
Liquor Laws

& You

A Guide for Licensed Premises



Introduction

This booklet highlights areas of *The Liquor Control Act* and Regulations on the sale and service of liquor and the operation of licensed premises. The aim is to help you gain a better understanding of your responsibilities and authority. This booklet is not intended to replace *The Liquor Control Act*, Regulations, or the Licensee Field Manual provided to licensees. It is still the responsibility of you and your staff to be familiar with this legislation.

Since the information in this booklet is for general reference only, *The Liquor Control Act* and Regulations should be consulted for all purposes of interpreting and applying the law. The pertinent sections of the Act or Regulation are given at the end of each section.

Copies of *The Liquor Control Act* and Regulations are available online at www.gov.mb.ca/laws, or you may purchase copies from:

Statutory Publications
Province of Manitoba
200 Vaughan Street
Winnipeg, Manitoba
R3C 1T5
Telephone: 945-3104

If you have questions or wish to obtain additional copies of this guide, contact the MLCC Inspection Services Office nearest you.

	Telephone	Fax
Winnipeg	474-5585	453-5254
Brandon	726-6490	726-6776
Thompson	778-4145	778-7133

The MLCC also has a number of Responsible Service Bulletins (tips for servers on checking ID, recognizing intoxication, liquor liability, liquor service and house policies). Copies are available in English and French from Inspection Services.

Maximum hours of sale and consumption of liquor

Maximum hours of liquor service and consumption are set out in *The Liquor Control Act*. It is unlawful for you to sell liquor or allow consumption of liquor outside these authorized hours.

It is important for you to know which licences are held at your premises and the rules that apply to each.

Dining Room Monday to Saturday between 9:00 a.m. and 2:00 a.m., Sunday between 11:00 a.m. and 2:00 a.m., and on Good Friday and Remembrance Day between 12:00 noon and 2:00 a.m.

Cocktail Lounge Monday to Saturday between 9:00 a.m. and 2:00 a.m., Sunday between 11:00 a.m. and 2:00 a.m., and on Remembrance Day between 1:00 p.m. and 2:00 a.m. A cocktail lounge cannot be open on Good Friday, Easter Sunday and Christmas Day.

Beverage Room Monday to Saturday between 9:00 a.m. and 2:00 a.m., Sunday between 12:00 noon and 12:00 midnight, and on Remembrance Day between 1:00 p.m. and 2:00 a.m. A beverage room cannot be open on Good Friday, Easter Sunday and Christmas Day.

Cabaret Monday to Saturday between 9:00 a.m. and 2:00 a.m., on Sunday between 12:00 noon and 12:00 midnight, and on Remembrance Day between 1:00 p.m. and 2:00 a.m. A cabaret cannot sell or serve liquor on Good Friday, Easter Sunday and Christmas Day.

Sports Facility Provided the sports activity for which the premises is licensed is taking place, Monday to Saturday between 9:00 a.m. and 2:00 a.m., Sunday between 11:00 a.m. and 2:00 a.m., and on Remembrance Day between 1:00 p.m. and 2:00 a.m. A sports facility cannot sell or serve liquor on Good Friday and Christmas Day.

Spectator Activities Provided a live event for which the facility is licensed is taking place, Monday to Saturday between 9:00 a.m. and 2:00 a.m., Sunday between 11:00 a.m. and 2:00 a.m., and on Remembrance Day between 1:00 p.m. and 2:00 a.m. A spectator activities cannot sell or serve liquor on Good Friday.

Private Club

- A. In a private club **that is an athletic or sports club**, seven days a week between 9:00 a.m. and 2:00 a.m., and on Remembrance Day between 1:00 p.m. and 2:00 a.m. This type of club cannot sell and serve liquor on Good Friday and Christmas Day.
- B. In a private club **that is not an athletic or sports club that has full kitchen facilities and serves liquor only with meals on Sunday**, Monday to Saturday between 9:00 a.m. and 2:00 a.m., Sunday between 9:00 a.m. and 2:00 a.m. **only with meals**, and on Remembrance Day between 1:00 p.m. and 2:00 a.m. (12:00 noon if a veterans' association club). This type of club cannot sell or serve liquor on Good Friday and Christmas Day.
- C. In a private club **that is not an athletic or sports club and serves liquor without meals on Sunday**, Monday to Saturday between 9:00 a.m. and 2:00 a.m., Sunday between 12:00 noon and 12:00 midnight, and on Remembrance Day between 1:00 p.m. and 2:00 a.m. (12:00 noon if a veterans' association club). This type of club cannot sell or serve liquor on Good Friday, Easter Sunday and Christmas Day.

