



## STAFF REPORT ACTION REQUIRED

### Regulatory and Non-Regulatory Mechanisms for Reducing Alcohol-Related Violence

<b>Date:</b>	January 25, 2010
<b>To:</b>	Licensing and Standards Committee
<b>From:</b>	Executive Director, Municipal Licensing and Standards
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2010\Cluster B\MLS\LS10006

#### SUMMARY

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This report is a response to a direction from City Council to report back on regulatory and non-regulatory mechanisms for reducing alcohol-related violence in liquor-licensed establishments, with particular consideration given to the possibility of making the Safer Bars training program one of these mechanisms.

Staff concluded that the regulatory regime should be more sensitive to the varying scope of entertainment activities provided by bars, nightclubs and restaurants. This regulatory regime is cross-divisional and requires further study and collaboration from the pertinent City Divisions. From a non-regulatory perspective, staff recommend that ML&S continue to work with Toronto Association of Business Improvement Areas (TABIA), Ontario Restaurant, Hotel and Motel Association (ORHMA) and concerned businesses and residents to promote best practices in the industry and that staff subsequently evaluate the effectiveness of these efforts and provide the Licensing and Standards Committee with further recommendations, as required. Staff are of the opinion that the implementation of the Safer Bars training program to (liquor) licensed establishments is beyond the scope of the City's mandate and that it should be left to the Province, specifically the Alcohol and Gaming Commission, to implement, if deemed appropriate.

The following internal and external stakeholders were consulted, as considered appropriate, in the formulation of this report: Legal Services, Social Development, Finance and Administration, City Planning, Toronto Public Health, Toronto Police Service, Centre for Addiction and Mental Health, Alcohol and Gaming Commission of Ontario, the Ontario Restaurant, Hotel and Motel Association, and the Entertainment District Business Improvement Area (BIA).

## RECOMMENDATIONS

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**The Executive Director of Municipal Licensing and Standards recommends that the Licensing and Standards Committee:**

1. Direct Municipal Licensing and Standards, in consultation with TABIA, ORHMA and any other relevant associations, to work with resident and business groups, as well as individual nightclub and entertainment establishments, to implement strategies, such as the Entertainment District BIA's nightlife establishment best practices, in order to reduce violence and nuisances associated with the operation of eating and entertainment establishments;
2. Direct Municipal Licensing and Standards to monitor issues with eating and entertainment establishments under its jurisdiction and to report back to the Licensing and Standards Committee, as appropriate, on whether any additional measures are required to reduce violence and nuisances associated with the operation of these establishments; and
3. Authorise and direct City staff to take any other action deemed necessary to implement the above recommendations.

### **Financial Impact**

There are no financial implications beyond those in the current budget arising from the recommendations of this report.

### **DECISION HISTORY**

In December 2005, City Council approved the recommendations of the Toronto Drug Strategy ("TDS"), which included promoting the Safer Bars training program to help prevent alcohol-related violence in bars.

Since then, the TDS Secretariat has been working with its partners to provide information seminars and risk management workshops to licensed establishments. Much of this work culminated in the autumn of 2008 with the forum *Raising the Bar: Toronto Summit on Nightlife, Violence and Drinking*.

At its meeting of February 6, 2009, the Licensing and Standards Committee did not adopt a recommendation directing the Executive Director of Municipal Licensing and Standards to report back to its June 10, 2009 meeting on the feasibility of making the Safer Bars Program a requirement for relevant business licences (See item LS19.7 at <http://www.toronto.ca/legdocs/mmis/2009/ls/decisions/2009-02-06-ls19-dd.pdf>). The matter, however, was brought before Council at its meeting of February 23, 24 and 25, 2009, and City Council broadened the scope of the request by directing the Executive Director of Municipal Licensing and Standards to consult with relevant stakeholders, review policy and training options appropriate for licensed establishments, and report on ways the City can reduce alcohol-related violence. Council requested that the Executive

Director report back to the September 2009 meeting of the Licensing and Standards Committee (See meeting item LS19.7 at <http://www.toronto.ca/legdocs/mmis/2009/cc/decisions/2009-02-23-cc31-dd.htm>)

## **ISSUE BACKGROUND**

In some areas of the city, the concentration of nightclubs and other similar entertainment establishments have brought to the forefront a number of challenges respecting alcohol-related violence and other nuisances. In fact, aggression and its escalation to violence in bars and nightclubs is a well documented issue, with many of the contributing factors well known.

