1980

C 244 Liquor Licence Act

Ontario
CHAPTER 244
Liquor Licence Act

1. In this Act,

(a) "alcohol" means a product of fermentation or distillation of grains, fruits or other agricultural products rectified once or more than once whatever may be the origin thereof, and includes synthetic ethyl alcohol;

(b) "beer" means any beverage containing alcohol in a proportion that is greater than that prescribed by the regulations obtained by the fermentation of an infusion or decoction of barley, malt and hops or of any similar products in drinkable water;

(c) "Board" means the Liquor Licence Board referred to in section 2;

(d) "government store" means a government store as established under the Liquor Control Act;

(e) "licence" means a licence issued under this Act;

(f) "liquor" means spirits, wine and beer or any combination thereof and includes any alcohol in a form appropriate for human consumption as a beverage alone or in combination with any other matter;

(g) "manufacturer" means a person authorized under an Act of the Parliament of Canada to manufacture or produce any liquor;

(h) "Minister" means the Minister of Consumer and Commercial Relations;

(i) "municipality" means a city, town, village or township;

(j) "Ontario wine" means,
(i) wine produced from grapes, cherries, apples or other fruits grown in Ontario or the concentrated juice thereof, and includes Ontario wine to which has been added herbs, water, honey, sugar or the distillate of Ontario wine or of cereal grains grown in Ontario, or

(ii) wine produced by the alcoholic fermentation of Ontario honey with or without the addition of caramel, natural botanical flavours or the distillate of Ontario honey wine;

(k) "permit" means a permit issued under this Act;

(l) "regulations" means the regulations made under this Act;

(m) "sell" means to supply for remuneration, directly or indirectly, in any manner by which the cost is recovered from the person supplied, alone or in combination with others, and "sale" has a corresponding meaning;

(n) "spirits" means any beverage that contains alcohol obtained by distillation;

(o) "Tribunal" means the Liquor Licence Appeal Tribunal referred to in section 13;

(p) "wine" means any beverage containing alcohol in a proportion that is greater than that prescribed by the regulations obtained by the fermentation of the natural sugar contents of fruits, including grapes, apples and other agricultural products containing sugar, and including honey and milk.

1975, c. 40, s. 1; 1975 (2nd Sess.), c. 17, s. 1.

2.—(1) The Liquor Licence Board is continued and shall consist of not more than seven members appointed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council may designate one of the members of the Board as chairman and one or more of the members as vice-chairmen.

(3) The members of the Board shall be appointed to hold office for a term not exceeding five years and may be
reappointed for further successive terms not exceeding five years each.

(4) The members of the Board shall be paid such salaries or other remuneration as may be fixed by the Lieutenant Governor in Council.

(5) The chairman shall be the chief executive officer of the Board and shall devote his full time to the work of the Board, and the other members shall devote such time as may be necessary for the due performance of their duties as members of the Board.

(6) The Board is a corporation to which the Corporations Act does not apply.

(7) The Board shall perform such duties as are assigned to it by or under this and any other Act and shall administer and enforce this Act and the regulations.

(8) Subject to the approval of the Lieutenant Governor in Council, the Board may appoint such officers, inspectors and employees and retain such assistance as is considered necessary and may determine their salary, remuneration and terms and conditions of employment.

(9) The revenues of the Board shall be paid to the Treasurer of Ontario and the moneys required for the expenditures of the Board shall be paid out of the moneys appropriated therefor by the Legislature. 1975, c. 40, s. 2.

3. For the purposes of and subject to the Crown Employees Collective Bargaining Act, and the regulations thereunder, and subject to any further designation under that Act, the persons employed in the work of the Board are designated as a unit of employees that is an appropriate bargaining unit for collective bargaining purposes and the Liquor Control Board of Ontario and Liquor Licence Board of Ontario Employees' Association is designated as the employee organization that has representation rights in relation to such bargaining unit. 1975, c. 40, s. 3 (3).

4.—(1) No person shall keep for sale, offer for sale or sell liquor except under the authority of a licence or permit issued by the Board.

