

Improving Liquor Legislation in the NWT

Final Report of the 2005 Liquor Act Review



Completed in December 2005 by

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Policy, Planning & Evaluation

Executive Summary



The Liquor Act Review was commissioned in 2005 to research best practices in liquor legislation, to outline the shortcomings with the Northwest Territories (NWT) *Liquor Act*, and to identify a workable approach for improved liquor legislation in the NWT. This research was to be strongly rooted in public and stakeholder consultation. Its purpose was to identify how the *Liquor Act* could be more effective, balanced, and consistent with the priorities of NWT residents.

The activities of the Liquor Act Review now being complete, the following legislative actions are recommended:

1. Authorize the Liquor Licensing Board to delegate its authority for some functions to the Executive Secretary.
2. Recognize a separate process for minor and major license infractions. Address minor infractions by issuing tickets to licensees. Address major infractions (and non-payment of tickets) via a Liquor Licensing Board show-cause hearing.
3. Do not make show-cause hearings mandatory for every alleged major infraction.
4. Transfer the authority to make regulations concerning licensed premises from the Liquor Licensing Board to the Commissioner, on the recommendation of the Minister.
5. Transfer all legislative authorities concerning inspection, enforcement, and influence over liquor inspectors from the Liquor Licensing Board to the Minister.
6. Identify offences for which a liquor inspector may issue a ticket to patron of a licensed premise, and authorize liquor inspectors to seize false or altered identification.
7. Allow community governments to request a plebiscite without the need for a petition, and change the approval requirement from 60% to 50% plus 1.
8. Include a mechanism for transitioning from the existing system under the *Act* to any new system implemented by communities under self-government agreements.
9. Authorize the Minister to shorten the 15 day notice requirement for special prohibition orders under special circumstances.
10. Make communities with licensed premises and/or liquor stores ineligible for special prohibition orders, unless the prohibition is for a specific community area where no licensed premise or liquor store exists.
11. Identify regulatory provisions for licensed premises that may be further restricted by community bylaw. Such bylaws shall defer to the *Liquor Act* penalties for violations, be copied to the Minister prior to their enactment, and be in force at least 4 years.
12. Require the Minister to seek community input before recommending regulatory changes concerning liquor store hours and/or quantities sold by liquor stores in that community.

13. Make the maximum monetary penalty for offences committed by minors \$200 for a first offence, and \$500 for subsequent offences.
14. Identify offences for which a peace officer may issue a ticket to a minor.
15. Make it an offence to carry false or altered identification.
16. Remove interdiction from the *Act*.
17. Authorize liquor store agents to request identification from a person if they are not satisfied that the person is eligible to purchase liquor.
18. Define an intoxicated person as anyone appearing to be intoxicated from liquor, drugs or other substances.
19. Give peace officers the authority and discretion to detain or ticket persons for public intoxication, and authorize peace officers to lay a charge only when an intoxicated person has been ticketed more than 3 times in the preceding 12 month period.
20. Create regulations requiring those who purchase and transport large quantities of liquor to have a permit or license.
21. Increase the maximum fines for bootlegging by individuals to \$25,000 and/or 12 months jail time for first offences, and \$50,000 and/or 2 years jail time for subsequent offences; and \$50,000 for first offences and \$100,000 for subsequent offences for corporations.
22. Prohibit the sale or supply of non-beverage liquor to intoxicated persons.
23. Allow the making of beer and wine in a private residence for personal consumption, and allow homemade beer and wine to be transported and judged as part of a special event, provided this is a condition of a special occasion permit.
24. Permit intoxicated persons to temporarily remain in licensed premises under specific conditions. These conditions should be described in regulations.
25. Maintain the penalty options available to the Liquor Licensing Board but increase the maximum monetary fines for major infractions to \$10,000 for first offences and \$20,000 for subsequent offences.
26. Set classes of liquor licenses in regulations, and reduce the number of classifications to four including liquor-primary, food-primary, mobile, and non-industry.
27. Authorize the Liquor Licensing Board to approve and set conditions on dual licenses for a single licensed premise.
28. Move all restrictions related to off-premise sales from the *Act* to regulations, but make no further changes.
29. Require any community bylaw that restricts the hours of licensed premises to provide for a transition time of at least 30 minutes.
30. Authorize all licensed premises to operate on Sundays and holidays if permitted by community bylaw.

31. Allow customers to bring an unopened bottle of commercially-produced wine to a licensed premise for personal consumption, and authorize the removal of an unfinished bottle of wine from the licensed premise as long as the cork is replaced flush in the bottle.
32. Re-corking of unfinished wine should be free, and maximum fees for corking should be set out in regulations.
33. Require license holders who wish to offer a bring-your-own-wine/re-corking service to apply for this provision at the time of license application or renewal.
34. Authorize the Commissioner, on the recommendation of the Minister, to make regulations concerning training for licensees and servers, but make no such regulations at this time.
35. Allow the Liquor Licensing Board to authorize a liquor license holder to use his/her premises for purposes other than the sale of liquor during non-licensed hours.
36. Create two types of re-sale permits - one for private functions, for which anyone may apply; and one for public fund-raising functions, for which only non-commercial organizations may apply. The latter is the only type of re-sale permit authorized for the purposes of financial gain.
37. Identify violations for which liquor inspectors and peace officers may ticket a special occasion permit holder.
38. Require advertising by liquor license holders to be approved by the Liquor Licensing Board; advertising by liquor store agents to be approved the Liquor Commission; and defer all other advertising requirements to the Government of Canada's "Code for Broadcast Advertising of Alcoholic Beverages".

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1. Introduction



The safe and responsible use of liquor involves everyone. Individuals, families, communities, and government all have a role to play in keeping the Northwest Territories (NWT) safe. Balancing the freedom to drink responsibly with the need for protection from harm is the key.

Liquor legislation helps to maintain this balance. The NWT *Liquor Act* provides the Government of the Northwest Territories (GNWT) with the legal authority to protect NWT residents from unsafe behaviour, conditions and environments involving liquor.

The current NWT *Liquor Act* was established in 1983. The *Act* has been amended several times since then, although few amendments have occurred in the last 10 years. Today's *Liquor Act* is fragmented and not adequate to deal with changing times. Aside from being outdated, the *Act* is not consistent with current best practices and allows only a minimal amount of community input. New legislation must be strong, easily understood, and balanced.

To address these issues, the GNWT undertook a Liquor Act Review in 2005. This was a qualitative study based on public and stakeholder consultation, consultation with those who administer the *Act*, a review of best practices across Canada, and a review of background documentation both in the NWT and elsewhere.

This report constitutes the results and recommendations of the Liquor Act Review. More specifically, it includes:

- an overview of the NWT *Liquor Act*
- the background and purpose of the Liquor Act Review
- its methodology and limitations
- the principles and structure of an improved *Liquor Act*
- the results of the Liquor Act Review for various legislative issues
- recommendations

2. NWT Liquor Act



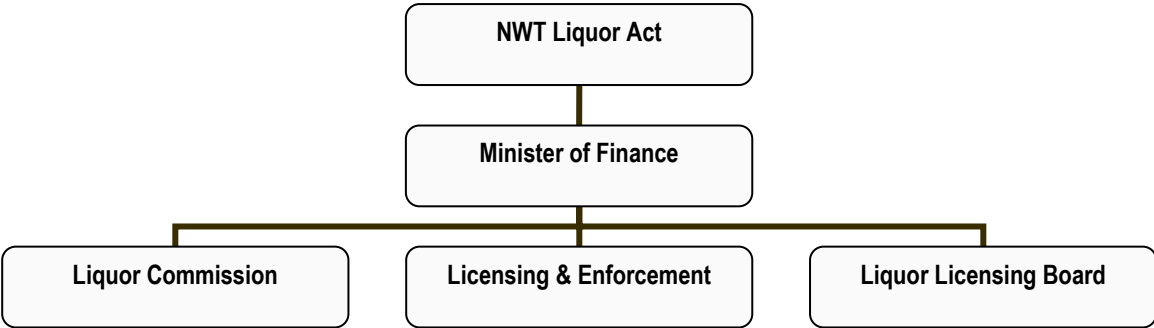
The NWT *Liquor Act* governs all aspects of the purchase, sale, and consumption of liquor in the NWT. It is a tool to protect the public by regulating safe conditions for the responsible use of liquor.

The *Liquor Act* is only one tool to control liquor in the NWT. The *Act* is the responsibility of the GNWT Minister of Finance, the Liquor Licensing Board, and the Liquor Commission. Another tool is enforcement, which is the joint responsibility of the GNWT Ministers of Finance and Justice, and the RCMP. The final and more far-reaching tool is education. This tool is the shared responsibility of many – government, agencies, communities, families and individuals, and goes beyond legislation.

By itself, the *Liquor Act* cannot prevent alcohol abuse or the social problems related to it. Addressing these important and serious issues requires a multi-disciplinary approach that goes beyond the legal framework of liquor legislation to involve a network of individuals and organizations.

Figure 1 depicts how the NWT liquor system is governed. A description of each major legislative element follows.

Figure 1 – Governance Structure of the NWT Liquor System



General Terms and Conditions

The *Act* provides general definitions and sets out who may purchase, sell, possess, or consume liquor in the NWT. The *Act* also outlines general provisions and the penalties for committing an offence.

Liquor Commission

The *Act* allows the Minister to establish a Liquor Commission for the purposes of operating liquor stores and distributing liquor in the NWT. The Commissioner of the NWT, on the recommendation of the Minister, makes regulations with respect to liquor stores. Regulations affecting specific stores may be passed, dictating hours of operation or limits on the amount that may be sold to any individual during a specific time period.

The *Act* allows the Liquor Commission to operate stores or warehouses itself, or to use agents. Currently agents operate all of the stores and warehouses in the NWT, under contract. Only six communities (Yellowknife, Hay River, Norman Wells, Fort Simpson, Fort Smith and Inuvik) have liquor stores. In other communities with no liquor stores and where liquor is not prohibited, residents purchase liquor from these stores and have it delivered to their communities. Liquor stores sell liquor using a flat rate per litre mark up system established by the Liquor Commission. This mark up is applied to product prices, which vary from store to store. Liquor is not subsidized in the NWT.