As one way, within the jurisdictional constraints of the City, to address the concerns raised by the activity of a number of businesses that provide entertainment, City Council, at its January 31, February 1 and 2, 2006 meeting (<http://www.toronto.ca/legdocs/2006/agendas/council/cc060131/pltc1008a.pdf>) adopted By-law No. 20-2006 (<http://www.toronto.ca/legdocs/bylaws/2006/law0020.pdf>), to separately license and regulate entertainment establishments/nightclubs. This bylaw, currently in force across the city as Article XLI of Toronto Municipal Code Chapter 545, Licensing, requires entertainment establishments and nightclubs to implement safety and nuisance controls.

As a separate initiative, and about seven years prior to the introduction of the aforementioned bylaw, the Centre for Addiction and Mental Health (“CAMH”) developed a training program called Safer Bars to help bar owners reduce incidences of violence in their establishments. As part of its own recommendations (available at: [http://www.toronto.ca/health/drugstrategy/pdf/tds\\_status\\_report\\_2008.pdf](http://www.toronto.ca/health/drugstrategy/pdf/tds_status_report_2008.pdf)), the Toronto Drug Strategy is currently promoting the program to bar owners in the city, and in particular to those in the Entertainment District.

In the fall of 2008, the Chair of the Toronto Drug Strategy Implementation Panel wrote to the Chair of the Alcohol and Gaming Commission of Ontario (“AGCO”) Board advocating for the CAMH Safer Bars training program and bar policy workshops to be added to the list of the Commission’s approved programs, thus allowing them to be applied as a condition of licensing under its new risk-based licensing system. The Chair of the AGCO Board referred the matter to the Board’s Education and Public Affairs Committee, which is currently considering the program in this context.

In the meantime, City Council asked City staff to explore ways of addressing alcohol-related violence and improving community safety through regulatory and non-regulatory mechanisms, including the potential requirement of the Safer Bars Program for liquor-licensed establishments.

## COMMENTS

Although the City's regulation of business establishments is explicitly carried out through its business licensing bylaw, businesses are also subject to other bylaws, as well as relevant provincial and federal statutes and regulations.

### **Current Municipal Regulations for Nightclubs**

The City of Toronto licenses a wide range of businesses under the authority granted to it by the *City of Toronto Act, 2006*, and formerly under the *Municipal Act, 2001*. Although no longer explicitly required in the underlying legislation, the City generally only licences businesses where there is a clear municipal purpose. Under previous legislation, these purposes were consumer protection, health and safety, and nuisance control. Under the *City of Toronto Act*, however, City Council has greater leeway in determining valid municipal purpose.

Despite this, there are still limitations on the City's licensing authority. Some types of businesses are explicitly exempted in the enabling legislation. Others are exempted by virtue of jurisdictional conflict. Generally speaking, the City will not licence business activities already regulated by another level of government for the same purpose, especially if such regulation will create a duplicate or, worse yet, a conflicting regime.

The City of Toronto does not licence establishments that serve alcoholic beverages per se, as this is the jurisdiction of the AGCO. In addition, Regulation 590-06, under the *City of Toronto Act*, states that the City does not have the power to impose any condition with respect to the sale or service of liquor, as defined in the *Liquor Licence Act*, as a requirement of obtaining, continuing to hold or renewing a licence issued by the City. The City licenses restaurants and night clubs, irrespective of whether they serve alcohol or not. Nightclubs, specifically, were licensed in 2006 to address issues around security concerns and nuisances such as noise and litter.

A nightclub is currently defined in Toronto Municipal Code Chapter 545, Licensing, as "a premises, including but not limited to a dance hall or disco, used to provide dance facilities for patrons, where seating is not provided for the majority of the patrons and where food or beverage may be offered for sale as an ancillary use." Arguably, this definition includes many types of establishments that might otherwise not usually be considered nightclubs. Given the additional security and nuisance control requirements for nightclubs, many establishment owners have been very hesitant to obtain the nightclub licence, opting to continue to renew their restaurant licence instead.

