



Liquor Enforcement in Ontario

A Guide for Police Officers

Some of the most common occurrences for police include responding to *Liquor Licence Act* violations emanating from and within licensed premises. All too often, these infractions can escalate into criminal offences with tragic results. Effective strategies are needed to mitigate risk, ensure compliance, prosecute offenders and, most importantly, maintain public safety. This is better accomplished not by one agency but through the combined efforts of local police services and the Alcohol and Gaming Commission of Ontario (AGCO).

The AGCO is a provincial regulatory agency that deals with various business sectors including all of Ontario's liquor licensed establishments. The AGCO, in partnership with local police services, is responsible for administering and enforcing the *Liquor Licence Act* (LLA).

The AGCO can assist you in making your community safer. When you encounter violations of the law related to a liquor licensed establishment, please report them to the AGCO. If you are encountering repeated problems with a particular establishment, please contact your local AGCO Inspector. *We're here to support you.*

Powers of a Police Officer

The LLA recognizes the importance of police officers in the administration and enforcement of the LLA to promote the responsible sale, service and consumption of liquor — including the gathering of evidence for possible provincial offences prosecutions and regulatory action, and to take steps to protect the public. Police officers therefore have similar powers of an AGCO Inspector under the Act in addition to the authority that a police officer has under other statutes. Furthermore, police officers have powers that AGCO Inspectors do not have, such as powers of arrest and the authority to order a premises to be vacated if there is a threat to public safety.

Powers of the Police under the LLA

Inspections – LLA s. 44 (1)

For the purposes of ensuring compliance with the LLA and the regulations, a person designated by the Registrar to carry out inspections may:

- a) enter any place at any reasonable time
- b) request the production for inspection of documents or things that may be relevant to the inspection,
- c) inspect and, upon giving receipt therefor, remove for the purpose of making copies or extracts, documents or things relevant to the inspection.

ARREST WITHOUT WARRANT

Fail to Identify – LLA s. 48

If a police officer finds a person apparently in contravention of this Act or apparently in contravention of a prescribed provision of the regulations and the person refuses to give his or her name and address or there are reasonable grounds to believe that the name or address given is false, the police officer may arrest the person without warrant.

Public Intoxication – LLA s. 31 (5)

A police officer may arrest without warrant any person whom he or she finds contravening subsection (4) if, in the opinion of the police officer, to do so is necessary for the safety of any person.

Seizure Powers – LLA s. 47 (1)

A police officer may seize any thing, including liquor, if,

- a) he or she reasonably believes that the thing will afford evidence of an offence under this Act;
- b) he or she reasonably believes that,
 - i. the thing was used or is being used in connection with the commission of an offence under this Act, and
 - ii. unless the thing is seized it is likely that it would continue to be used or would be used again in the commission of an offence under this Act; or
- c) he or she reasonably believes that the thing is proceeds from the commission of an offence under this Act 1994, c. 37, s. 18 (1).

Fail to Provide Access to Police – O. Reg. 719, s. 44 (2)

The licence holder shall ensure that police officers acting in the course of their duties are given access to the premises to which the licence applies and to the adjacent washrooms, liquor and food preparation areas and storage areas under the exclusive control of the licence holder.

Obstruction – LLA s. 45 (1)

No person shall obstruct a person carrying out an inspection under this Act or withhold, destroy, conceal or refuse to provide any relevant information or thing required for the purpose of the inspection.

Fail to Facilitate – LLA s. 45 (2)

It is a condition of each licence and permit issued under this Act that the licensee or permit holder facilitate an inspection relevant to the licence or permit. R.S.O. 1990, c. L.19, s. 45.

Order to Vacate Premises – LLA s. 34 (3)

If there are reasonable grounds to believe that a disturbance or breach of the peace sufficient to constitute a threat to the public safety is being caused on premises for which a licence or permit is issued, a police officer may require that all persons vacate the premises. R.S.O. 1990, c. L.19, s. 34 (3).

CASE LAW, DEFINING “PERMIT”

The word “permit” is found in many sections of the *Liquor Licence Act* and its Regulations.

Two elements are needed to prove a breach has occurred:

- The activity has to be established (i.e. drunkenness)
- The licensee knew or reasonably ought to have known of the activity (i.e. permitted the drunkenness to occur)

The "BIG FIVE" Infractions

SERVICE TO MINORS

Sell/Serve Apparent Minor – LLA 30 (4)

No licensee or employee or agent of a licensee shall permit a person who appears to be under nineteen years of age to have or consume liquor in the licensee's licensed premises.

Things to note:

- ▶ The type of liquor the minor had or consumed
- ▶ Description of why you thought they were under 19 years of age
- ▶ How did the staff permit the minor to have or consume?

INTOXICATION

Permit Drunkenness – O. Reg. 719 s. 45 (1)

The licence holder shall not permit drunkenness, unlawful gambling or riotous, quarrelsome, violent or disorderly conduct to occur on the premises or in the adjacent washrooms, liquor and food preparation areas and storage areas under the exclusive control of the licence holder. R.R.O. 1990, Reg. 719, s. 45 (1); O. Reg. 230/03, s. 25.

Things to note:

- ▶ Articulate 3 or more signs of intoxication
- ▶ What was the number of drinks consumed?
- ▶ How the drinks were obtained (served by staff or other patron)?