The Liquor Commission also issues permits to persons wishing to bring more than one bottle of liquor into the NWT from another jurisdiction. Compliance to rules is monitored by the Liquor Commission and the RCMP.

Liquor Licensing Board

The Liquor Licensing Board (LLB) is responsible for regulating the sale of liquor in licensed premises. The Board, an administrative tribunal, operates at arm's length from the government although its members are appointed by the Minister of Finance.

The LLB is given broad powers to make regulations governing the operation of licensed premises. The regulations made by the LLB regarding licensed premises apply uniformly across the NWT.

The LLB is also responsible for issuing liquor licenses, and overseeing the issuing of special occasion permits and other permits. As well, it may suspend or cancel licenses (or impose fines or conditions) after a show cause hearing, if licensees¹ contravene the *Act*. Decisions of the LLB may be appealed on the grounds that it has made an error in law or exceeded its jurisdiction. Otherwise, decisions of the LLB are final.

Licensing and Enforcement

Liquor inspectors, appointed by the Minister, monitor the conduct of licensees and report infractions. The Licensing and Enforcement office of the GNWT Department of Finance oversees the administrative duties related to enforcement, including orienting inspectors, conducting investigations, and providing a free server training course. This office also conducts the administrative duties related to licensing, and provides advice to communities regarding community plebiscites and special prohibition orders.

¹ The terms licensee and liquor license holder are used interchangeably in this report

Community Options

The *Act* allows for communities to have more restrictive rules regarding liquor than those generally contained in the *Act*. By holding a plebiscite in which 60% of those voting agree to the change, a community can become prohibited (no liquor allowed), restricted (liquor allowed subject to restrictions) or unrestricted. The current level of restriction in NWT communities is outlined in Figure 2 below.

A community must also hold a plebiscite before a liquor license may be granted, if there are no other licensed premises in the community. Additionally, the *Act* allows the Minister to impose, at the request of a community, temporary prohibition in that community for a special occasion.

Figure 2: Community Liquor Restriction Status

Unrestricted	Aklavik Colville Lake Enterprise Fort McPherson Fort Resolution	Fort Providence Fort Smith Hay River Holman Inuvik	Jean Marie River Kakisa Paulatuk Sachs Harbour Trout Lake	Tuktoyaktuk Tulita Wrigley Yellowknife
Restricted	Behchoko Dettah	Fort Good Hope Fort Liard	Fort Simpson* Norman Wells*	
Restricted by Committee	Deline			
Prohibited	Gameti Lutselk'e	Nahanni Butte Tsiigehtchic	Wekweeti Whati	

* These communities are essentially unrestricted except that the liquor stores in these communities have restricted hours and purchase quantities.

3. Liquor Act Review



Background

The need for a review of liquor legislation in the NWT has long been recognized. In 1994, the then GNWT Department of Safety and Public Services commissioned a study of the underlying needs. The study included an extensive public consultation and resulted in a document entitled *Re-Writing Liquor Laws in the NWT: A Legislative Action Paper*. It identified a number of issues and discrepancies within the NWT *Liquor Act*. This document was used as the basis for a legislative proposal in 1995 which, due to competing priorities at the time, did not proceed. A subsequent but much smaller review occurred in 1998, mainly on administrative, regulatory matters. Some changes were made to the *Act*, but the larger issues remained unaddressed.

A number of recent events have moved the need for new liquor legislation to the forefront. The advent of self-government makes the “one size fits all” approach of the current legislation obsolete. The desire for more local control over the sale of liquor, the influx of new residents and with them new ideas about liquor, and issues like liability have intensified the need for strong and relevant liquor legislation. Changes in best practice across Canada are also shedding light on the need to modernize the way liquor is controlled. The NWT *Liquor Act* needs to be updated to be more flexible, accommodate the political, economic, and social changes in the NWT, and level the playing field where there are inconsistencies.

In December 2003, the GNWT began the process of reviewing the NWT *Liquor Act*. It hired a consultant to identify a course of action for the legislative review. Then, in January 2005, it commissioned the Liquor Act Review to research best practices in liquor legislation, to outline the shortcomings with the current *Liquor Act*, and to identify a workable approach for improved liquor legislation in the NWT. This research was to be strongly rooted in public and stakeholder consultation.

Purpose

The purpose of the Liquor Act Review was to identify how the NWT *Liquor Act* could be more effective, balanced, and consistent with the priorities of NWT residents. The objective, then, was to recommend specific legislative changes that would address these requirements.

Strong legislation that protects youth, controls the illegal sale of liquor and provides safe conditions in licensed establishments is required. At the same time, individuals must be responsible for their own behaviour. Striking a healthy balance, while strengthening the ability of existing legislation to deal with new developments, was deemed essential for the Liquor Act Review.

Further, the Liquor Act Review was to be strictly a statutory review. This meant it would focus mainly on the *Liquor Act*, but would also review a few items in the regulations considered to be of public interest. The scope of the Liquor Act Review did not include a review of policy, practice or

operations, neither was its intent to assess the performance of the Liquor Licensing Board, Liquor Commission, or liquor inspectors.

Additionally, the scope of the Liquor Act Review did not include an examination of issues related to the prevention or treatment of addiction and alcohol abuse. These issues fall outside legislative control and are best addressed through policy and partnerships among many stakeholders.

4. Methodology & Limitations



4.1 Project Leadership

The Liquor Act Review was overseen by an interdepartmental Steering Committee. This committee was comprised of representatives from the GNWT Departments of Finance, Justice, and Health and Social Services, as well as a representative each from the Liquor Licensing Board, Licensing and Enforcement, and the Liquor Commission.

The Steering Committee approved all major aspects of the Liquor Act Review including the discussion guide, the communication strategy, the consultation framework, and the final report. As well, a Steering Committee representative attended all public and stakeholder meetings. For confidentiality reasons, this was not the case for focus groups and interviews with those who administer the *Act*.

4.2 Communications

Communication was a key principle of the Liquor Act Review, and as such, a detailed communication strategy was developed. The strategy had three objectives: to inform the public that the Liquor Act Review was being undertaken; to elicit suggestions about how to improve liquor legislation; and to educate the public and stakeholders about liquor legislation in general. The communication strategy is presented in Appendix 1.

The two main items in the communication strategy were a discussion guide and a website. The discussion guide was created to assist the public and stakeholders in understanding the main legislative issues. Each issue was described and a series of questions was presented to stimulate debate. The website (www.fin.gov.nt.ca/liquor_act_review) contained information about the Liquor Act Review process, links to key documents, the discussion guide, a consultation schedule, and capability for online submissions.

Communication with community leaders took the form of individual letters accompanied by a copy of the discussion guide. These were sent to each Mayor and Chief in the NWT. MLAs were also given the discussion guide, and regular updates were given to the Legislative Assembly's Standing Committee on Accountability and Oversight.

Invitations and a copy of the discussion guide were also sent to every NWT liquor license holder and to selected NGOs representing a cross-section of the business, tourism and social agency sectors. The letters invited recipients to attend a public meeting or submit written comments. Similar letters were also given to applicants for Special Occasion Permits.

Other elements of the communication strategy included newspaper advertising, radio and cable television advertising, and community-specific posters. Each of these directed the public to the website, to the discussion guide, and/or to a public meeting.

4.3 Research Activities

The Liquor Act Review was a qualitative study. Ideas and suggestions were obtained from various sources and the results were based on commonalities and verification between the sources. There were no statistical methods employed.

The research activities of the Liquor Act Review included:

Cross-Jurisdiction Review

The liquor legislation from each Canadian jurisdiction was reviewed. This included a review of both the statutes and regulations, and where time permitted, telephone interviews were conducted. The resulting information was used to identify best practices in liquor control. Appendix 2 lists the legislation reviewed as part of the Liquor Act Review.

Document Review

The Liquor Act Review reviewed a number of documents related to liquor control. These included reviews of liquor legislation in other jurisdictions, and documentation related to liquor control, liquor use and other related subjects in the form of briefing notes, studies, consultations, and reports from within the NWT and across Canada. A list of documents reviewed is presented in Appendix 4.

Administrative Consultation

Interviews and focus groups were conducted with those who administer or work with the *Liquor Act* and regulations to get an operational perspective. A list of interviewees is provided in Appendix 3.

Public and Stakeholder Consultation

The most extensive component of data collection was through public and stakeholder consultation. Consultation was conducted via public meetings, licensee meetings, or the submission of written suggestions. Details about public and stakeholder consultation are presented in Appendix 3.

Public Meetings

Public meetings were held in 9 NWT communities. The selected communities represented those with and without licensed premises and liquor stores; those that have prohibited, restricted and open systems; large regional centers and smaller communities, some with road access and others without. To supplement this, costs were covered for two representatives from all other communities to travel to a meeting nearby. Local liaison persons coordinated meeting details and ensured meetings were appropriately timed.

Licensee Meetings

A conference call was held for all NWT liquor license holders located outside Yellowknife. An in-person meeting was also held with license holders located in Yellowknife.

Written Submissions

Written comments and ideas were submitted by fax, by mail, and online. A few written comments were also submitted in person at the public meetings.

4.4 Determination of Results

The results and recommendations were determined through the following five-step process:

1. Issues Identification – By reviewing best practices, background documentation and interviewing those who administer the *Act*, a list of legislative issues was identified. These were items in the *Act* or regulations that were inconsistent with legislation elsewhere, problem areas for stakeholders, or incongruent with changes occurring in the NWT, such as self-government. As well, items thought to be of particular public interest were identified. All issues were described in a discussion guide and used as discussion points during stakeholder and public consultations.
2. Solutions Identification – A number of potential solutions to each of the issues identified in step one were documented. These included solutions generated by the public, stakeholders, and administrative personnel, solutions used or being considered in other jurisdictions, and solutions identified in background documentation.
3. Synthesis and Analysis - All solutions were then synthesized. This involved putting all suggestions together as one set of findings, removing redundancies, and grouping the findings by legislative topic. Analysis was then done to determine which findings were most prevalent and what underlying themes they represented. These analyzed findings constitute the results presented in this report.
4. Filtration – To determine which results would become recommendations, each was filtered through a set of three criteria: 1) confirmation by more than one source; 2) verification by best practices; and 3) consistency with background documentation. A result had to meet at least two of the criteria to be further considered as a recommendation.
5. Confirmation – The filtered results were then discussed with policy representatives from various GNWT Departments to ensure there were no conflicts with other NWT legislation or government policy. This included having a legislative expert from the GNWT Department of Justice review selected results to ensure they were legally appropriate. Results that survived the confirmation process became the recommendations of this report.