Restaurants, and any other places serving food, are regulated through the requirement for "eating and drinking establishments" (which include victualling houses, places for the reception, refreshment or entertainment of the public, and places where foodstuffs intended for human consumption are made for sale, offered for sale, stored or sold). An establishment serving alcohol would be considered a place for refreshment, as would a soda fountain shop or ice cream parlour.

Many restaurants, to make their business model work, must meet the demands of an increasingly diverse clientele. This has often meant providing varying levels of entertainment, including live shows or bands, celebrity DJs, as well as recorded music. These evolving business models have blurred the lines between what is commonly taken to be a restaurant and a nightclub. In reality many establishments are increasingly operating as both, depending on the day of the week and the time of day.

Regulators across North America have thus been increasingly challenged, and have had to play catch up, to adequately define these hybrid businesses and be able to impose corresponding requirements that deal effectively with the impacts they have on local communities. Although in Toronto it has been the Entertainment District that has garnered the most attention in recent years for issues emanating from its nightlife establishments, similar challenges have arisen in other city neighbourhoods as well.

It should be noted that both restaurants and nightclubs (as well as all other businesses in the City) are also subject to other regulations, including the City's noise and littering bylaws (Toronto Municipal Code Chapter 591: [http://www.toronto.ca/legdocs/municode/1184\\_591.pdf](http://www.toronto.ca/legdocs/municode/1184_591.pdf), and Toronto Municipal Code Chapter 548: [http://www.toronto.ca/legdocs/municode/1184\\_548.pdf](http://www.toronto.ca/legdocs/municode/1184_548.pdf), respectively).

## **AGCO Regulations**

The AGCO is responsible for administering the Liquor Licence Act ("LLA") that covers most aspects of Ontario's alcoholic beverage laws. These laws provide practical rules for responsible sale and service of alcoholic beverages in the province. The LLA and its regulations provide the Registrar of Alcohol and Gaming with the authority to regulate and license the following: liquor sales, ferment-on-premise facilities, liquor delivery services, manufacturers, manufacturer representatives, and special occasion permits.

Regulation 719/90 under the LLA requires that all current and new licence holders ensure that establishment managers, servers of alcohol, and security staff hold Smart Serve certificates. The Smart Serve training program has been developed by Smart Serve Ontario, a division of the Hospitality Industry Training Organization of Ontario (HITOO), and is approved by the Board of the AGCO. The program teaches responsible service of alcoholic beverages by showing participants how to prevent over-service of alcohol and alcohol-related problems, and intervene if problems do occur. The course covers such topics as the effects of alcohol, responsible serving techniques, legal issues, and house policies. Smart Serve does not explicitly deal with the assessment and reduction of risks of violence.

Currently, establishments serving alcohol are legislatively required to ensure their servers and security staff have taken the training within a certain period after commencing employment. Smart Serve, which focuses on the responsible service of alcohol, is updating its curriculum and is due to shortly introduce a risk management module for bar managers. A summary of the Smart Serve program is provided in Appendix C.

The AGCO has taken a new approach to the issuance and regulation of liquor sale licences, called risk-based licensing, which allows the AGCO to encourage good business practices throughout the industry and strategically focus resources where they will make the most difference. According to the LLA, the Board of the AGCO “may establish criteria for holders of licences to sell liquor and for premises in respect of which a licence to sell liquor is issued based on factors related to the risk to the public, public safety, the public interest and the risk of non-compliance with the Act and the regulations by the holder of a licence.” Risk-based licensing was introduced in July of 2008 across 11 Ontario municipalities, including Toronto, and has applied to all licence types since August 2009.

Under the risk-based approach, licensing decisions are made based on an assessment of individual establishments (e.g., type of business, location, past history, experience) and the extent to which they pose a risk to public safety, are in the public interest, and/or have a greater risk of being non-compliant with the law. The AGCO estimates that 75% of establishments will see no change in the way that their liquor licences are administered, reducing the administrative burden for those who pose a lower risk, and allowing the AGCO to focus more resources on those establishments that pose enhanced risks.

Licensees/applicants are evaluated under the criteria of past conduct, liquor-related infractions, honesty and integrity, financial responsibility, and training and experience. The premises themselves are evaluated under the criteria of type, location, occupancy, activities and hours of operation.