Retail Beer Vendor Monday to Saturday between 9:00 a.m. and 2:30 a.m., Sunday between 12:00 noon and 12:00 midnight, and on Remembrance Day between 1:00 p.m. and 2:30 a.m. A retail beer vendor cannot be open on Good Friday, Easter Sunday and Christmas Day.

Liquor may be consumed (not sold) for a maximum of 60 minutes following the time when liquor sale is required to cease.

A beverage room, cocktail lounge and cabaret must be cleared of all patrons within 60 minutes after the sale of liquor must cease.

Common Questions

1. ***Should I allow my patrons a consumption period if I close early?***

Yes. It is suggested you allow patrons a minimum of one-half hour to consume their liquor from the close of liquor service. Providing a 60 minute consumption period would promote responsible consumption, allow for arrangements for a safe ride home, and assist with an orderly disbursement of patrons.

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2. *Can I pre-pour drinks prior to 2:00 a.m. for service to my friends arriving after 2:00 a.m.?*

No. You cannot supply liquor to anyone after 2:00 a.m. for consumption in the premises.

3. *Sale and service of liquor must cease at 2:00 a.m. Our restaurant closes at 2:00 a.m. Can my staff have a liquor beverage after closing?*

No. The hours for liquor service apply to staff as well as patrons. Staff can neither consume during their working hours, nor after 2:00 a.m.

4. *Must I post my hours of operation?*

Yes. In order to best service your customers, regular days and hours of operation should be posted in a prominent location. You should also post your regular clearing time to advise customers of the policy in your establishment.

5. *Can patrons remain in the beverage room, cocktail lounge or cabaret after 3:00 a.m. to play pool or visit?*

No. Patrons cannot remain in a beverage room, cocktail lounge or cabaret after hours even if liquor has been cleared away.

Notes:

References: ss 68(1); 71(4); 72(3); 73(4); 74(4); 75(3); 76(10); 84(1); 99(1) of *The Liquor Control Act* and ss 12(1) of the Liquor Licensing Regulation.

Minors

A minor is a person under the age of 18 years. Except as permitted by *The Liquor Control Act*, it is unlawful for a licensee or employee of a licensee, or any other person, to serve liquor to a minor in licensed premises. It is also unlawful for a minor to handle, purchase, or consume liquor in licensed premises.

Serving liquor to minors can result in serious penalties imposed by the MLCC, or police charges, against licensees and staff.

Here are ways to protect yourself:

1. If a youthful-looking person tries to enter a beverage room, cocktail lounge, or cabaret, or asks for liquor service, request proof of age photo-identification from that person.
2. Do not employ a minor to handle, sell, or serve liquor in any licensed premises.
3. Ensure that liquor is not sold to an adult who then passes it to someone under 18 years of age.
4. Minors are not permitted to enter or be in a beverage room.
5. Minors are not permitted to enter or be in a cocktail lounge or a cabaret premises except when accompanied by his or her parent, spouse, or legal guardian who is at least 18 years of age, and are not permitted to consume liquor unless it is purchased or provided by the parent, spouse, or legal guardian who is at least 18 years of age, and it is consumed with a meal in their presence.
6. Minors are permitted to be in an area licensed under a dining room, sports facility, spectator activities, private club or transportation licence, but are not permitted to consume liquor in a dining room, sports facility, spectator activities facility, or private club unless it is purchased or provided by his or her parent, spouse, or legal guardian who is at least 18 years of age, and it is consumed with a meal in their presence..
7. Contact Inspection Services to have an inspector train your staff on checking identification.

Proof of Age

The onus is on you to detect minors. If a person appears to be 25 years of age or under, you should request a government-issued photo-identification card as proof of age. If you are not satisfied with the identification, you have the right to refuse entry or liquor service. Beware of false, altered, or borrowed identification.