4.5 Limitations

There were several limitations to the Liquor Act Review. First, there was low turnout at some community meetings, only a handful of online comments, and the number of written submissions was less than expected. It is questionable whether the comments raised by those who participated are truly representative of the larger population. While a scientific sample size was never the intent, the low number of suggestions and comments received is somewhat problematic. To address this,

precautions were taken in the analysis of results to ensure that suggestions and comments received were verifiable and consistent with other sources.

Another limitation was that time did not permit travel to all NWT communities. The Liquor Act Review did cover the costs of two representatives from all communities to travel to one of the public meetings. Some, however, felt this was inadequate to capture true public input, particularly for some smaller communities.

Many participants² provided comments and suggestions that were outside the scope of the Liquor Act Review, and indeed were outside the scope of liquor legislation in general. Attempts to limit this were made by explaining the limitations of legislation at each public meeting and on all written material. Despite this, many non-legislative comments were received. These were not factored into the results of the Liquor Act Review.

Time and resources also did not permit interviews with representatives from every Canadian jurisdiction about the pros and cons of their legislation. Similarly, in-depth research into the effects of legislative change in other jurisdictions was not done. That said, the consultant did review what documentation was readily available.

Finally, the Liquor Act Review did not include a detailed investigation into the resource implications and operational or administrative challenges of implementing each recommendation. This will require further work within the GNWT Department of Finance.

² The collective term “participants” is meant to include all those who made suggestions whether via administrative focus groups, licensee and public meetings, or via written submissions.

5. Mitigating the Effects of Alcohol Abuse



Many of the comments and suggestions raised during the Liquor Act Review concerned the need for prevention, education and treatment programs to address addiction and alcohol abuse. As stated previously, these issues were not within the scope of the Liquor Act Review. Further, solutions and approaches to dealing with these issues lie outside the realm of liquor legislation and are more appropriately addressed by a multi-faceted approach. Because these comments are non-legislative in nature, they were not investigated further, and recommendations about these issues are not included in this report. Nevertheless, the sheer number of such comments and the passion with which the stakeholders and public delivered them warrant brief documentation in this section.

Integrated Approach

Participants suggested that a more integrated approach to mitigating the effects of alcohol abuse is required. They saw the GNWT setting a broad policy direction to guide all those involved with alcohol abuse and addictions programming. As well, participants recommended the establishment of an interdepartmental/interagency strategy involving NGOs, all levels of government, and families to address the underlying causes of addiction and binge drinking and the related social ramifications.

Public Education

Nearly every community meeting involved a plea for more public education and awareness programs concerning the negative effects of alcohol abuse. In particular, participants felt strongly that awareness efforts should include messaging to de-normalize binge drinking, address Fetal Alcohol Spectrum Disorder, and be targeted to youth.

Prevention and Treatment

Several participants felt there was a need for more treatment services in the NWT, particularly for youth. As well, a need was identified for additional counselling, prevention and other related services.

Resources

Participants at nearly every public meeting strongly urged the government to dedicate more resources for mitigating the effects of alcohol abuse. They felt strongly that resources at the community level and those directed to NGOs were the areas of greatest need.

6. Principles and Structure



6.1 Principles

Principles are the underlying philosophies which guide legislation. During the course of the Liquor Act Review, a wide variation in philosophies and attitudes about liquor and how it should fit into the social and business climate of the NWT emerged. Some participants would like to see the system modernized and based on the principle of personal responsibility. They believe liquor, when used responsibly and safely, brings enjoyment to life. By contrast, many other participants have seen the damage done by the misuse of liquor. They believe relaxed liquor laws are Southern approaches, and are not appropriate in the North. They want the *Liquor Act* to be strong and to protect people as much as possible.

Because of this variation, the following principles for improved liquor legislation are based on balance. They reflect common themes from the consultation results that are appropriate for legislation and that are workable within a northern context.

Principles

- Youth should be protected
- The public should be protected from unsafe conditions and environments
- Those who use liquor should be responsible for their behaviour
- Checks and balances should exist to ensure fairness and due diligence
- Communities should have a voice in controlling liquor
- The safe and responsible operation of the liquor industry should be supported
- Options should be available for penalizing those who violate the *Act*
- The *Act* should set minimum standards and allow communities to impose further restrictions
- Liquor restrictions beyond those in the *Act* should not be imposed without public input

6.2 Structure

An improved *Liquor Act* must be carefully structured so it is clear and useful to those who work most closely with it. Stakeholders told the Liquor Act Review that the current organization of the *Liquor Act* is confusing and contains too much detail. The *Act* is divided into three parts, dealing with licensed premises, liquor sales and distribution, and prohibitions and penalties, respectively. Each part, however, contains elements of all the others so that like matters are not consistently grouped together. Subject headings are not particularly well-used. Overall, a lot of detail in the *Act* may be better addressed in regulations.

Decisions about the structure of legislation are best left to legislative experts. That said, the Liquor Act Review suggests the following guidelines:

- Community Options should be described in a separate part of the *Act*
- Each part of the *Act* should be appropriately titled
- All matters related to a particular subject (e.g. licensed premises) should be grouped together under one part of the *Act*
- Clear subject headings should be used to indicate a change in topic
- Wording should be kept flexible so new issues and models may be addressed as they arise
- Any detail that does not require statutory permanence should be moved to the regulations

Notwithstanding the above, the Liquor Act Review does not see the need for a complete re-writing of the *Liquor Act*. Revision and re-organization of the current sections will likely suffice.

7. Results and Recommendations



The following pages present the results and recommendations of the Liquor Act Review. The process used to determine results and the criteria by which recommendations were identified are outlined in Section 4 of this report.

Results and recommendations have been presented for each of the legislative issues identified in the initial phase of the Liquor Act Review. For each issue, the current status is described and the results of the Liquor Act Review are presented, including why the current status is problematic and what solutions were found. Each topic concludes with a recommendation, except where no change to the *Act* or regulations is necessary.

To assist with readability, the legislative issues and the associated results and recommendations have been grouped according to the main categories of the NWT *Liquor Act*:

- Liquor Control System
- Social Responsibility
- Community Control
- General Terms and Conditions
- Liquor Sales and Distribution
- Licensed Premises

Some results and recommendations of the Liquor Act Review are not presented in this section, but appear in Appendix 5. These results involve changes to legislative wording or the clarification of misleading sections of the *Liquor Act*. They were put in an appendix because they are largely administrative in nature.

It should also be noted that participants in the Liquor Act Review put forward many suggestions that did not involve changes to the *Liquor Act* or regulations. Suggestions related to alcohol abuse and social programming have been summarized and highlighted in Section 5. Suggestions related to policy, procedure or operations have not been presented in this report because, falling outside the mandate of the Liquor Act Review, they were not verified, investigated, or compared against best practices. These suggestions were, however, forwarded to the GNWT Department of Finance as information items.

7.1 Liquor Control System

Administration of Liquor Sales

Current Status

The NWT Liquor Commission is established by the Minister of Finance as an agency of government. The Commission oversees the operation of liquor stores and the purchasing, selling, classifying, and distribution of liquor in the NWT. It contracts with private agents to operate all of the liquor stores and warehouses in the NWT. It also issues permits authorizing the importation of liquor into the NWT, subject to the payment of a fee.

Results

A review of other jurisdictions suggests there may be a better way to organize the liquor control system. There were very few comments, however, from participants on this issue. Those who did comment felt the Liquor Commission worked well as-is. There were several comments about how the overall organizational structure of the liquor control system could be improved, but since these suggestions do not require changes to the *Liquor Act*, no legislative recommendations are made.

Liquor Licensing Board Structure

Current Status

The *Act* establishes the Liquor Licensing Board (LLB) to regulate the sale of liquor in licensed premises. The Board is quasi-judicial and operates at arm's length from the government. Its members are appointed by the Minister of Finance. The LLB currently has two members with industry experience, but this is not mandatory under legislation.

Results

Participants have suggested that the *Act* make it mandatory for one member of the LLB to have industry knowledge. This was felt to be necessary to ensure the LLB understands the operational side of the industry it regulates. Participants were careful to recognize that the individual could not be currently involved in the NWT liquor industry. Membership designations of any kind are not spelled out in the liquor legislation of other jurisdictions, although particulars might exist in policy. As well, the practicalities of identifying a qualified and available individual with industry knowledge could be challenging. For these reasons, this report does not recommend a mandatory designation of one LLB membership for an individual with industry knowledge.

Licensing

Current Status

The LLB hears license applications and issues liquor licenses. Renewals of liquor licenses are handled by the Executive Secretary and do not require a hearing. The Licensing and Enforcement office of the GNWT Department of Finance also handles administrative matters related to licensing.

Results

Examples from other jurisdictions suggest that the licensing function could be handled by administrative staff and not the LLB. This would reserve the LLB mainly for presiding over show-

cause hearings. Participants, however, felt the licensing function should remain with the Liquor Licensing Board, but only for new license applications and transfers. They felt the *Liquor Act* should reflect the current practice of allowing administrative staff to handle license renewals. This approach does not comprise a large change to the *Act*. It would simply require formal recognition of the authority of the LLB to delegate some of its functions.

Recommendation 1: Authorize the Liquor Licensing Board to delegate its authority for some functions to the Executive Secretary.

Show-Cause Hearings

Current Status

The LLB conducts show-cause hearings where licensees are alleged to have violated the *Act*. The Board considers all evidence and judges accordingly. Decisions of the LLB may be appealed to the Supreme Court on matters of error or where the LLB may have exceeded its jurisdiction.