An establishment with a risk designation may be required to submit a plan – such as a safety and security plan, nuisance mitigation plan (covering noise, litter, etc.) or patron control plan – to bring the operation into compliance with liquor licence laws and to protect public safety. The Registrar may provide standards or guidelines to assist licensees in preparing these plans. A summary of the new system is provided in Appendix D. The AGCO does not regulate service in, or operation of, establishments that do not serve alcohol.

## **Safer Bars Program**

### **Program Overview**

Unlike Smart Serve, the Safer Bars training program is a proactive response to the problem of aggression that escalates to violence in bars and similar establishments. The training focuses on the prevention of aggression that can lead to violence as well as its effective management when it does take place. The program has been recently expanded to include the development of effective bar policies.

The Safer Bars training program is based on research about aggression in licensed premises, the application of generally accepted communication approaches, and the use of techniques for dealing with violent individuals. The program was developed over five years in consultation with bar owners and staff from over 20 licensed premises, police, community health professionals, civic leaders, and liquor licensing officials. It has been

in existence for about ten years. According to CAMH, the program was licensed by the Province of Alberta in 2007 and made a requirement for all those working in premises that hold a liquor licence in that province. The program has also been licensed by several organisations in Australia. No municipalities in Canada, however, have unilaterally made the program a requirement for establishments in their jurisdictions. It should be noted that in both Canada and Australia, liquor licensing does not fall within the jurisdiction of municipalities.

### **Program Content**

The format of the three-hour Safer Bars training session is primarily group discussion, with overheads and video clips used to illustrate specific points. Role plays and self-tests are also employed. The number of participants is capped at 25 per session.

The training covers six broad areas related to aggression prevention and problem behaviour management:

1. Understanding how aggression escalates;
2. Assessing situations;
3. Keeping in control;
4. Understanding the use of body language;
5. Responding to problem situations; and
6. Legal issues.

Representatives of the Entertainment District BIA have expressed concern over what they perceive to be a program that is not in tune with some of their emerging realities. They point to sexual assault, drugs, and gang activity as some of the issues that are not explicitly addressed by the Safer Bars training program. As a result some club owners feel that their staff, and in particular their security personnel (some of whom have perhaps received other training), are often already operating with a level of knowledge and skill that exceeds that of the Safer Bars curriculum. For this reason, they question the degree of benefit of the program without it undergoing some substantial revisions.

CAMH advises, however, that Safer Bars materials were revised in March of 2009. They indicate that, among other changes, content relating to sexual harassment has been added, examples for the “Do You Know The Law” brochure have been updated, and video clips and training slides have been combined into a DVD format. CAMH researchers reaffirmed that the contribution of drugs and gangs to the violence currently taking place in bars is not significant. Instead, they emphasised that Safer Bars is an excellent way to train bar, floor and security staff at the same time because it builds on everyone’s experience and training, and that it encourages communication and team work.

## **Implementation and Logistical Issues**

CAMH has indicated that certification under the Safer Bars training program would be transferable from establishment to establishment for an individual. So, for example, a server who became certified when she took up employment at one establishment would continue to be certified if she decided to take up employment at another establishment. At the present time there is no requirement for recertification, although CAMH has suggested that recertification could take place every two years. Presumably, if adopted in some form, establishments could be required to ensure that all staff be certified within a certain time of their employment, as the AGCO currently does with Smart Serve. If so, this would place additional regulatory pressures on both establishments and staff. In the case of security personnel, as soon as the Province introduces its training requirements for private security and investigative services, these staff could be required to have three separate certifications with considerable overlap between them. Given the somewhat transitory nature of the labour force in the industry, these additional pressures could prove fairly incommodious.

If training were made a requirement, initial volumes would be high, as everyone would need to be certified, and would then taper off to a more moderate and consistent flow of trainees. Geographically dispersed and frequent availability of courses would be necessary to satisfy demand. CAMH has indicated that the Safer Bars training could be provided through its province-wide network of trainers, with whom they have established service-level agreements to ensure course availability in both urban and rural locations. Courses could be provided to establishments at their own premises or as public sessions for individuals at agency locations.