(2) No person shall canvass for, receive or solicit orders for the sale of liquor unless he is the holder of a licence or
permit issued by the Board under subsection (1) or unless he is registered under section 38.

(3) Subsections (1) and (2) do not apply to the sale of liquor by or under the authority of the Liquor Control Board of Ontario under the **Liquor Control Act**.

(4) A licence issued under this section may be transferred, subject to the approval of the Board, on the application of the transferee.

(5) The Board may approve the transfer of a licence for a period of not more than six months, to permit the orderly disposition of licensed premises by a trustee in bankruptcy, receiver or liquidator authorized by statute or a court for the purpose or a mortgagee who enters into possession under the mortgage and section 6 does not apply. 1975, c. 40, s. 4.

5.—(1) The Board may, subject to the approval of the Minister, issue a licence authorizing the manufacturer of spirits, beer or Ontario wine to keep for sale, offer for sale or sell such spirits, beer or Ontario wine to the Liquor Control Board of Ontario under the **Liquor Control Act** and the decision of the Board to issue or to refuse to issue a licence, with the approval of the Minister, is final.

(2) A licence under subsection (1) may be issued subject to such terms or conditions as are prescribed in the licence or by the regulations. 1975, c. 40, s. 5.

6.—(1) An applicant for a licence, or for approval of the transfer of a licence other than a licence referred to in section 5, is entitled to be issued the licence or have the transfer approved except where;

(a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business;

(b) the applicant is not a Canadian citizen or a person lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;

(c) the applicant is a corporation and,

   (i) having regard to its financial position, it cannot reasonably be expected to be finan-
cially responsible in the conduct of its busi-
ness, or
(ii) the past conduct of its officers or directors
or of a shareholder who owns or controls 10
per cent or more of its issued and outstand-
ing equity shares as determined under sec-
tion 20 affords reasonable grounds for belief
that its business will not be carried on in
accordance with law and with integrity and
honesty, or
(iii) a majority of the members of the board of
directors are not Canadian citizens or per-
sons lawfully admitted to Canada for per-
manent residence and ordinarily resident in Canada;
(d) the past conduct of the applicant affords reason-
able grounds for belief that he will not carry on
business in accordance with law and with integrity
and honesty;
(e) the applicant is carrying on activities that are,
or will be, if the applicant is licensed, in con-
travention of this Act or the regulations;
(f) the premises and accommodation, equipment and
facilities in respect of which the licence is issued
do not comply with the provisions of this Act
and the regulations applicable thereto;
(g) in the case of an application for a licence, the issuance
of the licence is not in the public interest having
regard to the needs and wishes of the public in the
municipality in which the premises is located.
(2) No licence shall be issued under this section or renewed
and no approval of the transfer of a licence shall be given,

(a) to a person who is under agreement with any
person to sell the liquor of any manufacturer;

(b) to a manufacturer of liquor, or his agent, or to a
person who is so associated or connected therewith,
or financially interested therein as to be likely to promote the sale thereof;

c) to a person who by reason of any agreement, arrangement, concession, obligation or understanding, verbal or written, or direct or indirect, with any other person is or by reason thereof may be likely to promote the sale of liquor of any manufacturer; or

d) for premises in which a manufacturer of liquor has an interest, whether freehold or leasehold, or by way of mortgage or charge or other encumbrance, or by way of mortgage, lien or charge upon any chattel property therein and whether such interest is direct or indirect or contingent or by way of suretyship or guarantee.

(3) Where an application is made for a licence under this section and, subject to compliance with clause (1)(g), the applicant is not disentitled, the Board shall advertise the fact of the application, the nature of the licence applied for and the location of the premises at least twice in a newspaper having general circulation in the municipality in respect of which the licence is applied for and shall fix in the advertisement a time and place in the licensing district for the residents of the municipality to make representations to the Board concerning the application.

(4) The Board or such member or members thereof as are designated by the chairman shall hold a public meeting in accordance with the notice under subsection (3) for the purpose of receiving the representations referred to therein and shall take such representations into consideration for the purposes of this section. 1975, c. 40, s. 6.