Results

Some infractions by licensees are minor, involve low-risk situations, and could be best addressed by having the inspector issue a ticket to the licensee, based on established guidelines. More serious infractions could be addressed by a show-cause hearing. Under this approach, a licensee may refuse to pay the inspector's ticket, thereby triggering a show-cause hearing by the LLB. This, of course, would require administrative and legal work to identify which infractions are "minor" and what appropriate fines might be. A schedule in the *Summary Conviction Procedures Regulations* may work best. Advocates of this approach said that having such a process would allow for consistency in penalties, and would expedite and clarify the penalty process.

Even if the process for minor and major infractions is separated, some further changes to the *Act* are required to recognize that not every alleged major infraction may require a show-cause hearing. Some alleged infractions, under further investigation, may actually be inappropriate to bring before the LLB. The current wording of the *Act* does not allow for this distinction.

Comments were about equally split on whether appeals should continue to be to the Supreme Court or whether a separate appeals body should be established. Maintaining appeals with the Supreme Court involves strong due process and gives the LLB the necessary authority to be taken seriously. Arguments against the Supreme Court were mostly based on the cost of having legal counsel involved, and were less concerned with process.

Recommendation 2: Recognize a separate process for minor and major license infractions. Address minor infractions by issuing tickets to licensees. Address major infractions (and non-payment of tickets) via a Liquor Licensing Board show-cause hearing.

Recommendation 3: Do not make show-cause hearings mandatory for every alleged major infraction.

Regulation-Making Authority

Current Status

The LLB makes regulations governing the operation of licensed premises. The LLB works with legislative lawyers to ensure all changes are legally appropriate.

Results

The NWT and Nunavut are the only jurisdictions where the LLB has this authority. All other jurisdictions require regulations to be approved by the Lieutenant Governor. Most legislation in the NWT is similarly structured, requiring the Commissioner to approve regulations. Overall, participants saw the LLB's regulation-making authority as a conflict of interest, as it would be if a judge could both make a law and apply it. Participants felt that because the LLB has first-hand knowledge of licensing issues, regular communication between the LLB and the Minister regarding regulatory changes was necessary. A provision for the LLB to provide advice on matters of policy and legislation, via the Minister, already exists in the *Act*.

Recommendation 4: Transfer the authority to make regulations concerning licensed premises from the Liquor Licensing Board to the Commissioner, on the recommendation of the Minister.

Liquor Licensing Board and Enforcement

Current Status

Under the *Act*, the LLB has the authority to prescribe the duties and powers of inspectors, and authorize the inspection or investigation of licensed premises.

Results

The current authorities given to the LLB under the *Act* concerning inspectors and enforcement are problematic. The LLB is an administrative tribunal that makes disciplinary judgements and applies penalties for violations. Evidence of these violations is brought to the attention of the LLB through the inspectors. Allowing the LLB to have influence over inspectors creates a conflict of interest, akin to judges having the authority to influence police officers. This issue was brought to light in the recent Hughes Report. The LLB, because of its adjudicative functions, must be able to demonstrate that it is independent and free from bias (or perceived bias). The *Act* and regulations need to be amended to remove any enforcement authorities from the LLB.

Recommendation 5: Transfer all legislative authorities concerning inspection, enforcement, and influence over liquor inspectors from the Liquor Licensing Board to the Minister.

Inspection and Enforcement

Current Status

Liquor inspectors are appointed by the Minister of Finance. They generally observe the conduct of licensees and report infractions. The regulations also authorize inspectors to orient licensees to the *Act*, request licensees to remedy conditions within a reasonable timeframe, and investigate complaints. The *Summary Convictions Procedures Act* also authorizes liquor inspectors to issue tickets for offences that have been identified as “ticket offences”, but to date, no offences under the *Liquor Act* have been identified as such. Liquor inspectors are not authorized to make disciplinary decisions or to make arrests. Peace officers also conduct liquor inspections.

The Licensing and Enforcement office of the GNWT Department of Finance oversees the administrative duties related to enforcement, including orienting inspectors, answering questions from licensees, conducting investigations, and providing a free server training course.

Results

The most common suggestions about inspection and enforcement were not legislative, but were more rooted in operation. One legislative change suggested by participants was that inspectors should be able to ticket licensees for minor infractions, based on a schedule of fines set out in regulations. This has been previously recommended.

Participants also suggested that liquor inspectors should be able to ticket minors and intoxicated persons found in licensed premises. These offences would therefore need to be designated as “ticket offences” under the *Summary Conviction Procedures Act*, and a set of fines listed in regulations.

Participants felt that the current ability for inspectors to temporarily suspend a license for a serious contravention of the *Act* should be maintained. As well, they were supportive of allowing inspectors to seize false or altered identification.

Recommendation 6: Identify offences for which a liquor inspector may issue a ticket to a patron of a licensed premise, and authorize liquor inspectors to seize false or altered identification.

7.2 Social Responsibility

Social Responsibility

Current Status

Much of what could be called social responsibility in the liquor control system is not legislated. For example, the NWT Liquor Commission is involved in public education to encourage the safe and responsible sale, supply and consumption of liquor. This includes activities like positive messages on liquor store bags and the distribution of booklets and posters. The NWT is also one of few Canadian jurisdictions that apply healthy message labels to liquor bottles. Because these activities are not set out in the *Liquor Act*, participant suggestions about public education appear in Section 5 of this report.

The *Liquor Act* does require net liquor revenues to be used for GNWT programming. Specifically, the *Act* requires net revenues from the Liquor Revolving Fund to be transferred to the GNWT Consolidated Revenue Fund. This means that all revenues collected from liquor sales, license fees, permit fees, and other liquor revenues (after operating expenses are paid) are transferred to the GNWT for allocation to government programs. Currently, the liquor control system indirectly contributes to the wellbeing of northerners by providing approximately \$20 million annually towards government programs, including substance abuse prevention and treatment.

Results

Participants strongly recommended that a portion of liquor revenues be designated (or earmarked) for alcohol abuse prevention and treatment programs. They argued that additional resources were needed to address the blatant social problems related to binge drinking and addiction that exist in every community. Many felt that unless funding for these programs was protected in legislation, the programs risked being under-funded if government priorities shifted.

A review of best practices in legislation and government operations suggests that earmarking is inappropriate. It should be clarified that although the discussion guide for the Liquor Act Review stated that some jurisdictions earmark liquor revenues, further investigation found that, in fact, no Canadian jurisdictions do. The rationale is not related to the importance of substance abuse programming. The argument is that earmarking as a budgeting mechanism has serious flaws.

It is highly unusual for government budgeting decisions to be made outside the democratic process of the Legislative Assembly. Earmarking liquor revenues means MLAs are strongly restricted in how they can deal with a wide range of community and regional priorities. Also, liquor revenues are fully integrated into the government's overall budget. To earmark them would mean taking needed funding away from other programs, such as education, health, housing or justice. This would create problems overall.

Earmarking is the only issue raised during the Liquor Act Review that was strongly supported by the public, yet completely unsupported by best practices or background documentation. This diversity created a challenge. In the end, the methodology for determining recommendations, as outlined previously, necessitates that earmarking not be recommended.

7.3 Community Control

Community Options

Current Status

NWT residents who want to change the level of liquor restriction in their communities must petition the Minister of Finance to hold a plebiscite. If the Minister agrees, a plebiscite is held. The question on the plebiscite may address restriction, prohibition, restriction by an alcohol education committee, or no restriction at all. The plebiscite question must be supported by 60% of those voting to be accepted. The waiting period between plebiscites is at the Minister's discretion.

Results

Participants suggested that more authority should be given to communities to make their own decisions about liquor control. One suggestion was to remove the need for communities to petition the Minister to hold a plebiscite. A resolution from a community government would suffice. Another strongly supported change was to lower the plebiscite agreement threshold from 60% to 50% plus 1. Participants felt 50% plus 1 was more democratic and realistic.

The *Liquor Act* also needs to be consistent with self-government. Some of the *Act's* existing provisions and regulations may not be consistent with the authorities and/or decisions of communities once self-government agreements are implemented. For example, communities under the Tli Cho self-government agreement have the authority to pass bylaws to change restrictions on liquor. If they choose to create such bylaws, some mechanism would be required to legally rescind any existing restrictions in favour of the community's new bylaws. Such a mechanism does not currently exist.

Recommendation 7: Allow community governments to request a plebiscite without the need for a petition, and change the approval requirement from 60% to 50% plus 1.

Recommendation 8: Include a mechanism for transitioning from the existing system under the Act to any new system implemented by communities under self-government agreements.

Special Prohibition Orders

Current Status

Communities may ask the Minister to impose, by Ministerial order, a period of prohibition for up to 10 days during a special occasion. Applications must be submitted 15 days in advance to allow for the legal paperwork to be finalized. Once a special prohibition order is approved by the Minister, residents of a community may not consume, sell, purchase, or transport liquor for the prohibition period.

Results

Communities want more control over special prohibition orders, such as extending the length of the prohibition and removing the 15 day notice period. There was also some support for the *Act* empowering communities to impose special prohibitions, without needing to involve the Minister.

Because a special prohibition order does not involve voting or any input by community residents, some checks and balances are required. Extending the number of days for temporary prohibition could be at odds with the underlying and democratic principle that individuals deserve a say when restrictions are imposed. Some might even question the current 10-day provision in the *Act* for this reason. Philosophical arguments aside, best practices and background documents raise challenging legal and enforceability issues related to empowering communities to simply impose temporary prohibitions (other than those communities already empowered under a self-government agreement). For these reasons, this report does not recommend a legislative change to either the allowable number of days for a special prohibition order, nor to the authority under which these are made. While waiving the 15 day notice period is not generally supported, there may be circumstances which warrant this. An example is where a community requests a temporary prohibition during a serious community situation, such as a public health issue or time of heightened violence in the community.

Finally, it was suggested that communities with licensed premises and liquor stores should not be eligible to request a special prohibition order. These businesses incur high costs when they are forced to close during a prohibition period. This could affect their livelihood and have implications for sustainability. The only exception would be communities that request prohibition within a specified area of the community, provided there were no liquor stores or licensed premises in that area.