## **Cost and Benefit Analysis**

The cost of certifying staff is an issue of particular concern to many establishment owners. Would the establishment or the individual staff members be required to pay for the course? Or, would it be left up to establishment owners to work individual agreements with their staff? Both the Entertainment BIA and CAMH have suggested that perhaps a cost sharing arrangement could be made with the City to ensure staff are trained. It has also been suggested that establishments could pool their staff for purposes of training to lower costs. Municipal Licensing and Standards estimates that at least 70,000 servers, bartenders and security personnel would have to be certified if the program were applied across the board. At a cost of \$30 per person, this would mean a minimum initial outlay of \$2.1 million by businesses and/or employees. A two-year recertification cycle would mean another outlay of approximately \$1.05 million annually. With turnover in the foodservice industry as high as 80%, however, training costs could easily be much higher.



In addition, to ensure that establishments actually implemented the concepts advocated by the training, the City would have to increase enforcement activity. There are approximately 8,000 municipally licensed eating establishments in the city. Although Municipal Licensing and Standards does not track how many of these also serve alcohol, the AGCO licensing statistics show there are currently approximately 3,350 establishments that hold a liquor licence. Given the larger number, Municipal Licensing and Standards would have to deploy the equivalent of 8 Officers on a full-time basis to visit each establishment at least once annually, and to additionally deal with non-compliant businesses. The additional cost of enforcement would be approximately \$0.93 million in the first year and \$0.83 million in the second. The cost would be passed down to businesses through an increase of about \$100 to their licensing fees, necessarily including those establishments that are part of the Fee Class but which do not serve alcoholic beverages.

The benefits resulting from the implementation of a Safer Bars training program in Toronto are more difficult to quantify. The 2003 study sponsored by CAMH looked at both the satisfaction and knowledge of the staff that took the training and the impact that the training had on actual level of aggression in participating bars. The study concluded that most staff that took the program were satisfied with it. It also showed that incidents of aggression were somewhat lower in establishments that implemented the training. The authors of the study, however, cautioned that despite these findings, there was an overall very low rate of physical aggression and that the Safer Bars program should not be seen as a panacea for aggression.

City staff also note that the study was conducted on establishments that volunteered for the program. Of 26 bars and clubs recruited only 18 actually volunteered for the study. Presumably, most of these establishments would have had some motivation to realise the benefits from the program and thus one would expect optimum results.

If the Safer Bars training program were to be implemented as part of the City's licensing regime, Municipal Licensing and Standards would have to deal with many establishments that might be reticent to implement the program. Significant monitoring would have to be in place in order to ensure compliance; hence the enforcement costs cited previously. Even with an enhanced level of monitoring and enforcement, City staff note that it is always difficult to legislate, regulate and control the application of skills and knowledge by licensees. Thus, the benefits of Safer Bars, although truly only measurable over time across a large number of establishments, are likely tenuously marginal without some larger program to support its full and proper implementation.

## **Regulatory Issues**

Given the nature and objectives of the Safer Bars Program, a licensing regime that mandates training for all establishment owners could amount to unnecessarily duplicate and onerous regulation, especially given the mandate of the AGCO. It is also likely that the Safer Bars training program, if adopted by the Board of the AGCO as an approved program under the Liquor Licence Act, would most likely not be imposed on a licensee unless the establishment had a risk designation or had been brought before the Board for breaches of its liquor licence conditions. Under such circumstances, the imposition of a condition requiring Safer Bars training could come about as either a condition on consent by the licensee, or as a result of a hearing conducted by the Board.

From the City's perspective, if it moved to implement the Safer bars training program, a more balanced approach, not unlike the one that the AGCO might engage, is to use the training program as a licensing condition that could be imposed by the Licensing Tribunal on municipally licensed establishments that breach the licensing thresholds. Suffice it to say that this would entail a much more limited application of Safer Bars, aimed at establishments that have proven themselves prone to the types of issues that the training program addresses.

Having the City impose Safer Bars on a set of establishments it deems in need of such training, however, would amount to a duplicate disciplinary regime and could arguably be seen as "second guessing" the established alcohol licensing system. The AGCO's new risk-based licensing system is already designed to identify those establishments that, by the nature of their business or their history of regulatory infractions or other issues, require that special conditions be imposed on them, including additional or specialised training. Thus, there is currently in place a system that targets problem establishments and that can effectively deal with transgressions by imposing conditions or even revoking alcohol licences. If the AGCO decides to make Safer Bars an approved program, it could be imposed on establishments deemed in need of such training.