7.—(1) A licence issued under section 4 or 5 expires two years after its issuance or latest renewal, subject to renewal by the Board in accordance with this Act and the regulations.

(a) until the renewal is granted; or
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(b) where he is served with notice that the Board proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the order has become final. 1975, c. 40, s. 7.

8.—(1) Subject to the regulations, the Board may issue a permit authorizing the holder thereof to keep for sale, offer for sale, sell or serve liquor on a special occasion.

(2) An applicant for a permit for a special occasion that complies with the regulations is entitled to be issued the permit except upon the grounds set out in clause 6 (1) (d), (e) or (f) and subsection 6 (2) applies in respect of permits, with necessary modifications, in the same way as it applies in respect of licences.

(3) A permit may be issued by an officer of the Board designated by the Board for the purpose and such officer shall refer to the Board every application for a permit or renewal that he proposes to refuse. 1975, c. 40, s. 8.

9.—(1) The Board may at any time review a licence or permit on its own initiative and attach such further terms and conditions as it considers proper to give effect to the purposes of this Act.

(2) The Board may, on the application of the holder of a licence or permit, remove any term or condition to which the licence or permit is made subject under subsection (1) where there is a change of circumstances. 1975, c. 40, s. 10.

10.—(1) Subject to section 11, the Board may refuse to issue or approve the transfer of a licence under section 6 or to issue a permit under section 8 where, in the Board’s opinion, the applicant is not entitled to a licence or permit under the provisions applicable thereto.

(2) Subject to section 11, the Board may refuse to renew or may suspend or revoke a licence issued under section 5 for any reason referred to in clauses 6 (1) (e) and (f) or where the licensee is in breach of a term or condition of his licence.

(3) Subject to section 11, the Board may refuse to renew or may suspend or revoke a licence issued under section 6 for any reason that would disentitle the licensee.
(4) The Board may cancel a licence upon the request in writing of the licensee in the prescribed form surrendering his licence.

(5) Subject to section 11, the Board may revoke a permit issued under section 8 for any reason that would disentitle the holder to a permit if he were an applicant, or where the holder of the permit is in breach of a term or condition of the permit. 1975, c. 40, s. 11.

(11)—(1) Where the Board proposes,

(a) to refuse to issue a licence or permit, renew a licence or approve the transfer of a licence;

(b) to suspend or revoke a licence or permit; or

(c) to attach terms and conditions to a licence or permit or to refuse to remove a term or condition of a licence or permit under section 9,

it shall serve notice of its proposal together with written reasons therefor on the applicant or holder of the licence or permit affected.

(2) Where the Board proposes to suspend or revoke a licence or permit the Board may, where the Board considers it to be necessary in the public interest, by order temporarily suspend the licence or permit and the order shall take effect immediately and where a hearing is required expires fifteen days from the date of the notice requiring the hearing unless the hearing is commenced in which case the Board or Tribunal holding the hearing may extend the time of expiration until the hearing is concluded.

(3) A notice under subsection (1) shall inform the applicant or holder of the licence or permit that he is entitled to a hearing by the Board if he mails or delivers to the Board, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing by the Board, and he may so require such a hearing.
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(4) Where an applicant or holder of the licence or permit does not require a hearing by the Board in accordance with subsection (3), the Board may carry out the proposal stated in its notice under subsection (1). 1975, c. 40, s. 12.

12.—(1) Where the Board is required to hold a hearing under section 11, the chairman of the Board shall refer the application to two or more members of the Board designated by the chairman, who shall constitute the Board for the purposes of the hearing and decision.

(2) The Board shall fix a time and place for the hearing of the application and shall at least ten days before the day fixed cause notice thereof to be served upon the applicant, and upon any other person appearing to the Board to have an interest in the application.

(3) Every person upon whom notice of a hearing is served and any other person added by the Board is a party to the proceedings.

(4) Each member of the Board has power to administer oaths and affirmations for the purpose of any of its proceedings.

(5) The Board shall hold the hearing and give its decision and reasons therefor in writing to the parties to the proceedings.

