



## Taking "Reasonable Measures" Outside Your Establishment

Licensee information sheets from the Alcohol and Gaming Commission of Ontario

Responsible Service

Liquor sales licensees are always expected to operate with the public interest in mind. Therefore, licensees are expected to be good neighbours and address any potential disorderly conduct that may originate from their establishments and disperse into their local communities.

As of July 20, 2007, all liquor licence holders must have reasonable measures in place and make reasonable efforts to prevent or minimize the harm caused by their patrons outside their licensed premises. Specifically, section 45.1 of Regulation 719 of the Liquor Licence Act states that:

“The licence holder shall ensure that reasonable measures are in place and reasonable efforts are made to deter disorderly conduct on the property adjacent to and in the vicinity of the premises and to minimize damage, nuisance or other harm to such property arising out of disorderly conduct engaged in by patrons of the licence holder or persons attempting or waiting to enter the premises or leaving the premises.”

You are therefore responsible not only for misconduct and resultant damage caused by your patrons on the street and sidewalk adjacent to your premises, but also in the vicinity of the establishment after they leave your premises, such as indecent acts, drug use or fights in parking lots, damage or vandalism to property of adjacent residents or other businesses.

The licensee is responsible for the above even after the establishment has ceased service of alcohol.

### **Staying compliant with the Liquor Licence Act**

A licensee is always responsible for ensuring that no breaches of the *Liquor Licence Act* and its Regulations take place around or in his/her establishment.

While AGCO inspectors will note all infractions, it is likely that having any of the following take place at your establishment could lead to some action being taken against your liquor sales licence (for example, a warning, monetary penalty, condition placed on the licence, suspension or revocation):

- Selling alcohol to minors (under age of 19) or allowing a minor to consume alcohol
- Serving alcohol before 11 am or after 2 am (exceptions include New Year’s Eve where alcohol can be served until 3 am, or if there is a condition on the licence restricting the hours of service).
- Not clearing signs of sale and service (bottles, glasses, etc.) 45 minutes after the sale of alcohol must stop. This is usually 2:45 a.m. and applies to both patrons and staff.
- Permitting drunkenness, unruly behaviour, unlawful gambling or narcotics on the premises.
- Serving an intoxicated patron.
- Allowing more people in the establishment than the capacity allows. This number includes staff.

### **Assess your establishment for risk**

It is easier to prevent a problem than to fix it. Taking some proactive steps now will minimize the chances that an incident will occur or that your establishment will create problems for your neighbours.

Each establishment will have different risks based on its business model, location, clientele and compliance history. You should review your operations to determine these risks and then devise a plan or house policies designed to reduce the likelihood that they will occur. Here are some suggestions:

- Contact your AGCO Inspector to set up a meeting.
- Talk to your neighbours to see if they have any concerns or complaints.

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- Look at ways to minimize excessive noise (check positioning of speakers and volume levels, for example).
- Ban patrons who have been disorderly in the past.
- Ensure a sufficient staff-to-patron ratio and sufficient security when required.
- Carry out consensual searches of patrons in line-ups.
- Keep a log book of incidents and review these regularly with staff.
- Have a safety plan in place.

Most importantly, your staff will need to be trained, be aware and work together to ensure that your establishment remains safe and in compliance with the law:

- Hold regular staff meetings (weekly, bi-weekly or monthly).
- Arrange for an AGCO inspector to meet with your staff to review the liquor laws.
- Outline what each staff member's responsibilities are.
- Have staff members help draft their responsibilities.
- Have staff assist with the development of house policies.
- Run through scenarios.

### **Take "reasonable measures"**

Based on your risk assessment, you should put in place house policies or other measures that will meet your unique needs. Here are some examples of reasonable measures that you can take to prevent problems outside your establishment:

- A crowd of noisy patrons gathering outside an establishment after closing time should be politely dispersed.
- The police may need to be called if a dispute spills out from a licensed establishment and escalates, causing a public disturbance.
- Line-ups to get into licensed establishments must be properly monitored and secured.

If a disturbance takes place outside your establishment—especially if a recurring pattern of disturbances is reported coming from your establishment and reasonable measures were not taken to prevent them—then you could be in breach of the terms of your liquor licence and may be subject to compliance actions by the AGCO. These compliance actions could include a monetary penalty, a suspension or, ultimately, the revocation of your liquor licence. It could also include the application of a risk designation (Level I, II or III) under risk-based licensing. Whether or not a licensee is deemed to have taken reasonable

measures and efforts will be determined on a case-by-case basis.

In addition to ensuring reasonable measures are in place, you must deter people from getting into such a condition that they may cause problems when they leave the establishment, and you must make reasonable efforts inside and outside to deter such misconduct. For example, fighting patrons should be separated and made to leave separately, and staff should be outside to monitor and deter misconduct such as fighting, noise, litter, etc. Prompt reporting of problems to police and cooperation with police is important.

### **Maintaining control**

Whether inside or outside, licensees and/or their management must always maintain control over their establishments, including patron entry and activities.

A licensee must provide proper supervision over his/her establishment. Licence holders and/or their management must maintain control over the licensed premises including who is permitted to enter or remain and the activities that are permitted to occur there. Sufficient control will be determined on a case-by-case basis and licensees may face compliance actions if they do not provide adequate supervision over their establishments. For example:

- A licensed establishment should be adequately staffed.
- Depending on the type of premises and patrons, all entrances should be properly supervised.
- Patrons should always be sufficiently monitored to ensure that no improper activities are taking place.

Illegal activities (such as selling or using narcotics, illegal gambling, etc.) have never been permitted in licensed establishments and licensees should never create an environment that makes it easier for these activities to occur. Licensees are obligated to maintain proper control and proactively ensure that they have the proper mechanisms and procedures in place to effectively control their establishments, as well as to limit potential problems before they happen or become serious.

Even if you have house policies in place to prevent incidents, incidents may arise that require intervention by you or your staff. You should have contingency plans in place.