There continues to be a trend toward increasingly more requirements respecting health and safety. For many years, establishments that serve alcohol have been required to ensure their servers have been certified with Smart Serve. More recently, security guards have been required to be licensed under the Private Security and Investigative Services Act, 2005. As part of this licence, there will soon be a training requirement. Safer Bars, whether adopted by the AGCO or the City would be yet another layer of regulation. For this reason, staff believe it is imperative to weigh the program's full benefits against the additional cost of regulatory layering. Although there may be considerable benefit gained from the program for certain establishments, staff believe that the benefits may be less pronounced for others and even unnecessary for many others still.

In July of this year, the Entertainment District BIA released its set of operational guidelines geared to local nightlife establishments. The document provides a blueprint for establishments to ensure that they are operating within the confines of the law, in a safe, responsible manner, and with due regard for the other residents of the communities in which they operate. The guidelines were developed in consultation with local residents, nightclub operators, the AGCO, Toronto Police, and the City of Toronto. These guidelines represent an effort by operators to mitigate the negative impacts that their operations have on the neighbouring communities. Staff believe that such initiatives should be encouraged and monitored for effectiveness.

Finally, under the current licensing regime, although it may hold generally true that all licensed nightclubs serve alcohol, the same cannot be said of restaurants or places of refreshment. Imposing a training requirement aimed at the prevention of alcohol-related violence does not fit the current licensing regime. And, creating a licensing system for establishments that serve alcohol is already the mandate of the AGCO and clearly outside of the scope of the City's municipal authority.

For the reasons outlined above, staff are therefore recommending that the Safer Bars program not be made a requirement under licensing. Instead, entertainment establishments and nightclub operators should be given the opportunity to actively implement the kind of best practices recently developed by the Entertainment District BIA.

## **Licensing Requirements**

Currently, restaurants have few operating requirements aside from those relating to health regulations. Nightclubs, on the other hand, are additionally required to:

- provide security guards;
- have metal detectors;
- submit and implement noise and crowd control plans;
- undertake littering mitigation measures; and
- have liability insurance.

Given the ever blurring distinction between the activities of nightclubs and restaurants, however, it has become increasingly challenging to determine which establishments should be subject to which regulations.

The traditional way of applying standards or imposing requirements has been to identify types of businesses by common characteristics and to ensure that there are clear differences between characteristics from one class of business to another. This approach, however, has proven considerably inadequate in an industry increasingly characterised by hybrid establishments.

Municipal Licensing and Standards is working with City Planning and other relevant Divisions to establish a comprehensive approach to the various zoning, licensing and property standards issues surrounding nightclubs, restaurants and hybrid establishments. Staff believe that by addressing the matters that are within its legislative authority some of the contributing factors relating to safety can also be addressed. It should be noted, however, that many of the issues transcend the sphere of municipal influence and can only be dealt with by the province or the federal government through legislative changes, enhancements in enforcement programs, or a combination of both. Where appropriate, City staff will continue to work with these two levels of government to establish a coordinated approach to reducing health and safety concerns, including alcohol-related violence in licensed establishments.

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## **SIGNATURE**

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## **ATTACHMENTS**

Appendix A: Overview of Smart Serve Training Program  
Appendix B: Overview of the AGCO's Risk-based Licensing

## Appendix A

### Overview of the Smart Serve Training Program

The Smart Serve Training Program has been developed by Smart Serve Ontario, a division of the Hospitality Industry Training Organization of Ontario (HITOO), and endorsed by the AGCO.

Smart Serve training is mandatory for the following individuals:

- All current and new liquor sales licence holders, including licence applicants, licence transfer applicants and temporary transfer applicants intending to operate an establishment. In addition to licence holders, all managers, servers of beverage alcohol and security staff must hold Smart Serve certificates.
- Stadium licensees, their managers, servers and security staff
- Course marshals and employees dispensing liquor from vending carts on golf courses that hold a Golf Course Endorsement
- Holders of Caterer's Endorsements and servers and security staff working at catered events
- Where ordered by the AGCO (i.e. disciplinary cases)

Smart Serve is a technology-based program for responsible beverage alcohol service. It teaches servers to prevent alcohol-related problems, and shows them how to intervene if problems do occur. The course covers such topics as the effects of alcohol, responsible serving techniques, legal issues, and house policies.

