision of the Ontario Court of Appeal that overturned a Decision of Ontario Divisional Court which had upheld a decision of the Board of the Alcohol and Gaming Commission. The Board had allowed Robert Barletta, a "full-patch" member of the Hells Angels, to keep his liquor licence. The case will be sent back to the responsible tribunal, now the Licence Appeal Tribunal, to rehear the case.

At the 2011 AGCO Board hearing, the licensee admitted that its principal, Mr. Barletta, was a full-patch member of the Hells Angels. 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 of which was incompatible with the obligations of a licensee under the *Liquor Licence Act*.

Proposal to revoke

The Board 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.

The Ontario Court of Appeal held that the Board erred in law when it required evidence that the licensee had a criminal record or committed breaches of the *Liquor Licence Act* before it could find that the licensee was disqualified from holding a liquor licence. Other past conduct could merit revocation of the licence. The Board also applied the higher standard of proof on a balance of probabilities rather than the lower standard of reasonable grounds.

Honesty and integrity

The Court has sent the case to the Licence Appeal Tribunal to determine whether a licensee who has committed no criminal or regulatory offences but is a member of a criminal organization such as the Hells Angels should have its licence revoked because his past or present conduct affords reasonable grounds for the belief that he will not carry on business in accordance with the law and with honesty and integrity.

At the time of publication, a date for the hearing before the Licence Appeal Tribunal had not been set.

AGCO Board of Directors

The Board of the AGCO is responsible for the overall governance of the Commission and meets on a monthly basis. It sets goals and develops policy and strategic directions for the Commission. It must have at least five



Eleanor Meslin Chair

Ms. Meslin is from Toronto. She holds a law degree from Osgoode Hall Law School. She is a former Assistant Deputy Minister in the Ontario government. She has held several other senior level positions in the province's public service including, acting Ombudsman, consultant with the Ontario Human Rights Commission and CEO of the Ontario Women's Directorate.



Kirsti K. Hunt Vice-Chair

Ms. Hunt is from Sudbury, Ontario. She holds an Honours BA in Modern Language from the University of Toronto and taught French and Spanish to high school students and adults in northern Ontario. She has served as Interim Chair of the AGCO.



S. Grace Kerr Vice Chair

Ms. Grace Kerr is from London, Ontario. She has served as Chair of the Board of Directors of the Centre for Children and Families in the Justice System and holds a Master of Laws degree from the London School of Economics.



Brian J. Ford Member

Mr. Ford is a former Ottawa Chief of Police. He is a past president of the Criminal Intelligence Service of Ontario and holds a Canadian Police Exemplary Service Medal and Bar, and Canada's 125 Medal. He is a member of the Order of St. John's Society.



Beryl Ford Member

Ms. Ford is from Brampton, Ontario. She is a former Chair of the Peel District School Board, and is currently a member of that Board. Last year, she was awarded the Queen Elizabeth II Diamond Jubilee Medal for outstanding commitment and contribution to her community.



Bruce Miller Member

Mr. Miller is from London, Ontario, and currently resides in Eagle Lake, Ontario. He was a police officer for 22 years with the London Police Service. He has received the Ontario Medal for Police Bravery and the Canadian Police Association's Award of Excellence.

Awards program

Best Bar None update

The Best Bar None (BBN) program is continuing in its second, expanded season. In the autumn of 2013 the program expanded its Toronto boundaries to include more than 1,400 establishments in an area bounded by Bloor Street to the north, Parkside Drive to the west, Yonge Street to the east and Lake Ontario to the south. Ottawa's ByWard Market was also added as a new district,

containing approximately 105 establishments.



What is Best Bar None?

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 in partnership with the ACGO, as well as various community groups and associations.

The original deadline for applying for BBN certification was extended until Feb. 28th, 2014. Once all the applications have been received, applicants will be visited by third party assessors to verify the information submitted. Upon successful accreditation, the establishment will be given BBN decals and signage to post in their bar, lounge or restaurant to promote with customers.

An awards celebration will be held in the spring of 2014 to announce the "Best of the Best" in both Toronto and Ottawa. Awards will be given to the top establishments in the following categories: Best Club, Best Restaurant, Best Bar/Lounge, Best Hotel Lounge, Best Pub, and Best Members' Club. There is also a "Best" overall award!

Continued from page 1 *Chair's column*

(serving underage patrons, etc.), there are increases in the maximum fines. The funds collected through this process are used exclusively for education for licensees and public awareness projects.

