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Number 11924 8771 RR0001

February 28, 2006

Ted McMeekin, MPP
Parliamentary Assistant
Ministry of Government Services
Whitney Block, Room 4320
Toronto, ON, M7A 1W5

Dear Mr. McMeekin,

Re: Proposed Changes to the Liquor Licence Act

The Ontario Public Health Association (OPHA)¹ acknowledges the need for the Liquor Licence Act (LLA) to evolve and respond to the changing economic and societal realities as they relate to the sale, regulation and delivery of beverage alcohol. We recognize the necessity of the hospitality and beverage alcohol industries to remain profitable and responsive to consumer trends. However, it is incumbent upon the government to balance business and consumer interests with public health and safety.

OPHA wishes to contribute a perspective on health and safety in the consultations on changes to the LLA.

Public Safety

OPHA supports the government's proposals of:

- Broadening the scope of the investigation of associates of an applicant for a liquor licence
- Introducing additional grounds for refusing, suspending or revoking a liquor license
- Allowing the Registrar to charge back the costs of investigation for complex investigations
- Introducing measures that target problem establishments in the industry and enhance public safety

With respect to the last proposal listed above, it must be noted that practices in violation of the Act are not unusual in a variety of settings, particularly the service to minors and the service to patrons to the point of intoxication or to those already intoxicated. Enforcement efforts cannot be reserved for a small number of licensees who have been identified or predicted to be "problematic". Relying mainly on a

¹ The Ontario Public Health Association (OPHA) is a voluntary, charitable, non-profit association consisting of individuals and Constituent Societies from various sectors and disciplines that have an interest in improving the health of the people of Ontario. The mission of the Ontario Public Health Association is to provide leadership on issues affecting the public's health.

targeted approach would fail to address the extent of non-compliance with the Act and the resulting alcohol-related problems and costs.

However, under the government's proposal to target problem establishments based on criteria in the LLA Discussion Guide, enforcement could be concentrated more heavily on establishments surrounded or frequented by a younger demographic (e.g. university, college students). Statistically, the 15 to 19 and 20 to 24 year-olds are overrepresented, in comparison to the rest of the drinker categories (i.e., 25-55+ years), in heavy drinking behaviours. In these age groups, intoxication is the leading cause of public safety problems. Efforts to minimize intoxication in these groups would therefore have important public safety benefits as well as address the issue of access to alcohol by minors.

In establishments, there is a need for bar compliance checks similar to the compliance checks to enforce the Tobacco Control Act. Minimum fines under the Provincial Offences Act need to be increased for licensees who serve minors.

To improve enforcement, change in the level of personnel is imperative. At a minimum, OPHA suggests an increase to at least double the number of liquor inspectors. The LLA cannot be effective if human resources for its enforcement are inadequate. Moreover, once inspectors identify violators, the length of time between charges and court dates needs to be shortened. Lengthy delays for cases going to court have resulted in the Alcohol and Gaming Commission of Ontario (AGCO) not being able to take action against a licensee who refused to comply with the law. Consequently, OPHA supports changes to create a more efficient mechanism to deal with problematic licensees.

Strong regulatory control and effective enforcement go hand-in-hand. There is a large body of research evidence from many jurisdictions which indicates that limiting access to alcohol through reductions in the hours of sale, limiting the number of outlets, and other measures are associated with fewer alcohol-related problems.² In parts of Ontario, a heavier concentration of establishments (e.g., higher density of bars) has played a role in an increase in public safety problems. The concentration of licensed establishments in certain areas must be taken into consideration and controls by the province or municipalities should be delineated. Increased collaboration and communication will also be needed among community, business owners, police and the AGCO.

Any changes to the LLA must also emphasize the responsibility and role of licensees in minimizing public safety concerns. The Safer Bars Program developed by the Centre for Addiction and Mental Health (CAMH) addresses violence and aggression in licensed establishments. The program has Risk Assessment, Policy Development and Training components for licensed premises. This evaluated program has been shown to reduce physical violence in bars and clubs and can be an enforcement option for establishments where there has been violence. Ideally, development and consistent implementation of bar policies should be made mandatory for all licensees.