Licensees benefit from the course in a number of ways:

- reduced risk of liability;
- possible insurance savings;
- promotion of public safety;
- reduces staff turnover;
- enhanced professionalism and improved hospitality service;
- increased profitability (servers learn to market food, premium brands, low and non-alcoholic drinks);
- prevention of excessive consumption by patrons; and
- lower compliance and enforcement costs.

The Smart Serve Training Program is also available on video or on the Smart Serve website at [www.smartserve.org/home.asp](http://www.smartserve.org/home.asp).

## **Appendix B**

### **Overview of the AGCO's Risk-Based Licensing**

The Alcohol and Gaming Commission of Ontario (AGCO) has begun taking a new approach to the issuance and regulation of liquor sales licences called risk-based licensing, which allows the AGCO to encourage good business practices throughout the industry and strategically focus resources where they will make the most difference. Risk-based licensing was introduced in 11 Ontario municipalities in July 2008 (Phase One).

The AGCO recognises that because of their type of business, location, past history, experience, etc., some establishments pose a greater risk to public safety, to the public interest and/or have a greater risk of being non-compliant with the law. Risk-based licensing is one of several initiatives that are being implemented by the AGCO to refocus decision-making based on risk assessment, and to move toward regulation based on compliance rather than enforcement.

Overall, risk-based licensing will be helpful for liquor licensees as this new process will assist them in operating their establishments in a safe and responsible way, and in compliance with the Liquor Licence Act and its Regulations. In addition, it is estimated that 75% of establishments will see no change in the way that their liquor licences are administered.

The authority to carry out this new licensing regime is under Section 8.1 of the Liquor Licence Act.

#### **How Risk-Based Licensing Works**

There are four key principles behind risk-based licensing:

1. To identify persons or places that pose specific risks to public safety or the public interest;
2. To lessen any risks and ensure compliance with the Liquor Licence Act through the entire lifecycle of a liquor licence;
3. To reduce the administrative burden for those who pose a lower risk, where possible; and
4. To focus more AGCO resources on those establishments that pose enhanced risks.

The application of risk-based licensing can occur at any point in the lifecycle of a liquor licence, and is a three step process:

1. After an application is received, an assessment process takes place. During the initial application review, the Registrar of Alcohol and Gaming (“the Registrar”) uses AGCO Board-approved criteria to assess the risk(s) posed to public safety and public interest, and of non-compliance with the law.

Licensees/applicants are evaluated under the criteria of past conduct, liquor-related infractions, honesty and integrity, financial responsibility, and training and experience. The premises themselves are evaluated under the criteria of type, location, occupancy, activities and hours of operation.

2. After reviewing all the available information on both the licensee/applicant and the establishment, the Registrar assesses the risks and determines if the licence should have a Level I, Level II or Level III risk designation, or no designation.

If the Registrar believes that no conditions need to be placed on a licence, or if a licensee has taken steps on his/her own to recognize and manage any risks, then the Registrar will most likely assess the licence as having no designation. These establishments (approximately 75% of all licences in Ontario) will see no change in the way that their licences are administered.

If the Registrar believes that a licensee may need more assistance and support to remain compliant with the Liquor Licence Act (for example, by placing conditions on the licence, or by focusing more of the AGCO’s resources on the licensee and the establishment), then the establishment will be designated at Level I, Level II or Level III. It is anticipated that only about 25% of all liquor licences in Ontario will receive a risk designation, and the majority of these will fall into the Level I category.

3. If the Registrar designates an establishment at Level I, Level II or Level III, s/he may attach certain conditions (from among those approved by the AGCO Board for this purpose) to the liquor licence to help address the identified risks.

During the lifetime of a licence, the Registrar can reassess the risk posed by the licensee. This reassessment can occur either because the licensee requests a reassessment, or because the Registrar becomes aware that there has been a change in circumstances and there should be a reassessment. At each of these times the Registrar may add, remove or amend one or more conditions.