Sell/Serve Intoxicated Person – LLA s. 29

No person shall sell or supply liquor or permit liquor to be sold or supplied to any person who is or appears to be intoxicated. R.S.O. 1990, c. L.19, s. 29.

Things to note:

- ▶ Describe the disorderly behaviour (fight, etc.)
- ▶ How did staff "permit" the behaviour to occur?

DISORDERLY BEHAVIOUR

Permit Disorderly Behaviour –

O. Reg. 719 s. 45 (1)

The licence holder shall not permit drunkenness, unlawful gambling or riotous, quarrelsome, violent or disorderly conduct to occur on the premises or in the adjacent washrooms, liquor and food preparation areas and storage areas under the exclusive control of the licence holder. R.R.O. 1990, Reg. 719, s. 45 (1); O. Reg. 230/03, s. 25.

Reasonable Methods Deter Conduct –

O. Reg. 719, s. 45.1

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

O. Reg. 354/07, s. 9.

Things to note:

- ▶ What was the disorderly behaviour?
- ▶ Where adjacent to the vicinity did the disorderly conduct occur?

Permit Use of Narcotics –

O. Reg. 719, s. 45 (2)

The licence holder shall not permit a person to hold, offer for sale, sell, distribute or consume a controlled substance as defined in the *Controlled Drugs and Substances Act* (Canada) on the premises or in the adjacent wash-rooms, liquor and food preparation areas and storage areas under the exclusive control of the licence holder.

Things to note:

- ▶ Type of narcotic
- ▶ How was the narcotic used (hold, offer for sale, sell or consume)?
- ▶ How did the staff “permit” the action to occur?

OVERCROWDING

Exceed Lawful Capacity –

O. Reg. 719, s. 43

The licence holder shall ensure that the number of persons on the premises to which the licence applies, including employees of the licence holder, does not exceed the capacity of the licensed premises as stated on the licence.

O. Reg. 346/93, s. 7.

Things to note:

- ▶ Number of patrons and staff in the licenced area
- ▶ Articulate observations of room (unable to move freely while walking through premises)

AFTER HOURS SERVICE

Sell/Serve Outside Prescribed Hours – O. Reg. 719, s. 25 (1) (2)

Except for December 31, liquor may be sold and served only between 11 a.m. on any day and 2 a.m. on the following day. O. Reg. 163/96, s.5 (2). On December 31, liquor may be sold and served only between 11 a.m. on any day and 3 a.m. on the following day. O. Reg. 163/96, s. 5.

Fail to Remove Evidence of Service – O. Reg. 719, s. 29

The licence holder shall ensure that evidence of liquor that has been served and consumed on the premises is removed within forty-five minutes after the end of the period during which liquor may be sold and served under the licence.

Things to note:

- ▶ What time were the drinks served/sold or not removed?
- ▶ Number of drinks
- ▶ Was it staff or patrons being served?

CHARGES

Who can be charged?

Any person who contravenes any provision of the LLA and its regulations, such as:

- The Patron
- The Corporation
- All Directors and Officers of the Corporation
- The Licensee or Permit Holder
- Managers and/or Staff

Limitation

- LLA Section 61(8)
- No proceeding shall commence more than 2 years after the offence

SPECIAL OCCASION PERMITS

There are several types of SOPs, however the types you are most likely to come across are:

Private Events: These are for invited guests only, and cannot be advertised. Where alcohol is sold, it cannot be sold at a profit.

Public Events: These events are open to the public and alcohol may be sold for a profit. These events are held by charitable or non-profit organizations to raise funds for charitable, educational, religious or community purposes, or are events of municipal, provincial, national or international significance.

A few things to look for:

- Liquor must be purchased under the permit number.
- Alcohol may not be served or sold to minors.
- Intoxication and disorderly behaviour must not occur.
- Permit hours have now changed. A permit can now be obtained from 11 a.m. to 2 a.m.

REVOKING AN SOP

A police officer or a person designated under subsection 43 (1) may, by giving a notice of revocation in accordance with subsection 19 (15), revoke a Special Occasion Permit issued for an event while the event is under way if he or she reasonably believes that this Act or a prescribed provision of the regulations is being contravened in connection with the event.

The revocation is effective immediately.

REPORTING VIOLATIONS TO THE AGCO

If you have cited violations in a licensed premises, the AGCO requires the following information within 30 to 45 days of the infraction date in order to pursue administrative action:

- A complete Police Report,
- Notes from ALL Officers involved, and
- Any other relevant evidence.

Early receipt of this information will assist the AGCO to take appropriate and timely action. As a result, any report received after 45 days will be included in the licensee's file but may not result in further action.

Please send all Reports to:

Email: policereports@agco.ca

Fax: 416-326-0300

If you have any questions, please do not hesitate to contact the AGCO's Operations Division at 416-326-0330, or contact the local AGCO Regional Enforcement Office:

Toronto	416-326-0330
Gananoque	613-382-6820
London	519-675-7746
Niagara Falls	905-374.5959
Orillia	705-329-5046
Ottawa	613-274-0121
Sault Ste. Marie	705-946-6553
Sudbury	705-855-0189
Thunder Bay	807-343-7527
Windsor	519-258-6521

AGCO Head Office

90 Sheppard Avenue East, Suite 200
Toronto, Ontario M2N 0A4
416-326-8700 or 1-800-522-2876

AGCO

Alcohol and Gaming
Commission of Ontario