



Manufacturers' Representatives

Licensee information sheets from the Alcohol and Gaming Commission of Ontario

If you are an agent or liquor manufacturers' representative or if you are a liquor sales licensee, you have a responsibility to know and understand Ontario's liquor laws. For example, how familiar are you with your responsibility regarding liquor ordering requirements, product sampling on and off licensed premises, inducements and promotions? And, when can liquor be awarded as a prize?

Liquor orders for licensees

Manufacturers' representatives and agents (sales reps) naturally hope liquor sales licensees (licensee) will buy their companies' brands of liquor but they cannot sell any product directly to the licensee. Sales reps can take licensees' orders and submit the correct purchase order form to their manufacturer's authorized retail store, a Brewers Retail store (i.e. The Beer Store) or the LCBO. Once the order is processed, it can be held for the licensee at the sales rep's office or shipped directly to the licensee. But remember, no more than 180 litres of liquor may be kept at the sales rep's office for market research, sampling or for delivery to a purchaser with a valid purchase order.

When a licensee places an order with a sales rep, the liquor licence number must be on the purchase order to show the liquor was bought under licence. When the licensee receives the liquor, the licensee must keep records of liquor purchases for at least one year, but they can be kept for longer. It is up to the licensee to prove stock was acquired through the proper channels.

Product sampling

To encourage licensees to stock their products, sales reps can give samples of products.

Sales reps are required to maintain concise records of their sampling activities. These records must be kept for a minimum of one year and be made available for review upon the request of the AGCO.

Sales reps are allowed to offer samples of both "new" and existing brands to licensees and individuals in a number of ways:

Samples for licensees (off premises)

Sales reps can give liquor sales licensees samples of products the licensee has not stocked for at least a year.

This is permitted, but remember:

- Liquor must not be taken on to or kept in the licensed premises.
- Samples are for consumption by the licensee or staff and not for sampling or resale to patrons.
- There is an annual limit on what a licensee can accept from each sales rep:
 - 48 (355 ml) bottles of beer or cooler, or the equivalent amount;
 - 10 (750ml) bottles of wine, or the equivalent amount; and
 - 3 (750ml) bottles of spirits or the equivalent amount.

Sampling sessions for licensees (on premises)

Sales reps and LCBO employees can bring liquor samples into a licensed establishment for sampling purposes only.

But remember:

- Sampling has to be conducted in the presence of the sales rep or LCBO employee.
- Samples are only for the licensee and their staff to try.
- Sampled liquor remaining at the conclusion of the sampling session must be immediately removed from the premises by the sales rep or LCBO employee.

Samples for licensees' customers

- Sales reps are permitted to offer samples to a licensee's customers at the licensed establishment. In this scenario, the liquor must be part of the licensee's stock, and the sales rep is required to buy servings from the licensee for customers at the usual menu price. If samples are half the size or less of a regular drink, the licensee cannot charge more than half the usual menu price.

Things to remember:

- Liquor samples must be given to the licensee's customers on a one-to-one basis by the licensee or the licensee's staff who will ensure the customer is of legal drinking age and not intoxicated.
- The sales rep must speak to the customers about the manufacturer of the product and/or the product being sampled.
- The sales rep cannot buy a round or rounds for the house, or pay the licensee or its staff to offer samples to their customers on the sales rep's behalf.

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Product samples to individuals/ consumers (off premises)

Sales reps may also provide samples to individuals outside of a licensed establishment to promote their product provided that the sales rep distributes the sample of liquor to the individual/consumer.

Remember:

- Samples given to any one individual cannot exceed an annual total of:
 - 6 (355 ml) bottles of beer or cooler, or the equivalent amount;
 - 1 (750 ml) bottle of wine, or the equivalent amount; and
 - 1 (375 ml) bottle of spirits, or the equivalent amount.
- Coupons/vouchers may not be given to individuals through direct mailings or any other indirect method.
- Coupons/vouchers may only be redeemable at LCBO retail stores, an authorized manufacturer's store, or a Brewers Retail store.

Inducements

Sales reps may wish to give licensees items to raise the manufacturer's profile in the eyes of the licensee's customers. Remember that it is illegal for sales reps to give a licensee anything that would be of a significant financial or material benefit to them or their establishment.

There are certain things that a licensee can accept from the sales rep:

- ✓ Insignificant quantities of items that are intended to raise the manufacturer's profile. Examples would include a small quantity of glassware with the manufacturer's brand on it or a portion of the licensee's menu printing cost, clearly identified by the manufacturer's name or brand.

What a licensee cannot ask for or accept if offered by the sales rep includes:

- ✗ Cash or cash rebates, product or product rebates, or price discounts. Manufacturers and their reps must be careful not to abuse refunds offered for leaking kegs of beer.
- ✗ Anything that could be considered essential to the operation of the licensee's business. In other words, a manufacturer or sales rep is not permitted to provide furniture, carpeting, draught beer equipment, renovations, staff uniforms, any kind of kitchen or washroom equipment, main or special function lighting, the full cost of menus or menu printing, or services such as cable TV, cleaning, painting or decorating.

Contests and Promotions

Often manufacturers host contests, theme nights, or promotions that offer prizes as a way of raising their profile. Sales reps might offer to run one or more such events for a licensee. There are no specific limits on the number of times they may do this, or on the value of prizes they may offer to the licensee's customers.

The benefits of any of these events must go to the licensee's customers, not to the licensee or their staff. And although the licensee can advertise such promotions or theme nights outside the establishment, the advertisements must comply with Ontario Regulation 719 made under the *Liquor Licence Act* and the *Liquor Advertising Guidelines—Liquor Sales Licensees and Manufacturers* referred to below.

Theme nights, contests or promotions cannot require patrons to purchase or consume liquor in order to participate in or to improve their chances of winning a contest or promotion.

Licensees must ensure that buying a drink does not improve a customer's chance of winning, for example, by offering a draw ticket or scratch card each time the customer buys a drink.

The licensee cannot make a customer stay in the establishment in order to receive a prize. For example, if a customer enters a draw at 6 p.m., they cannot be compelled to stay until 12:30 a.m. to qualify to win the prize. And finally, it is illegal for a liquor sales licensee or sales rep to give a customer liquor as a prize, whether a bottle or a free drink.

Many of these topics are further detailed in the *AGCO's Advertising Guidelines*. To get a copy, call our head office at 416.326.8700 or toll free at 1 800.522.2876, or visit our website at www.agco.on.ca

Raffles

There is only one way liquor can be raffled off as a prize and that is through a charitable organization (charity) that has a valid raffle lottery licence issued by the AGCO or local municipality. In this instance the licensed charity is responsible for the management and conduct of the event, which includes making sure that the prize is only awarded to individuals who are of legal drinking age. The charity must disclose the age requirement on the raffle tickets.

Licensees that host a raffle event that is managed and conducted by the charity in their establishment must remember:

- The charity must be able to produce a valid raffle lottery licence that allows it to manage and conduct its raffle event in the licensed establishment.
- Liquor purchased under the licensee's liquor sales licence cannot be donated or sold to the charity to be used as a prize for the licensed raffle event.
- Only liquor approved on the charity's application for a raffle lottery licence may be brought onto the licensed establishment for the purpose of being awarded as a prize in a licensed raffle lottery.
- Liquor awarded as a prize cannot be opened and/or consumed in the licensed establishment.