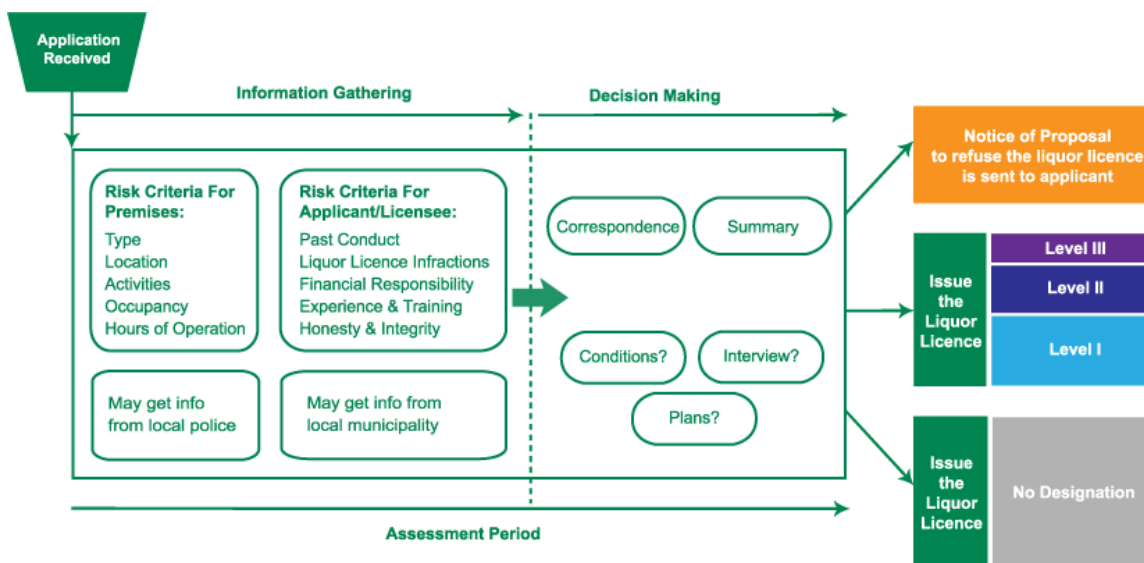
The process for applying risk-based licensing is summarised in Figure 1, on the following page.

## Conditions and Plans

To help a licensee in Level I, Level II or Level III manage identified risks, conditions can be attached to the licence, such as:

- The holder of the licence shall sell and serve liquor only in containers that are approved by the Registrar of Alcohol and Gaming.

Figure 1. Application of risk-based licensing



Source: AGCO web site  
<http://www.agco.on.ca/en/b.alcohol/b11.riskbasedlicensing.html>

- The holder of the licence shall sell and serve liquor only during the hours specified by the Registrar of Alcohol and Gaming.
- The holder of the licence shall not provide or permit music or other forms of entertainment in outdoor areas.
- The holder of the licence shall not sell or serve and shall not permit consumption of liquor after a specified time on the patio or other outdoor areas.
- The holder of the licence shall ensure that no person under the age of 19 years enters the premises.

A licensee designated as Level I, Level II or Level III may also be required to submit a plan – such as a safety and security plan, nuisance mitigation plan (covering noise, litter, etc.) or patron control plan – to help him/her comply with liquor licence laws and protect public safety. The Registrar may provide standards or guidelines to assist licensees in preparing these plans.



## **Risk-Based Licensing to be Phased In**

Phase One of the implementation of risk-based licensing began in July 2008 in 11 Ontario municipalities. Initially, only new liquor licence applications in these municipalities were processed under risk-based licensing. Effective January 2009, transfers and changes are also processed under risk-based licensing. The introduction of risk-based licensing for renewals of liquor licences took effect in the fall of 2009.

All licensed establishments in the following 11 municipalities were included in Phase One:

- Toronto (including Scarborough, North York, Etobicoke, York and East York);
- Ottawa (including Nepean, Kanata, Gloucester, Cumberland, Goulburn, Osgoode, Rideau, West Carleton, Rockcliffe Park and Vanier);
- Thunder Bay;
- Sault Ste Marie;
- Windsor;
- Kitchener;
- Waterloo;
- Niagara Falls;
- Guelph;
- Hamilton; and
- London.

In the autumn of 2009, risk-based licensing was expanded to include licensed establishments throughout the rest of Ontario.