When checking identification, look for:

- ▶ photograph
- ▶ birth date
- ▶ altered or disfigured card
- ▶ signature
- ▶ whether the card is a government-issued card

Acceptable forms of photo-identification are:

- ▶ Manitoba photo driver's licence (two parts)
- ▶ Manitoba Identification Card
- ▶ Manitoba Enhanced Identification Card
- ▶ MLCC photo-identification card
- ▶ Canadian Department of National Defence card
- ▶ Canadian Citizenship card
- ▶ passport
- ▶ Certificate of Indian Status card
- ▶ photo driver's licence issued by another province or state
- ▶ Canadian Firearms licence

All of the above must be **valid** identification (not expired). Government-issued photo-identification from another country may be accepted provided the manager or staff person is satisfied with its authenticity and it is valid.

Common Questions

1. Is it satisfactory to accept only one piece of identification?

Yes, provided the identification is government-issued and the photo and information on the identification card are consistent with the physical appearance of the person producing it. It would be a good idea to establish a house policy for checking identification and post it at the entrance.

2. ***Can I be charged for selling or serving liquor to a minor?***

Yes. This is an offence under *The Liquor Control Act*. The server and licensee may each be charged and fined. In addition to being charged by the police, the licensee may also be subject to disciplinary action by the Licensing Board, which could result in a suspension, monetary penalty or cancellation of licence.

3. ***Is it an offence for a minor to use false, altered, borrowed identification in an attempt to gain entry to a licensed premises?***

Yes. *The Liquor Control Act* states that it is unlawful for a person to present false, altered or borrowed identification. The person may be charged and fined.

4. ***Is it an offence for a minor to attempt to purchase liquor?***

Yes. *The Liquor Control Act* states that it is unlawful for a minor to attempt to purchase liquor.

5. ***May I seize false ID or detain a minor?***

No. Any ID left at your premises should be returned to the department or agency who originally issued it.

Notes:

References: ss 91(1); 93(1); 93(2); 93(3); 94(1); 121(1); 121(4); 121(4.1); 121(5) of *The Liquor Control Act* and ss 14(1); 14(2); 14(3); 14(4); 14(5); 14(7) of Liquor Licensing Regulation

Intoxication

The service of liquor to an intoxicated person is prohibited by law. The onus is on you to ensure patrons are not served to the point of intoxication. If you and your staff have determined a patron can have no more service of liquor, you must ensure another patron does not supply liquor to that patron.

When intoxicated, some patrons become loud and boisterous; some get angry and want to fight; and others merely fall asleep. In many cases patrons become happy with excessive laughter.

Signs of severe intoxication include staggering, falling down, slurring of speech, watering of eyes, and loss of co-ordination. Intoxicated patrons are usually annoying to other patrons.

If you have to ask yourself whether an individual is intoxicated, it is usually a sign that the person is intoxicated.

Common Questions

1. Can liquor service be refused?

Yes. *The Liquor Control Act* gives the licensee and employees the authority to refuse liquor service. In fact if you do not refuse liquor service to a patron who is intoxicated, you are committing an offence.

2. Can an intoxicated patron be allowed to remain in the licensed premises and be provided with coffee and something to eat?

Yes. However, you must ensure that person is not served or given any more liquor. You may wish to make arrangements to ensure this person is safely transported to a residence or turned over to a responsible person such as a taxi cab driver or relative.

3. ***Who is responsible for deciding when someone is intoxicated?***

The person providing liquor service. The onus is also on the manager and the licensee to ensure that no employee serves an intoxicated person more liquor.

4. ***Can I be charged for selling or serving liquor to an intoxicated patron?***

Yes. This is an offence under *The Liquor Control Act*. The server and the licensee may each be charged. In addition to being charged by the police, the licensee may also be subject to disciplinary action by the Licensing Board, which could result in a suspension, monetary penalty or cancellation of licence.

5. ***Does it matter whether a person has eaten food?***

Yes. A full stomach can slow the rate of absorption of alcohol into the bloodstream.

6. ***Is the size and body build of a person a factor?***

Yes. Normally a heavier person will not become intoxicated as rapidly as a lighter person even though they might have consumed the same amount of alcohol.

Notes:

References: c 96(1)(d) (e) and (f); 122(c) of *The Liquor Control Act*

Maximum Capacity

Because of concern for the orderly operation of a licensed premises, a capacity sign for your premises will be issued by a liquor inspector. The maximum number of people shown on the capacity sign must never be exceeded.

Common Questions

1. ***Does the maximum capacity include all staff as well as patrons?***

No. The capacity sign refers to maximum number of patrons only. Off-duty staff and entertainers not on stage would, however, be considered patrons for maximum capacity purposes.