(6) An order of the Board revoking or suspending a licence or permit takes effect immediately unless otherwise provided in the order but, where a hearing by the Tribunal is required, the Tribunal may grant a stay until the Tribunal makes its decision. 1975, c. 40, s. 13.

13.—(1) The Liquor Licence Appeal Tribunal is continued and shall consist of not more than seven members who shall be appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council shall appoint one of such members as chairman and one or more of them as vice-chairmen.

(2) The members of the Tribunal shall be appointed to hold office for a term not exceeding five years and may be reappointed for further successive terms not exceeding five years each.
The members of the Tribunal shall be paid such salaries or other remuneration as may be fixed by the Lieutenant Governor in Council.

The chairman shall have general supervision and direction over the conduct of the affairs of the Tribunal, and shall arrange the sittings of the Tribunal and assign members to conduct hearings as circumstances require.

Three members of the Tribunal constitute a quorum.

The Tribunal shall prepare and periodically publish a summary of its decisions and the reasons therefor.

Each member of the Tribunal has power to administer oaths and affirmations for the purpose of any of its proceedings. 1975, c. 40, s. 14.

(1) Any party to a proceeding before the Board under section 12 who is aggrieved by the decision of the Board may, within fifteen days after he is served with the decision of the Board, mail or deliver to the Board and the Tribunal a notice in writing requiring a hearing by the Tribunal.

(2) Any person to whom a notice is given under section 11 may require a hearing by the Tribunal by giving notice in accordance with subsection (1) notwithstanding that he has not first required a hearing by the Board.

Where an applicant or holder of the licence or permit requires a hearing by the Tribunal in accordance with subsection (1), the Tribunal shall appoint a time for and hold the hearing and may by order confirm, alter or revoke the decision of the Board or direct the Board to take such action as the Tribunal considers the Board ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Board.

The Tribunal may attach such terms and conditions to its order or to the licence or permit as it considers proper to give effect to the purposes of this Act.

The Board, the applicant or the holder of the licence or permit who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. 1975, c. 40, s. 15.

A member of the Tribunal holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing and shall not communicate directly or indirectly in relation
to the subject-matter of the hearing with any person or
with any party or his representative except upon notice
to and opportunity for all parties to participate, but the
Tribunal may seek legal advice from an adviser independent
from the parties and in such case the nature of the advice
should be made known to the parties in order that they
may make submissions as to the law.

(2) Notice of a hearing under section 14 shall afford the
applicant or holder of the licence or permit a reasonable
opportunity to show or achieve compliance before the
hearing with all lawful requirements for the renewal or
retention of the licence or permit.

(3) An applicant or holder of the licence or permit
who is a party to proceedings under section 14 shall be
afforded an opportunity to examine before the hearing any
written or documentary evidence that will be produced, or
any report the content of which will be given in evidence
at the hearing.

(4) The oral evidence taken before the Tribunal shall
be recorded and, if so required, copies or a transcript
thereof shall be furnished upon the same terms as in the
Supreme Court.

(5) The findings of fact of the Tribunal pursuant to a
hearing or review shall be based exclusively on evidence
admissible or matters that may be noticed under sections

(6) No member of the Tribunal shall participate in a
decision of the Tribunal pursuant to a hearing unless
he was present throughout the hearing and heard the
evidence and argument of the parties and, except with
the consent of the parties, no decision of the Tribunal shall
be given unless all members so present participate in the
decision.

(7) Documents and things put in evidence at a hearing of
the Tribunal shall, upon the request of the person who
produced them, be released to him by the Tribunal within
a reasonable time after the matter in issue has been
finally determined.

(8) Notwithstanding any limitation of time for the giving
of a notice requiring a hearing by the Tribunal and where
it is satisfied that there are prima facie grounds for
granting relief and that there are reasonable grounds for
applying for the extension, the Tribunal may extend the
time for giving the notice either before or after expiration
of the time so limited and may give such directions as
it considers proper consequent upon such extension.
(9) The Tribunal shall give its decision and reasons therefor in writing to the parties to the proceedings.