Recommendation 9: Authorize the Minister to shorten the 15 day notice requirement for special prohibition orders under special circumstances.

Recommendation 10: Make communities with licensed premises and/or liquor stores ineligible for special prohibition orders, unless the prohibition is for a specific community area where no licensed premise or liquor store exists.

Community Restriction of Licensed Premises

Current Status

Communities that wish to prohibit licensed premises from opening in their communities may vote against the first application for a liquor license. If the community votes in favour of the license, additional license applications of that classification or of a classification with lesser privileges do not require a community vote. If the community votes against the application, no further plebiscites are held for 3 years.

Communities wishing to close an entire classification of licensed premises may petition the Minister to hold a plebiscite, as long as the class of licenses has been in the community at least 4 years.

Communities may also petition the Minister to hold a plebiscite regarding the hours of operation of licensed premises. This is the only regulatory provision of licensed premises that may be further restricted by a community. All others are applied equally to all licensed premises across the NWT.

Results

No comments were received regarding the plebiscite process for approving or cancelling classifications of liquor licenses. There was, however, support for giving communities more control over restricting some of the provisions of licensed premises. The most frequently suggested

approach involved having the legislation set minimum standards and allowing communities to tighten the restrictions through their bylaws.

Examples of items that may be appropriate for community bylaws include Sunday and holiday openings, operating hours, outdoor patios, types of entertainment, and noise restrictions. Giving communities the authority to make restrictions on certain license matters is consistent with legislation across Canada. Bylaws would, however, be required to defer to penalties set out in the *Liquor Act* to avoid inconsistency in penalization between NWT communities.

This approach would require other checks and balances also. For example, community bylaws must be applied across all licensed premises. As well, some mechanism to limit the frequency with which a community could change a bylaw would be required to provide a measure of operational stability. All bylaws would also need to be submitted to Licensing and Enforcement to ensure they were monitored. Finally, the previous recommendation recognizing the authority of communities under self-government agreements would apply for decision-making about licensed premises.

Recommendation 11: Identify regulatory provisions for licensed premises that may be further restricted by community bylaw. Such bylaws shall defer to the Liquor Act penalties for violations, be copied to the Minister prior to their enactment, and be in force at least 4 years.

Community Control of Liquor Stores

Current Status

The Minister has complete discretion in the opening and closing of liquor stores. Restriction of liquor store hours and the quantities that may be sold are at the discretion of the Commissioner, on the recommendation of the Minister. Currently, the Fort Simpson and Norman Wells liquor stores have restricted hours and restrictions on the quantities to be sold.

Results

A few participants wanted more control over liquor stores in their communities. This included opening new stores, closing stores, or changing restrictions placed on stores. Best practices suggest that because the opening, closing and restriction of liquor stores involves market economics, contract arrangements with agents, and other factors that cannot be easily adjusted, the Minister should retain discretion in these areas. There is nothing to suggest, however, that that some mechanism could not be included to allow communities to have input into the hours and quantities sold in the liquor stores in their communities.

Recommendation 12: Require the Minister to seek community input before recommending regulatory changes concerning liquor store hours and/or quantities sold by liquor stores in that community.

7.4 General Terms and Conditions

Minors

Current Status

Youth under age 19 are called minors. The *Liquor Act* prohibits minors from purchasing, selling, or consuming liquor. If they do not comply, minors may be charged and fined up to \$100 or ordered to do community service by a justice. Failure to pay the penalty could result in 7 days in jail. The *Liquor Act* does allow minors to consume liquor at home, under the supervision of their parents.

Results

The “drinking age” across Canada varies between 18 and 19 years. Some governments outside Canada use 21 as the drinking age. There was no consensus from participants on this topic. Opinions were equally split on whether the current drinking age of 19 should be lowered, maintained, or raised. Because of this variation, and because the most common drinking age across Canada is 19, this report does not advocate a change to the *Liquor Act* on this subject.

Participants did feel strongly that minors found in license premises, except where permitted under the *Act*, should be ticketed. As well, minors authorized to be in a licensed premise but found consuming liquor should be ticketed. This report has previously recommended such an approach.

There was support for maintaining the clause that allows minors to consume alcohol at home, under the supervision of their parents. Many felt this allowed parents to teach their children about responsible use, perhaps making binge-drinking less attractive. Best practices and background documents support this approach. A few participants, however, were concerned that this was risky should a family be unwilling or unable to create a responsible environment for liquor use.

Participants also felt youth drinking at house parties was a particular problem. They recommended that the *Act* allow a peace officer to enter a premise without a warrant if there are reasonable grounds to suspect there is under-age, unsupervised drinking occurring. Best practices, however, frown upon removing the need for a warrant for human rights reasons.

Participants wanted legislation to allow for variation in penalties for youth who violated the *Liquor Act*. This included community service, a fine, or other extrajudicial penalty. Many of these options are already possible under the *Youth Justice Act*, where that *Act* applies. Participants also felt the maximum monetary penalty should be increased from \$100, with subsequent offences penalized more severely. Some jurisdictions also make it an offence to carry false or altered identification.

Finally, in other jurisdictions peace officers may issue tickets to minors for certain offences, in addition to being able to charge them. This would require the establishment of a set of ticket fines in legislation. This was supported by participants.

Recommendation 13: Make the maximum monetary penalty for offences committed by minors \$200 for a first offence, and \$500 for subsequent offences.

Recommendation 14: Identify offences for which a peace officer may issue a ticket to a minor.

Recommendation 15: Make it an offence to carry false or altered identification.

Interdiction

Current Status

The *Liquor Act* allows certain individuals to be prohibited for up to three years from possessing, purchasing, or consuming liquor, or holding any permits related to liquor. This is called interdiction. Its purpose is to protect individuals whose excessive drinking puts them or their families at risk. A person may be put on an “interdict list” by a justice.

In addition to interdiction, a community alcohol committee, where one has been established as a result of a community plebiscite, may withdraw the eligibility of a person to consume, possess, purchase or transport liquor in that community for up to one year. The committee’s decision can be appealed to a justice.

Results

Stakeholders said that interdiction is rarely used and is not effective. It is very difficult for licensees and liquor store agents to know which of their customers is interdicted without checking the identification of everyone against a list. This is unrealistic, particularly in larger communities. Also, since interdiction applies territory-wide it is very difficult to identify an interdicted person from another community. Interdiction is not considered a best practice in liquor legislation.

A few participants had philosophical concerns about banning individuals from liquor. They worried the process was subjective and open to bias. They reasoned that if someone’s drinking was so out of control that they required interdiction, they would likely not care about breaching an interdiction order and would find other ways to get liquor, like through bootleggers. The majority of comments on this topic, however, were in favour of retaining some mechanism in the *Act* for this purpose. The community alcohol committee process is likely best suited for this since it only applies locally and can therefore be more easily monitored. Best practices suggest that liquor store agents could also be given the right, in legislation, to request identification from anyone they suspect is ineligible to purchase liquor.

Recommendation 16: Remove interdiction from the Act.

Recommendation 17: Authorize liquor store agents to request identification from a person if they are not satisfied that the person is eligible to purchase liquor.

Definition of Intoxication

Current Status

The *Liquor Act* does not specifically define the term intoxication. The terms “drunkenness”, “intoxicated person” and “intoxicated condition” are all used. The *Act* does state that an intoxicated person includes one who is under the apparent influence of drugs.

Results

Participants called for a better definition of intoxication, since there are degrees of intoxication. Many felt the intent of the *Liquor Act* was not to prevent adults from having a good time, but to prohibit intoxication at a level that was potentially harmful. The *Act* does not make this distinction. It was also

proposed that the definition should include intoxication from non-beverage alcohol, such as rubbing alcohol or hairspray, and other substances.

Other jurisdictions suggest that liquor legislation is better left without a specific definition of intoxication. Instead, the words “appears to be intoxicated” or “apparently under the influence of liquor” are used. The rationale is that each individual is affected by liquor differently, and although there are a few common characteristics, no indicators are definitive. For example, some people show no physical signs of intoxication yet their temperament is affected. Others may be even-tempered yet they have physical impairments. Examination of this issue across Canada suggests that to include a more detailed definition of intoxication in liquor legislation simply creates legal argument.

Recommendation 18: Define an intoxicated person as anyone appearing to be intoxicated from liquor, drugs or other substances.

Public Intoxication

Current Status

The *Liquor Act* currently forbids anyone from being intoxicated in public. An intoxicated person may be apprehended by a peace officer for up to 24 hours. That individual, however, cannot be charged unless permission is granted by the Minister of Justice.

Results

The most common suggestion about public intoxication was that peace officers should be able to use their discretion. An intoxicated person who is causing no disturbance, is in no immediate danger, and is committing no other crime should be left alone, most said. Leeway should also be given to individuals who are homeless or struggling with addictions. That said, there was support for authorizing peace officers to impose a range of penalties from detaining to ticketing or charging, depending on the circumstances. Ticketing, however, was considered a more appropriate penalty than laying a charge since the latter involves a costly court process which may be unnecessary, given the circumstances. Other jurisdictions vary in their approach, but background documentation suggests that charging an intoxicated person should be a last resort. This can be done by authorizing a peace officer to lay a charge only if detention and ticketing have been exhausted as options.

Finally, participants expressed concern about the noise and littering caused by those who are intoxicated in public. There seemed to be confusion about who was responsible for dealing with this problem. Best practices and background documentation suggest that issues of noise, littering and other public disturbances are not addressed in liquor legislation. This report’s previous recommendation to give communities more authority to restrict licensed premises with respect to hours and noise may assist with this.

Recommendation 19: Give peace officers the authority and discretion to detain or ticket persons for public intoxication, and authorize peace officers to lay a charge only when an intoxicated person has been ticketed more than 3 times in the preceding 12 month period.

7.5 Liquor Sales and Distribution

Bootlegging

Current Status

The *Liquor Act* prohibits the sale of liquor by anyone not authorized by the *Act* to do so. Those who contravene this requirement are commonly referred to as bootleggers. Bootlegging is illegal because there are no controls on sales to youth or intoxicated persons. As well, there is no control on pricing or the quality of bootlegged products, and bootlegging takes revenues from the GNWT.