Sexual assault program

We have provided some materials from the Sexual Assault Partner Abuse Program alerting licensees about the growing need to recognize drug-facilitated (alcohol related) sexual assault.

Board members

We also have provided profiles of the AGCO Board of Directors, who working together with our CEO, help to make the sale

and service of liquor products in Ontario, safe, responsible and effective. In this respect, I would like to sincerely thank Kirsti Hunt of Sudbury, Ontario who, on April 8, is retiring from her responsibilities after serving on our Board for some 17 years. She brought a unique perspective from northern Ontario and served the people of this province with great distinction and dedication. Thank you, Kirsti, for a job really well done!

Eleanor Meslin, Chair

Information on “Drug (alcohol) Facilitated Sexual Assault” campaign

“**Don’t Be That Guy,**” an internationally successful behavioural marketing campaign, developed by Sexual Assault Voices of Edmonton, sends the message that sex without consent is sexual assault. Crime Prevention Ottawa and The Ottawa Hospital are supporting this campaign because it sends a visual message to men graphically demonstrating their role in ending alcohol or drug-facilitated sexual assaults (DFSA).

Fast Facts about DFSA:

- **What is drug-facilitated sexual assault (DFSA)?**
DFSA is any form of sexual assault that is committed upon a person rendered incapacitated or helpless by alcohol or drugs thus being incapable of giving or withholding consent.
- **Anyone can be a victim of DFSA.**
However, females ages 16 to 24 are at highest risk.
- **A person does not necessarily have to be drugged by a “date rape” drug to become a victim of DFSA.**
The most common drug involved is alcohol, followed by marijuana.
- **The perpetrator is not necessarily the one who administers the drug.** The victim often voluntarily takes the drug or alcohol, but is assaulted upon becoming incapacitated. From a legal standpoint, a victim can be too intoxicated to give consent, regardless of whether the offender is intoxicated as well.
- **The ONLY person responsible for a sexual assault is the person who commits it.** Being intoxicated by alcohol or drugs is NEVER an invitation for sex.

Don’t Be That Guy shifts the emphasis to men to take responsibility for their behaviour, the behaviour of others and to challenge the rape culture. Through experience and research we know that healthy men make up the vast majority, and when they are engaged in ending sexual assault, true progress can be made.



JUST BECAUSE YOU HELP HER HOME...

DOESN'T MEAN YOU GET TO HELP YOURSELF.

sex without consent = sexual assault

DON'T BE THAT GUY.

sexualassaultvoices.com

CRIME STOPPERS | Saskatchewan Sexual Assault & Information Centre | Saskatoon Police Service | Saskatchewan Liquor and Gaming Authority

Awareness and knowledge about drug-facilitated sexual assault is our key message.

Violence is everyone’s business!

We would like to thank you (licensees) for your community support! By talking about sexual assault and bringing it out into the open, we end the isolation survivors can feel. The engagement of our community is absolutely vital in ending sexual violence, and with your participation, we can work together to end DFSA in our communities.

This material has been submitted by Tara Leach NP, The Ottawa Hospital, Sexual Assault Partner Abuse Program—email: taleach@toh.on.ca

Continued from page 1 *Patio season is around the corner*

Patio noise complaints

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.”

Most noise complaints come from local residents who live beside a licensed premises or in the surrounding neighbourhood. 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, or licensees.

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 coexist harmoniously with neighbours.

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 2014

London..... Tuesday, April 8
 Goderich..... Wednesday, April 9
 Leamington..... Thursday, April 10
 Toronto (East)..... Tuesday, April 15

MAY 2014

Ottawa (Centre) – a.m..... Tuesday, May 13
 Ottawa (Centre) – p.m. Tuesday, May 13
 Kingston..... Wednesday, May 14
 Oshawa..... Thursday, May 15

Educational seminars will continue in 2014. Future dates after June 2014 will be printed in the next issue of Licence Line.



80%+ of over **8,500**

participants said they would recommend attending because they found the information useful and learned something

- Since this program began the AGCO has conducted almost 200 educational seminars and visited some 75 Ontario cities and towns (with multiple trips to the larger centres)
- During the educational seminars, AGCO staff have distributed more than 70,000 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

JUNE 2014

Niagara Falls..... Tuesday, June 3
 Hamilton Wednesday, June 4
 Kitchener..... Thursday, June 5
 Sault Ste. Marie Tuesday, June 17
 Elliott Lake Wednesday, June 18
 Sudbury Thursday, June 19
 North Bay Friday, June 20
 Toronto (Central) Wednesday, June 25

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

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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