2. ***Does the capacity sign have to be posted?***

Yes. The sign must be prominently posted in the licensed premises.

3. ***Is it unlawful to exceed the maximum capacity?***

Yes. *The Liquor Control Act* states it is an offence for you to have more people on the licensed premises than authorized by the Liquor Control Commission.

4. ***What legal problems might arise if we exceed the maximum shown on the capacity sign?***

The Licensing Board may take disciplinary action against you and could suspend your licence for a period of time, impose a monetary penalty or cancel your licence.

Notes:

References: ss 104(1); 104(2) of *The Liquor Control Act* and s 2 of Liquor Licensing Regulation

Patron Conduct

The licensee is responsible to ensure that patrons remain safe and free from unwanted disturbances. It is unlawful for a licensee or an employee to permit any drunkenness, or any violent, quarrelsome, or disorderly conduct to take place on or about the licensed premises. Unwanted disturbances considered objectionable to patrons and that can interfere with the orderly operation of a licensed premises, can include fighting, shouting, swearing, obscene language, or impeding or molesting other persons.

Common Questions

1. ***Can a person who causes a disturbance be charged?***

Yes. *The Liquor Control Act* states no person shall be disorderly in or about a licensed premises.

2. ***Do we have the right to request a person to leave the premises?***

Yes. *The Liquor Control Act* gives the licensee and employees the right to request the person leave the premises. If the person refuses, you can call the police and have the individual charged for refusing to leave.

3. ***If I have forbidden a person to enter my licensed premises, and they keep coming back into the premises, can they be charged?***

Yes. *The Liquor Control Act* gives you the right to forbid a person to enter the premises. We suggest a written notice be given to the individual barring him/her from the premises. If this person re-enters the premises, you can call the police and have this individual charged.

4. ***Can we take liquor away from a patron who is trying to walk out of the premises?***

Yes. *The Liquor Control Act* states that the liquor is to be consumed in the premises in which it was purchased. Also, no person may consume liquor in a public place. Patrons may take liquor to washrooms located within or adjacent to the licensed area, but must comply with reasonable requirements of the licensee.

References: c 96(1)(b); ss 96(2); 96(3); 120(4) of *The Liquor Control Act* and s 16.1 of Liquor Licensing Regulation

Entertainment

If you are planning to provide entertainment, sport, or other activity in the licensed premises, check the following:

- ▶ Is it lawful?
- ▶ Will it interfere with the orderly operation of the premises?
- ▶ Is the form of entertainment, sport or activity allowed under your licence?
- ▶ Do I need approval from another government department or agency for the entertainment?

If you are uncertain of any of the above, contact the Inspection Services office nearest you.

Common Questions

1. ***What criteria is used in deciding what games or entertainment are acceptable or not allowed?***

Entertainment should not promote disorderly conduct by patrons. Games that are contrary to the Criminal Code (Canada) and lottery schemes that are contrary to *The Manitoba Lotteries Corporation Act* are not permitted.

2. ***May I feature adult entertainment in my premises?***

Adult entertainment is allowed only in a beverage room, or a private club where minors are not being admitted, and the performance must be on a stage or in a defined area away from patrons.

Notes:

References: c 96(1)(a); c 96(1)(a.1); 96(1)(a.2); and 96(1)(b) of *The Liquor Control Act* and s 15; and 15.1 of Liquor Licensing Regulation

Food Service

Food service must be available to patrons in any licensed premises under all classes of licence.

In a dining room, the service of liquor is only with a meal.

A dining room operating in conjunction with a beverage room must be open and operating from at least 11:00 a.m. to 2:00 p.m. and from 4:00 p.m. to 7:00 p.m. Monday to Saturday; from 12:00 noon to 2:00 p.m. and from 4:00 p.m. to 7:00 p.m. on Sunday; and from 1:00 p.m. to 2:00 p.m. and from 4:00 p.m. to 7:00 p.m. on Remembrance Day. The dining room may close at 7:00 p.m. provided food is available to beverage room patrons and hotel guest rooms during the time liquor service is available.

A dining room operating in conjunction with a cocktail lounge may close at 9:00 p.m. provided food is available to cocktail lounge patrons to closing.

Common Questions

1. ***Must I operate the dining room in the hotel myself?***

No. You may have a manager to handle the food service. Also, you may lease the dining room in your hotel to another person. However, that person must then apply for and hold the dining room licence and will receive the profits from the operation. If there is a cocktail lounge at the hotel, the licensee of the dining room and cocktail lounge must be the same.