Current bootlegging penalties include fines from \$5,000 to \$10,000 and/or jail time for up to two years. Vehicles and other items related to the bootlegging may also be forfeited.

Results

Participants felt strongly that the *Act* could do more to deal with bootlegging. The most common suggestion was to require anyone who purchases or transports large quantities of liquor to have a permit or license. This allows licensees, special occasion permit holders and others who are authorized to have large quantities to purchase and transport them, and all others to be in violation of the *Act*. This would, of course, require a determination of what constitutes a large quantity. Best practices support this approach. The *Act* currently allows regulations to be made respecting quantities, but no such regulations have been made to date.

Additionally, participants suggested that penalties for bootlegging should be higher. Fines in other jurisdictions can be as high as \$50,000 for an individual and \$100,000 for a corporation. Participants felt these amounts were justified in the North given the serious impact bootlegging has on NWT communities. Some also wanted bootlegging to apply to the sale or supply of non-beverage liquor to intoxicated persons.

Recommendation 20: Create regulations requiring those who purchase and transport large quantities of liquor to have a permit or license.

Recommendation 21: Increase the maximum fines for bootlegging by individuals to \$25,000 and/or 12 months jail time for first offences, and \$50,000 and/or 2 years jail time for subsequent offences; and \$50,000 for first offences and \$100,000 for subsequent offences for corporations.

Recommendation 22: Prohibit the sale or supply of non-beverage liquor to intoxicated persons.

Homemade Liquor

Current Status

The *Liquor Act* does not allow the manufacturing of liquor without a permit. This means that individuals must now get a permit to make homemade wine. It also means that U-Brews and U-Vins are not permitted. These are businesses that help their customers make beer or wine by providing the supplies, the storage, and some instruction.

Results

Best practices, background documentation and participants are all in support of removing the requirement to have a permit for an individual to make wine and beer at home for personal consumption. Other jurisdictions also allow homemade beer and wine to be judged as part of a special event under a special occasion license, and they allow homemade beer and wine to be transported for a competition via a permit.

Conversely, background documentation suggests that U-Brews and U-Vins have been difficult to regulate in other jurisdictions. Some jurisdictions allow these operations and others do not. Most participants who commented on U-Brews and U-Vins were uncomfortable with how little the customer actually contributed toward making the liquor. They had concerns about pricing, quality of the product and the protection of minors. There were very few comments in support of these operations.

Recommendation 23: Allow the making of beer and wine in a private residence for personal consumption, and allow homemade beer and wine to be transported and judged as part of a special event, provided this is a condition of a special occasion permit.

7.6 Licensed Premises

Intoxication in Licensed Premises

Current Status

If an intoxicated person is found in a licensed premise, the licensee is in violation of the *Act* and may receive a fine or a suspension/cancellation of their license. The intoxicated person can be removed but cannot be charged or fined. The *Act* further states that where a license holder knowingly sells liquor to an intoxicated person and the person dies, causes death or injury to another person or another person's property, the license holder may be liable.

Results

There was strong support among participants for having liquor inspectors and peace officers ticket intoxicated persons in licensed premises. They felt that, in addition to the licensee having some responsibility, individuals must be responsible for their own behaviour. A legislative provision related to this was recommended earlier in this report.

A few jurisdictions allow intoxicated people to remain in a licensed premise as long as they are not consuming or purchasing liquor. Participants did not support this fully, but felt strongly that some leeway was necessary. Without leeway, extreme weather conditions and limited taxi service may put both the intoxicated person and license holder at risk. Participants felt strongly that an intoxicated person should be able to wait safely indoors for a taxi or other safe means home as long as he/she does not consume liquor, does not have liquor in front of him/her, waits near the door, and is under the direct supervision of the bouncer or other staff member. There was no support for allowing intoxicated people to remain indefinitely in licensed premises.

Recommendation 24: Permit intoxicated persons to temporarily remain in licensed premises under specific conditions. These conditions should be described in regulations.

Minors in Licensed Premises

Current Status

The *Liquor Act* allows minors in licensed premises under certain circumstances, some of which have recently changed. Minors may provide entertainment. They may also be employed in the kitchen of a licensed premise, or in the case of a licensed dining room, may be employed anywhere but may not make or serve a drink. Minors may attend a special occasion held in a licensed premise where the premise is reserved and the minor is accompanied by his/her parents. Minors may also have a meal in a licensed dining room, unaccompanied, as long as they do not consume liquor. Finally, minors are allowed in clubs when accompanied by a club member, but may not consume liquor.

Results

The current restrictions on minors in licensed premises are consistent with best practices in other jurisdictions. Most participants also felt these restrictions were fair. This report therefore makes no recommendations on this topic.

Penalties

Current Status

The LLB may penalize a licensee who has violated the *Liquor Act* by disqualifying that person from holding a license, cancelling the license, suspending the license up to 12 months, imposing conditions on the license holder, or imposing a fine not to exceed \$5,000. Currently, the LLB judges each alleged infraction brought before a show-cause hearing on a case-by-case basis, taking all circumstances and the prior compliance of the license holder into consideration. Penalties are determined accordingly.

Results

Suggestions for improving the *Act* included distinguishing between minor and major infractions. As previously mentioned, licensees with minor or first-time offences could be ticketed by an inspector or peace officer, based on a schedule of appropriate fines. For major infractions, best practices suggest that all penalties currently in the *Act* are appropriate, with the exception of maximum monetary penalties which appear too low. This was supported by participants. They suggested that increasing the maximum amount would provide the LLB with greater flexibility should circumstances require it. That said, participants felt the maximum limits in the South (one jurisdiction has penalties as high as \$200,000) were not appropriate for the North, where small businesses comprise the bulk of the liquor industry. Finally, participants suggested that the *Act* should include progressive penalization, meaning lower penalties for first offences and higher penalties for second and subsequent offences.

Recommendation 25: Maintain the penalty options available to the Liquor Licensing Board but increase the maximum monetary fines for major infractions to \$10,000 for first offences and \$20,000 for subsequent offences.

Classifications

Current Status

The *Act* currently lists 12 license classes. Many are very similar, but each has different rules. The *Act* also authorizes the making of regulations respecting the number and class of licenses.

Results

Participants would like to see the number of license classifications reduced. This would level the playing field and simplify the monitoring process for inspectors. The best fit between classification schemes in other jurisdictions and the current system in the NWT seems to be the creation of four general license classes: liquor-primary (e.g. cocktail lounges), food-primary (e.g. dining rooms), mobile (e.g. commercial caterers, special event promoters, ships), and non-industry (e.g. private clubs, sports facilities, canteens, clubs, remote lodges, and B&Bs). The latter is meant to reflect premises where liquor or food sales do not comprise the bulk of the premise business. Note that some jurisdictions label their classifications with letters rather than names to avoid confusion.

Off-premise sales could be addressed through a permit or provision attached to an existing license that meets the off-premise sales requirements (see Off-Sales below). It was also suggested that a single licensed premise should be able to hold dual licenses, such as food-primary during the day and liquor-primary in the evening.

The details and conditions of each classification will need to be clearly spelled out. It is common to see this done in the regulations and not in the *Act* itself. The *Liquor Act* already contains a provision for setting out the number and type of license classifications in the regulations and this should be maintained.

Recommendation 26: Set classes of liquor licenses in the regulations, and reduce the number of classifications to four including liquor-primary, food-primary, mobile, and non-industry.

Recommendation 27: Authorize the Liquor Licensing Board to approve and set conditions on dual licenses for a single licensed premise.

Off-Sales

Current Status

Licensees who have brewery permits, who provide overnight accommodations and those in communities that have no liquor store may apply for an off-premise license. A license for off-premise sales allows the establishment to sell, until 10:00 pm, a minimum of 6 and a maximum of 12 bottles of beer for consumption off premises.

Results

Some participants felt the restrictions on off-sales should be lifted. They argued that all cocktail and dining room license holders should be able to sell off-sales and the hours should be the same as regular licensed hours. These suggestions, however, were not supported by background documentation or legislation in other jurisdictions. In fact, some jurisdictions prohibit off-sales entirely while others restrict off-sales where there is a liquor store or liquor outlet in the community. Common practice across Canada is to restrict off-sales to licensees providing overnight accommodations, to prohibit the off-sale of "hard liquor", and to limit the hours of off-sales. These restrictions are similar to the current NWT provisions. Finally, most jurisdictions address off-sales in regulations.

Recommendation 28: Move all restrictions related to off-premise sales from the Act to regulations, but make no further changes.

Transition Time

Current Status

Licensed premises may serve liquor until 2:00 am and patrons must be off of the premises by 2:30 am. This creates a transition time of approximately 30 minutes for patrons to disburse from the premises. This is a recent change. Prior to November 2005, the transition time was 15 minutes.

Results

There was a great deal of concern among participants about the safety of patrons and the potential for violence and excessive noise resulting from the previous 15 minute transition time. Participants generally supported the recent move to a 30 minute transition time (sometimes referred to as a tolerance time), although some were concerned that extended hours might result in more public noise. The longer transition time allows for the safe and orderly disbursement of patrons, better

monitoring by the RCMP, and easier access to safe rides home. This is fully supported by best practices and background documentation. Additionally, participants supported this report's earlier recommendation of authorizing communities to further restrict licensed hours through their bylaws, as long as a minimum 30 minute transition time was retained.

Recommendation 29: Require any community bylaw that restricts the hours of licensed premises to provide for a transition time of at least 30 minutes.

Sunday and Holiday Openings

Current Status

In the NWT, licensed dining rooms, guest rooms, canteens and private recreational facilities may operate on Sundays. Cocktail lounges, clubs and cultural or sporting facilities, however, may only operate 6 Sundays per year, provided they give 14 days notice to the LLB. Cocktail lounges may not operate on Christmas day or Good Friday, but other classifications of licenses may do so.