² Babor, T, and R, Caetano, S, Casswell, G, Edwards, N, Giesbrecht, K, Graham, J, Grube, P, Gruenewald, L, Hill, H Holder, R, Homel, E, Osterberg, J, Rehm, R, Room, I, Rossow. Alcohol: No Ordinary Commodity - Research and Public Policy. Oxford, UK: World Health Organization, 2003.

Service Delivery

OPHA supports the government's proposals of:

- Evaluating applications for liquor sales licences on the basis of public safety risks
- Introducing more effective options for dealing with minor violations of the LLA
- Reforming the system of issuing Special Occasion Permits (SOPs)

OPHA recommends the inclusion of a health representative (e.g. from OPHA or CAMH) to provide input into the development of the framework to assess low-risk vs. high-risk establishments, as well as ongoing involvement in the evaluation of this assessment framework.

The system of issuing SOPs and other types of licences require reforms. However, when reforming these systems to decrease the administrative burden, ensure the burden is not shifted in the form of enforcement requirements and/or threats to public safety. It should be noted that of the 65, 000 SOPs that are issued yearly there is a very limited number of inspectors to enforce the LLA with these SOPs. As different types and sizes of SOPs exist, a framework to assess risk would have to be applied to SOPs as well.

In considering reforms to other types of licences issued by the AGCO, particular attention is needed to prevent service to minors and minimize risk to public safety. Monitoring of Brew-On premises and liquor delivery services will be necessary. Currently, delivery services in many communities are a source of alcohol for minors and those who are already intoxicated. Training of personnel in these businesses, as well as some monitoring mechanism must be put in place. Promotion tactics and strategies will also need to be scrutinized to determine infractions under the LLA.

Consumer Choice

Changes to remove financial and administrative burdens on the hospitality industry must be considered in view of their impact on public safety and on the potential increase in enforcement demands. Sometimes enhancing tourism and business is simply incompatible with public health and safety interests. "All-inclusive" packages that include beverage alcohol are appealing mainly for those who are likely to drink excessively or drink enough to "get their money's worth". As stated earlier, intoxication is a primary concern for public safety.

Over the last several months, all levels of government (municipal, provincial and federal) articulated the need to address violence and have made a commitment to increasing public safety. Increased consumption of alcohol is associated with a rise in safety risks, including violence, particularly at sporting events and night clubs. The LLA has a function under an overall strategy of violence reduction in communities.

The government acknowledges that licensing areas such as washrooms, hotel lobbies, hallways and stairways were restricted initially in the interest of public safety. Safety issues which prompted these restrictions continue to be relevant today to many settings. In reality, monitoring patrons in lobbies, hallways and stairways could prove challenging. Increasing licensing to these areas will require more compliance monitoring. Lifting restrictions off these areas should not be across-the-board.

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Additional Issues for Consideration:

- The AGCO needs to expand its guidelines on alcohol advertising to address contemporary methods of alcohol promotion (e.g., event sponsorship, web-based promotion). Generally, the AGCO requires a more effective mechanism to regulate alcohol promotion
- A registration and monitoring system for keg sales would require greater responsibility and accountability for the purchaser of the keg
- Reinstatement of the maximum drink size to 85ml (spirits) will assist servers and patrons to monitor consumption; this should be done, sooner rather than later.
- Enhancement of LLA, Section 34, "ejection of an intoxicated patron", to increase or secure the safety and well-being of the intoxicated customer should be considered

In closing, OPHA would like to emphasize the importance of health and safety in all government deliberations on issues of alcohol policy, and not just consultations on changes to the LLA. In fact, we believe that someone from the substance abuse prevention field, such as a representative from the Ontario Public Health Association and/or the Centre for Addiction and Mental Health, should be on the board of the Alcohol and Gaming Commission of Ontario. We would welcome the opportunity to discuss any of our recommendations with you.

Sincerely,

A handwritten signature in black ink that reads "Garry Aslanyan". The signature is written in a cursive, flowing style with a long horizontal flourish at the end.

Dr. Garry Aslanyan
President
Ontario Public Health Association