2. ***Do I need a kitchen in my establishment?***

Yes. All licensed establishments must have kitchens with the equipment needed to prepare the items on the menu, and the food served must be prepared in the kitchen facilities using provisions stored in the licensed premises.

Notes:

References: ss 67(2); 71(5) of *The Liquor Control Act* and s 3.1; 20; 22-25; 29; 30; 41 of *Liquor Licensing Regulation*

Liquor Menu

Consumers should be aware of what they are purchasing and the cost.

All licensed premises must have a liquor menu. The menu must indicate the quantity of liquor in each drink and the price. Liquor menus must be available to patrons. Remember, drinks may not sell for less than \$2.25, including taxes, for 28.4 ml (1 oz.) of spirits, 341 ml (12 oz.) of beer, cider or cooler, 142 ml (5 oz.) of table wine, or 56.8 ml (2 oz.) of fortified wine. If drinks contain liquor in a larger or smaller volume, the minimum price of that drink must be increased or decreased in direct proportion to the volume of liquor.

Common Questions

1. ***What kind of liquor menus are satisfactory?***

Any type of liquor menu that describes products for sale and the price. For example:

- < table menu
- < wall menu
- < tent card menu

2. ***Do I have to list the kinds of liquor in each drink?***

No. It is acceptable to use a collective word such as beer, cocktail, highball or shooter to describe a drink as long as the amount of liquor in the drink is clearly indicated.

3. ***May I have drink specials?***

Yes. However, the price and amount of liquor must always be posted in the licensed premises. Drink specials or the prices of drink specials may not be advertised outside the premises.

Although liquor prices are set by licensees, drink prices may not be less than \$2.25, and multiple drink specials (e.g., two for one, three for one) or tiered-pricing are not permitted.

References: ss 3(1); 3(1.1); 3(1.2); 3(2); 3(3); 3(4) of Liquor Licensing Regulation; and Commission policy

Liquor Service and Promotions

You cannot demand that any person purchase liquor on licensed premises. Liquor service must also be in accordance with *The Liquor Control Act* and Regulations.

Common Questions

1. ***Is there a limit on how much liquor I can provide to a patron?***

Yes. Generally, maximum servings to one person at one time are two containers containing no more than 85.2 ml (3 oz.) of spirits or fortified wine, or 750 ml (26.4 oz.) of beer or 500 ml (17.6 oz) of wine. When a person is purchasing for two or more people, the maximum serving amounts apply per person.

2. ***Can I allow patrons to take home unconsumed liquor?***

No, except in the case of a bottle of wine served to a patron with a meal. The bottle must be resealed using a new cork inserted flush with the neck of the bottle.

3. ***Is it acceptable to provide two or more alcoholic drinks for the price of one, or sell cheap drinks?***

No. You may not offer, sell, serve or provide beverages containing 28.4 ml (1 oz.) of spirits, 341 ml (12 oz.) of beer, cider or cooler, 142 ml (5 oz.) of table wine, or 56.8 ml (2 oz.) of fortified wine, for less than a total purchase price of \$2.25, including taxes.

4. ***Can servers offer shooters to customers from a server tray?***

No. A licensee may not allow a server to carry alcoholic beverages in licensed premises before receiving orders for those beverages.

5. ***Can I have a contest with liquor as a prize?***

No. Patrons may not be offered or given liquor as a prize.

Notes:

References: ss 95(2) and 98(1) of *The Liquor Control Act* and 3(1.1) and 3(5) of Liquor Licensing Regulation

Inspectors

Inspectors are authorized under *The Liquor Control Act* to enter your licensed premises and perform inspections or make enquiries. It is an offence to refuse or obstruct, or attempt to obstruct, entry of an inspector.

Common Questions

1. ***How can we identify an inspector?***

Each inspector carries photo-identification and, as well, each full-time inspector carries a badge and is required to produce them on request.

2. ***Can an inspector seize liquor from my licensed premises?***

Yes. An inspector may seize liquor if he believes the liquor is unlawfully acquired or kept. An inspector may take liquor samples and remove books, records or other documents. A receipt for anything removed by the inspector will be provided to the licensee.