Results

Best practices and background documentation suggest that restrictions could be lifted for opening licensed premises on Sundays and holidays. Participants, however, were mixed in their opinions about this. They were, however, supportive of making the restrictions apply equally across all license classifications. There was also strong support for having each community decide for itself about which days a licensed premise could operate. This could be done by having the *Liquor Act* authorize communities to create bylaws that would permit licensed premises to be open on Sundays and holidays. License holders in communities that allow Sunday and holiday openings would be permitted, but not required, to operate on these days.

Recommendation 30: Authorize all licensed premises to operate on Sundays and holidays if permitted by community bylaw.

Bring Your Own Wine / Re-Corking

Current Status

The *Liquor Act* requires all liquor consumed in a licensed premise to be purchased from that licensee. Similarly, the *Act* prohibits taking any unfinished liquor from the premises.

Results

In some jurisdictions, customers may bring an unopened bottle of commercially-produced wine to a licensed premise. The licensee charges a fee to remove the cork. Customers may also take home an unfinished bottle of wine but must have it "re-corked" with the cork placed flush in the bottle. The majority of participants who commented on this topic supported the idea for the NWT. They believed this approach was convenient for customers, relieved small licensed premises from having to stock wine, and reduced any pressure to finish a bottle of wine and perhaps drive impaired. They also argued that licensees would likely welcome this approach since customers would be more willing to purchase wine if they knew they could take unfinished amounts home.

Participants supported having licensees apply for a bring-your-own-wine/re-corking provision under their license, and not automatically allowing all licensed premises to do so. There was also support for free re-corking and a maximum corking fee set out in regulations.

Recommendation 31: Allow customers to bring an unopened bottle of commercially-produced wine to a licensed premise for personal consumption, and authorize the removal of an unfinished bottle of wine from the licensed premise as long as the cork is replaced flush in the bottle.

Recommendation 32: Re-corking of unfinished wine should be free, and maximum fees for corking should be set out in regulations.

Recommendation 33: Require license holders who wish to offer a bring-your-own-wine/re-corking service to apply for this provision at the time of license application or renewal.

Server Training

Current Status

The Licensing and Enforcement office currently provides free server training when it visits a community. The course is not mandatory, unless the LLB requires it as a condition imposed at a show-cause hearing.

Results

Some jurisdictions require all servers and bar-owners to be trained and certified in the responsible service of liquor. Others require a certified person on the premises at all times. While there was support for having trained servers in the NWT, the majority of participants felt that making this mandatory was not practical. They cited concerns with high staff turnover, logistical problems with tracking and monitoring who was trained, and making the course regularly accessible.

There was mixed support for requiring the on-site manager to have a server training course although there were still pragmatic concerns. Best practices suggest that the *Act* could allow regulations to be made related to training, should mandatory training for on-site managers or other training requirements be desired at a later date.

Recommendation 34: Authorize the Commissioner, on the recommendation of the Minister, to make regulations concerning training for licensees and servers, but make no such regulations at this time.

Gambling

Current Status

The *Liquor Act* currently prohibits gambling in a licensed premise, with two exceptions. Raffle tickets sold under a lottery license may be sold in licensed premises. Also, service clubs that have obtained a lottery license may allow the sale of Nevada tickets and hold raffles on their licensed premises. This is consistent with the NWT *Lotteries Act*. No slot machines or gambling devices such as video lottery terminals are permitted in licensed premises.

Results

Canadian jurisdictions vary on how gambling in licensed premises is addressed. Participants in the Liquor Act Review had limited support for allowing certain gambling activities in licensed premises. There was, however, general confusion about whether the *Liquor Act*, the *Lotteries Act*, or municipal bylaws have the final jurisdiction regarding gambling where liquor may be sold and consumed. Many participants were under the impression that the *Liquor Act* contained additional restrictions to those in the *Lotteries Act*. This is not the case, although there are a few discrepancies between some municipal bylaws and the *Liquor Act*. Each law seems to rely on the others to control conditions where gambling and liquor mix, creating a grey area for the public and licensees.

Suffice it to say that bingo and casino activities are not permitted in licensed premises under territorial legislation. It has been suggested that these games, and other activities that are legal but normally prohibited in a licensed premise, could be permitted during non-licensed hours. This is done in other jurisdictions, with approval of the licensing authority.

Recommendation 35: Allow the Liquor Licensing Board to authorize a liquor license holder to use his/her premises for purposes other than the sale of liquor during non-licensed hours.

Special Occasion Permits

Current Status

Special Occasion Permits allow for the temporary consumption and/or re-sale of liquor in a public venue under specific restrictions. Anyone may apply for an ordinary permit to give liquor to their guests. Only non-commercial organizations may apply for a re-sale permit to sell liquor. Both types of permits require supervisors to oversee the event. Supervisors may be required to receive an orientation from the local liquor inspector. Both types of permits are subject to inspection by a liquor inspector or peace officer who may cancel the permit immediately if violations are found.

Results

Participants proposed that opening re-sale permits to any individual, organization, or business and not restricting them to non-commercial organizations was a more fair approach. They did, however, feel checks and balances were required. Other jurisdictions prohibit profit-making under a re-sale permit, unless the permit is issued to a non-commercial organization. These restrictions prevent special event organizers from competing with licensees who must comply with more strict regulations.

Participants also urged that more responsibility be placed on the permit holder if something should go wrong. They felt liquor inspectors and peace officers should retain the authority to immediately cancel a permit, but that permit holders could also be subject to a fine issued through a ticket. These suggestions are supported by best practices and background documentation.

Recommendation 36: Create two types of re-sale permits: one for private functions, for which anyone may apply; and one for public fund-raising functions, for which only non-commercial organizations may apply. The latter is the only type of re-sale permit authorized for the purposes of financial gain.

Recommendation 37: Identify violations for which liquor inspectors and peace officers may ticket a special occasion permit holder.

Advertising

Current Status

The Liquor Licensing Board has the authority to regulate liquor advertising in the NWT. This mandate includes such things as magazines, billboards, television, and signage. The LLB's regulations pertain to advertising that originates in the NWT and is displayed in licensed premises, liquor stores, and in the wider community. Currently the regulations state that no advertising of liquor can be done without it being specifically approved by the LLB, and a list of guidelines and restrictions is set out in policy.

Results

Many feel it is confusing to have the Liquor Licensing Board govern liquor advertising in places other than licensed premises because this is not their practical mandate. This report's earlier recommendation to have the Commissioner, and not the LLB, make all regulations, would clarify this to some extent. Advertising regulations made by the Commissioner should distinguish between advertising by liquor license holders and liquor store agents, and identify the appropriate authorities for each.

Participants also noted that the practicalities of being able to restrict messages in media such as magazines and television are questionable. Best practices suggest that regulations could simply defer to the Government of Canada's *Code for Broadcast Advertising of Alcoholic Beverages*.

Recommendation 38: Require advertising by liquor license holders to be approved by the Liquor Licensing Board; advertising by liquor store agents to be approved the Liquor Commission; and defer all other advertising requirements to the Government of Canada's "Code for Broadcast Advertising of Alcoholic Beverages".

8. Conclusion



This report constitutes the results of the 2005 Liquor Act Review. Its recommendations are a best fit between public and stakeholder priorities and legislative best practice. They reflect a balance between prohibiting unsafe conditions and encouraging personal responsibility, and they respect the underlying principles that emerged through public consultation.

Each recommendation is underpinned by the need to make the current NWT *Liquor Act* more effective, balanced, and consistent with the priorities of NWT residents. At the same time, these recommendations provide flexibility for the *Act* to address new issues and models as they emerge. Thus begins the process of improving liquor legislation in the Northwest Territories.



Communication Strategy

The Liquor Act Review had the following communication objectives:

- Awareness - the public and stakeholders are aware of the Review
- Understanding - the public and stakeholders have a general understanding of liquor legislation
- Input - the public and stakeholders are aware of how to submit comments and suggestions, and are encouraged to do so

	Medium	Description	Key Objective	Audience	Milestones
1	Discussion Guide	A booklet describing the Review, liquor legislation & the main legislative issues. Includes discussion questions.	Understanding Input	Public & Stakeholders	Posted on web July '05 Hard copies distributed July-Oct '05
2	Website	Multi-paged & regularly updated including: -Description of the Review -Links to Canadian legislation & background information -Downloadable discussion guide -Consultation schedule -Online comments capability -Contact information	Awareness Understanding Input	Public & Stakeholders	Launched July 13/05 online submission capability added Aug '05 Consultation Schedule added Aug '05 Updated Sept-Nov '05
3	Leadership Packages	Introductory letter, copy of the discussion guide and a website address card.	Awareness Input	MLAs, Chiefs & Mayors	Sent mid-July '05
4	Press Release	Introducing the Review and announcing the website address.	Awareness	Media & all GNWT email recipients	Mid-July '05
5	Newspaper	General notice with project website and fax number	Awareness Input	Public & Stakeholders	Late July '05 & twice in Aug '05
6	Licensee Newsletter	¼ page article describing the Review & inviting participation. Included website address	Awareness	Licensees	Aug '05
7	Website Cards	Small business cards containing the website address	Awareness Input	Public & Stakeholders	Aug-Oct '05
8	Stakeholder Packages	Invitation to participate, copy of the discussion guide & website card.	Awareness Understanding Input	Selected NGOs** All licensees Special Occasion Permit applicants	Aug '05
9	Newspaper	¼ page notice of dates, locations and times of all public meetings, plus the website address & fax #	Input	Public & Stakeholders	Late Aug '05 & all Sept '05 All major newspapers
10	Local Advertising	Posters, radio announcements, & cable TV publications	Input	Public & Stakeholders	One week before the public meeting in that community

Note: All Liquor Act Review communications contained a consistent logo and/or colour scheme for easy recognition.