3. ***Why do inspectors check areas other than the licensed room?***

In order to qualify for a liquor licence, some areas of a facility, other than the licensed room, must meet particular requirements (for example, a kitchen to support a food operation, guest rooms in a hotel to obtain a retail or beverage room licence). Also, the premises described in a licence includes any storeroom, vestibule, waiting area, washroom, kitchen, hallway, or other service areas adjacent to and necessary or appropriate to the operation of a licensed premises, where liquor is not sold.

Notes:

References: s 137; 138; ss 139(2); s 141; 144 of *The Liquor Control Act* and s 4; 22; ss 24.1(1); s 25; 29; ss 44.1(1) of Liquor Licensing Regulation

Co-operation with the police

A good working relationship with your police department should be maintained. It is not the role of a peace officer to act as security for your licensed premises. When police are called, it is because an offence has been committed or suspected. If you call the police, be prepared to:

- ▶ identify the people involved
- ▶ supply the facts regarding the incident
- ▶ support the police decision
- ▶ lay charges
- ▶ make notes and if requested give the police a statement
- ▶ give evidence in court

Common Questions

1. When should the police be called?

The safety of patrons and your staff is of prime importance. If you cannot ensure this, then you should call the police.

2. Can a police officer enter my licensed premises on a walk through?

Yes, and it is recommended you encourage this type of co-operation with the police to help maintain the orderly operation of the licensed premises.

Notes:

References: s 137; 138 of *The Liquor Control Act*

Penalties

Police Charges

If you are charged by the police for a violation of *The Liquor Control Act* or Regulations, the following section from *The Liquor Control Act* outlines the penalties the courts may levy.

Offences

126 Every person who violates any provision of this Act or the regulations is guilty of an offence against this Act, whether otherwise so declared or not.

The police may issue you an offence notice. The offence notice will set out the section of The Act which you have breached.

Penalties under *The Liquor Control Act* may vary in amount. General offence penalties for individuals and corporations vary from fines of not more than \$10,000 to imprisonment for six months. Major offence penalties for individuals and corporations vary from fines of not less than \$50,000 to imprisonment for 18 months.

In addition, several charges under *The Liquor Control Act* have specific penalties.

Disciplinary Action

The MLCC may take disciplinary action against licensees for breach of *The Liquor Control Act* and Regulations.

The disciplinary action may be in the form of an informal hearing with the Manager, Inspection Services; a warning letter from the Manager, Inspection Services or the Manager, Licences & Permits; or a hearing before the Licensing Board.

The Licensing Board may issue a warning, suspend or cancel licences, impose a monetary penalty or impose terms or conditions on a licence for a breach of *The Liquor Control Act*. Appeals to Licensing Board decisions are heard by the Board of Commissioners.

References: c 25(1.4); s 127; 128 of *The Liquor Control Act*

Civil Liabilities

Civil suits against licensed premises may result in large sums of money being awarded to victims by the courts. Please refer all questions on liability to your lawyer.

Provider's Liability

Those who serve or provide liquor may be held civilly responsible for negligent liquor service. The following are examples of civil suits.

Jordan House Hotel versus Menow and Homsberger

Menow was a patron who was known to staff at the Jordan House Hotel. He had been previously banned from the hotel for intoxication and annoying others. On this evening he became obviously intoxicated and staff removed him. While Menow was walking home he was hit by an automobile.

Menow sued the driver of the car and the hotel. The courts found Menow, the driver and the hotel to be each one-third at fault. The driver and the hotel were jointly and severally liable, which meant that Menow could collect up to 100% of two thirds of the claim from either the driver or the hotel. The court found that the *provider* of alcohol may not serve patrons past the point of intoxication. If intoxication occurs then patrons must be protected, in this case even if they are off the premises and walking.

Schmidt versus Sharpe and the Arlington House Hotel

Two friends who were minors became visibly intoxicated at the hotel. They left the hotel and were involved in a single vehicle accident. Schmidt was left a quadriplegic. He sued the driver (Sharpe) and the hotel.

Sharpe and the hotel were found jointly and severally liable for 70% of Schmidt's losses, \$1.4 million.

The court found the hotel to be at fault for *providing* liquor to an intoxicated patron (Sharpe) and therefore responsible for his conduct after leaving the premises.

Picka versus Porter and the Royal Canadian Legion

Porter consumed liquor in a Legion for approximately five hours. Staff, because of the design of the interior, could not tell how much liquor had been served to a patron, or the condition of a patron. After leaving the Legion, Porter was responsible for a traffic accident which killed three and injured two.