Non-Government Organizations**

The following organizations were sent invitation packages as outlined in the communication strategy:

Canadian Mental Health Association, NWT Chapter
Canadian Public Health Association, NWT/Nunavut Branch
Fort Simpson Chamber of Commerce
Fort Smith Chamber of Commerce
Hay River Chamber of Commerce
Inuvik Chamber of Commerce
Native Women's Association of the NWT
Norman Wells Chamber of Commerce
NWT Arctic Tourism Association
NWT Association of Communities
NWT Chamber of Commerce
NWT Council of Persons with Disabilities
NWT Medical Association
NWT Seniors' Society
NWT/Nunavut Council of Friendship Centres
Registered Nurses Association of the NWT/Nunavut
Salvation Army NWT Resource Centre
Status of Women Council of the NWT
Yellowknife Association for Community Living
Yellowknife Chamber of Commerce
YWCA



Legislation Review

Alberta

Gaming & Liquor Act
Gaming & Liquor Regulation

British Columbia

Liquor Control & Licensing Act
Liquor Distribution Act
Liquor Control & Licensing Regulation

Manitoba

Liquor Control Act
Liquor Advertising Rules of Conduct Regulation; Occasional Liquor Permits Regulation; Liquor Licensing Regulation

New Brunswick

Liquor Control Act
Hours of Sale and Tolerance Period Order; Advertising of Liquor Regulation; General Regulation

Newfoundland & Labrador

Liquor Control Act
Liquor Corporation Act

Nova Scotia

Liquor Control Act
Liquor Licensing Regulations

Nunavut

Liquor Act
Bill 7, Third Session, Second Legislative Assembly of Nunavut, *An Act to Amend the Liquor Act*

Ontario

Alcohol & Gaming Regulation and Public Protection Act
Liquor Control Act
Liquor License Act

Prince Edward Island

Liquor Control Act
Liquor Agency Regulations; General Regulations

Quebec

An Act Respecting Offences Relating to Alcoholic Beverages

Saskatchewan

Alcohol & Gaming Regulation Act
Alcohol Control Regulations

Yukon

Liquor Act



Consultation Framework

Stakeholder	Description	Participation	Schedule
Public & Stakeholders	Online Comments	5 received	Aug-Oct '05
Public & Stakeholders	faxed, mailed, hand-delivered	12 received	Aug-Oct '05
Behchoko (Gameti, Whati, Wekweeti)	Public Meeting	28 attended	Sept 26/05
Fort Good Hope (Colville Lake)	Public Meeting	36 attended	Sept 21/05
Fort McPherson	Public Meeting	27 attended	Sept 13/05
Fort Simpson (Jean Marie River, Wrigley, Trout Lake)	Public Meeting	17 attended	Sept 27/05
Hay River (Deninu Kue, Enterprise, LutselKe)	Public Meeting	6 attended	Sept 8/05
Inuvik (Aklavik, Paulatuk, Holman Island, Sachs Harbour)	Public Meeting	15 attended	Sept 14/05
Norman Wells (Tulita, Deline)	Public Meeting	22 attended	Sept 20/05
Tuktoyaktuk	Public Meeting	7 attended	Sept 16/05
Yellowknife (Fort Smith)	Public Meeting	14 attended	Sept 28/05
NWT Liquor License Holders	Conference Call	3 attended	Sept 23/05
Yellowknife Liquor License Holders	Meeting	5 attended	Sept 28/05
Liquor Licensing Board	Focus Group	n/a	Aug 18/05
Liquor Commission	Focus Group	n/a	Sept 8/05
Department of Finance	Focus Group	n/a	Nov 1/05
Licensing & Enforcement and Liquor Inspectors	Focus Group	n/a	Aug 17/05
Legal Counsel, Dept of Justice	Focus Group	n/a	Aug 9/05
Legal Counsel, LLB	Interview	n/a	Sept 26/05
RCMP	Focus Group	n/a	Aug 24/05
Legal Counsel, Federal Justice	Interview	n/a	Oct 4/05
Community Governance, Dept of MACA	Interview	n/a	Nov 10/05
Legal Counsel, Legislation Division, Dept of Justice	Interview	n/a	Nov 21/05
Liquor Control Experts: Yukon, Alberta, NB, Nunavut	Telephone Interview	n/a	Nov '05

*Communities appearing in brackets were not visited, but representatives attended the public meeting identified.



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Legislative Details

The following recommendations are aimed at further clarifying certain provisions of the *Liquor Act*. They are not included in the main body of the report since they are largely administrative in nature.

General

References to the Commissioner and Minister should be reviewed to determine which is most appropriate for which authority.

All community names should be updated and Nunavut recognized as a separate territory.

Section 3

Add a clause that would allow the Minister to designate a vice-chair to have all the powers of the chairperson if he/she is unavailable.

Authorize the Liquor Licensing Board to create smaller panels or committees to oversee certain functions.

Section 6(3)

Clarify that the LLB may also impose a fine or conditions on a license.

Recognize that the LLB may delegate some of its functions to the Executive Secretary, such as license renewals, which is the current practice.

Section 6(4)

Restriction on liquor sales on the short term should be handled under special prohibition orders authorized by the Minister, not the LLB. Remove this section.

Section 7

Likely the Minister and not the Commissioner should appoint officers and employees to conduct the business of the Board.

Sections 8, 9, 10

Amendments should be made to recognize that all revenues and expenses of the LLB are paid into and out of the Liquor Revolving Fund, not the Consolidated Revenue Fund. This is the current practice and allows for an integrated approach to liquor control, since the Liquor Commission is budgeted this way.

Section 15(7)

The LLB, not the Commissioner, should be authorized to cancel a permit, since the LLB issues the permit.

Section 16

Likely the Liquor Commission, not the LLB, should issue a license for a brewery permit, unless the brewery wants to run a brew pub which is a licensed premise and does fall under the jurisdiction of the LLB. This needs to be clarified.

Section 17

Move the details for expiration of licenses to regulations to allow more flexibility.

Section 18

The suspension imposed by an inspector under this section should continue until the unsafe condition is removed or remedied, making no reference to a time limit. The licensee may appeal to the LLB for a hearing if he/she disagrees with the inspector's decision. This is consistent with the powers of safety officers in sections 14-16 in the *Safety Act*. A provision should also be included to allow the infraction which caused the suspension to be brought forward to a show-cause hearing if enforcement officials suggest a further penalty is warranted.

Section 23(2)

Appeals to the Supreme Court should be made within a specific time period (e.g. 60 days). As well, the criteria for appeals should be spelled out. This might include decisions that are exercised arbitrarily or in bad faith; are exercised for an improper purpose; are based entirely or predominantly on irrelevant factors; or fail to take statutory requirements into account. The British Columbia *Administrative Tribunals Act* provides some examples.

Sections 24-26

Consider changing the wording to "true and beneficial owner" to ensure the person receiving the benefit of the license meets stated requirements.

Also, require applicants for liquor licenses to include the name of their on-site manager and authorize the LLB to request information about that individual's criminal record. Also prohibit the issue, renewal or transfer of a license if the on-site manager meets any of the criteria in section 25.

Section 28

This section should not require the LLB to hold a hearing for cancellation of a license if the cancellation is at the request of the licensee. Also, since hearings are not pre-designated as either for cancelling or suspending licenses, the items in subsections 2 and 2.1 are not necessary.

The LLB does not hold meetings respecting license applications – only hearings. The words "or a meeting" should therefore be removed.

Section 31

Clarify that these sections are for preliminary license applications only. They do not pertain to license renewals or applications for permits.

Section 33

Clarify that this clause applies to all applications that are not preliminary license applications.

Section 34(1)

Remove the 10 day requirement for community objections and require only that a written objection be filed before the hearing. This provides flexibility.

Section 35(2)

Remove references to “meetings” for the cancellation or suspension of a license since these are only addressed through hearings. Also remove “in the opinion of the Board” since this an administrative matter.

Section 36

Remove the word “shall” which obliges the Board to hold a hearing. Hearings may not be required, say in the case where legal counsel finds there is insufficient evidence to bring a matter forward.

Include an additional option for a LLB order that includes requiring the licensee to forfeit all liquor to the Liquor Commission.

Sections 35 to 40

The current wording implies that cancellation and suspension are the only results of a show-cause hearing. In fact, other penalties such as fines or the imposition of conditions may result. This should be clarified.

These sections also require a notice of a hearing to specify whether the hearing is for cancellation or suspension of a license. The notice should simply indicate that a hearing will be held, since the outcome of the hearing is not known at the time of notification.

Section 38

This section should distinguish between orders to return liquor for reimbursement and orders to forfeit liquor for which no reimbursement would be made.

There is little incentive for a holder of a suspended or cancelled license to deliver liquor to the Liquor Commission under subsection 1 since subsection 2 authorizes the Liquor Commission to remove the liquor. Therefore, add to section 2 that the Liquor Commission can recover any costs associated with the removal of liquor from the (former) license holder.

Section 39

Remove references to “meetings” and the ability to file forms “at” a hearing.

Section 43(3) & 45

The list of licenses and privileges will need to be updated if this report’s recommendations on classifications are accepted.

Section 51.1(1.2)

Requests for special prohibition orders should be made no later than 15 days before the date of the prohibited event, not “the day on which the special occasion commences”.

Section 56

Consider adding a fourth item to the list of Minister’s authorities to include prescribing the duties and powers of inspectors. This removes the authority from the LLB, and will allow the Minister to delegate this duty to the Liquor Commission should the Liquor Commission expand its role to include licensing and enforcement in the future.

Sections 66-67

These sections should indicate that, in addition to the restrictions listed, no person should break open a case containing individual bottles, or transport single bottles of liquor that are normally sold in a case (e.g. case of beer). That said, the transportation of an open bottle of wine which has been re-corked, with the cork flush to the bottle, will be acceptable if the related recommendation of this report is accepted.

Section 85(4)

This section should be revisited with respect to new regulations recently approved by the LLB.

Section 98

Remove "drunkenness" from the list in (a) and make it a separate item. This will disassociate it from more aggressive types of behaviour and therefore not mistakenly imply that only aggressive drunkenness is prohibited in licensed premises.

Section 107(2)

Add to this section an authorization for peace officers to seize liquor kept or had for unlawful purposes on an individual's person if that person is found in a public place. The current provisions relate to liquor found in vehicles, residences and buildings only.

Section 110

Clarify that a vehicle may be seized for "up to" three months, indicating that a peace officer may release the vehicle earlier if circumstances do not warrant a lengthy detainment.