Picka, an accident victim, sued Porter and the Legion. Porter was held 85% at fault and the Legion 15% at fault, however the judgement was made jointly and severally. Picka was entitled to collect all \$1 million from either party (which was important if Porter lacked the assets to pay the judgement).

The Legion as the *provider* of alcohol was liable because they had served Porter to intoxication.

Occupier's Liability

Those who are in control of licensed premises may be held civilly responsible for problems arising from improper or illegal service, or dangerous patron behaviour. The following are examples of civil suits dealing with occupier's liability.

Lehnert versus Nelson et al

A gentleman was injured by an unprovoked assault by an intoxicated female patron in a licensed premises.

The court held that the staff were responsible for damages suffered by the gentleman. The *occupier* may be held responsible to ensure that intoxicated patrons do not hurt others in the premises.

Jacobson versus Kinsmen Club of Nanaimo

The Kinsmen Club held a licensed Beer Garden in a curling rink. During the event a number of people climbed up on the overhead rafters and "mooned" the people below. A male fell from the rafters and landed on Jacobson, injuring him.

Jacobson sued the Kinsmen Club and was successful.

In this case the *occupier* had a responsibility to stop dangerous activities which lead to injuries. Intoxication was not an issue.

Any questions you have regarding your potential civil liability should be referred to a lawyer.

Notes:

Designated Driver Program

In a co-operative effort between the industry associations, stakeholders and the MLCC, a designated driver program for use in licensed premises was developed.

The Program

What is a Designated Driver Program?

A voluntary program for licensed establishments, which puts the onus on a group of patrons to identify a person who will:

- ▶ not drink any alcoholic beverage prior to or during the outing; and
- ▶ take responsibility for ensuring that other members of the group arrive home safely.

It is a program which, when successfully implemented, will:

- ▶ reduce the incidence of impaired driving;
- ▶ reduce the incidence of motor vehicle accidents and the resulting injuries and property damage; and
- ▶ save lives.

How does the program work?

A group of patrons can appoint one person as the designated driver prior to any alcohol consumption.

The designated driver is usually offered free non-alcoholic drinks of the licensee's choice.

What are the designated driver's responsibilities?

The designated driver must:

- ▶ identify himself/herself to the serving staff;
- ▶ ensure all group members get a safe ride home; and
- ▶ agree to drink non-alcoholic beverages only.

May I amend the DD guidelines at my premises?

Yes. You may offer non-alcoholic beverages in limited quantities or offer another type of safe ride program that better suits your operation.

Signs, posters and other promotional materials are available in English and French through your liquor inspector. Wrist bands are also available in limited quantities.



***It's Good Business* Responsible Service and Safety for Licensed Establishments**

It's Good Business Responsible Service and Safety for Licensed Establishments, which was developed in conjunction with the hospitality industry, is an awareness program for owner/managers and servers/security of licensed establishments, and is the approved training course of the MLCC.

Responsible service and safety training is mandatory for all new owner/managers and server/bartenders/security personnel who work in licensed areas.

- ▶ all owners/managers must hold an *It's Good Business* management certificate in order to manage the premises
- ▶ all servers and security must hold an *It's Good Business* server certificate
- ▶ all new staff involved in the sale or service of liquor or providing security, must successfully complete the server course within 90 days of being hired
- ▶ the licence holder must bear the cost of providing the *It's Good Business* course to an employee who does not hold a certificate

The *It's Good Business* program was redeveloped in 2007 and some conditions apply on upgrading to the new program.

How can I find out more about It's Good Business?

If you have more questions about *It's Good Business*, you can contact Safe Hospitality c/o Manitoba Tourism Education Council (MTEC) at 204-694-7233 (toll free within Manitoba 1-800-820-6832) or online at www.safehospitality.com.

How can I reduce server liability?

You should be aware that a potential liability situation exists with the service of liquor. Here are some suggestions to manage liability:

- ▶ ensure service practices help detect an intoxicated individual
- ▶ refuse liquor service to intoxicated patrons
- ▶ prohibit activities which may cause personal injury
- ▶ ensure your premises is safe and that the maximum capacity is not exceeded
- ▶ ensure each staff has a copy of the pamphlet "The Responsible Sale & Service of Alcoholic Beverages, what you need to know" and is familiar with its contents.

References: s 12.1 and 12.2 of Liquor Licensing Regulation



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