(10) An order of the Tribunal revoking or suspending a licence or permit takes effect immediately but, where an appeal is made to the Divisional Court, the court may grant a stay until the disposition of the appeal. 1975, c. 40, s. 16.

16.—(1) Any notice required to be given or served in connection with proceedings of or before the Board or the Tribunal is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made.

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

(3) Notwithstanding subsections (1) and (2), the Tribunal may order any other method of service in respect of any matter before the Tribunal. 1975, c. 40, s. 17.

17. The decision of the Tribunal respecting the issuance of or refusal to issue a licence or permit or refusal to approve the transfer of a licence is final. 1975, c. 40, s. 18.

18.—(1) Any party to proceedings before the Tribunal respecting the revocation, suspension or refusal to renew a licence or permit, or the imposition of or refusal to remove a term or condition of a licence or permit may appeal from the decision of the Tribunal to the Divisional Court in accordance with the rules of court.

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

(3) An appeal under this section may be made on questions of law only. 1975, c. 40, s. 19.

19.—(1) In this section, "equity share" means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing.

(2) Every licence or permit holder that is a corporation shall notify the Board in writing within thirty days after the issue or the entry of a transfer of any shares of its capital stock or the happening of a condition by which shares
of its capital stock acquire voting rights where such issue, transfer or happening results in,

(a) any shareholder and shareholders associated with him beneficially owning or controlling at least 10 per cent of the total number of all issued and outstanding equity shares of such stock; or

(b) any shareholder and shareholders associated with him who already beneficially owns or controls 10 per cent or more of the total number of all issued and outstanding equity shares of such stock increasing such holding.

(3) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more that one vote shall be calculated as the number of shares equalling the total number of votes it carries.

(4) Where a licence or permit holder that is a corporation is aware that a transfer which comes within the provisions of subsection (2) has taken place, it shall notify the Board in writing within thirty days after such knowledge came to the attention of its officers or directors, and not within thirty days of the entry of the transfer.

(5) For the purposes of subsection (2), a shareholder shall be deemed to be associated with another shareholder if,

(a) one shareholder is a company of which the other shareholder is an officer or director;

(b) one shareholder is a partnership of which the other shareholder is a partner;

(c) one shareholder is a company that is controlled directly or indirectly by the other shareholder;

(d) both shareholders are companies and one shareholder is controlled directly or indirectly by the same individual or company that controls directly or indirectly the other shareholder;

(e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or

(f) both shareholders are associated within the meaning of clauses (a) to (e) with the same shareholder.
(6) Where, in the opinion of the Board, an issue or transfer of equity shares of capital stock of a licensed corporation or the happening of a condition referred to in subsection (2) results in a shareholder and shareholders associated with him having a material or substantial interest in the corporation, such issue, transfer or happening shall be deemed to be a change of ownership and unless transferred under subsection 4 (4), the licence ceases to exist. 1975, c. 40, s. 20.

20. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of the Public Inquiries Act, which Part applies to such investigation as if it were an inquiry under that Act. 1975, c. 40, s. 21.

21.—(1) Where, upon a statement made under oath, the Board believes on reasonable and probable grounds that any person has,

(a) contravened any of the provisions of this Act or the regulations; or

(b) committed an offence under the Criminal Code (Canada) or under the law of any jurisdiction that is relevant to his fitness for a licence or permit under this Act,

the Board may, by order, appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Board.

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

(a) upon production of his appointment, enter at any reasonable time the premises of such person, not including any premises or part thereof occupied as living accommodation, and examine books, papers, documents and things relevant to the subject-matter of the investigation; and
(b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under clause (2) (a), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause (2) (a) or subsection (4) relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.
22. Any person designated by the Board in writing may at any reasonable time enter upon any premises in respect of which a licence or permit is issued to make an inspection for the purpose of ensuring that the provisions of this Act and the regulations and the terms and conditions of the licence or permit are being complied with, and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection. 1975, c. 40, s. 22.

23.—(1) The Board may at any time authorize and direct a representative of the Board appointed for that purpose to enter upon any premises where the books, accounts or records of or pertaining to any licensed manufacturer are kept or may be, and to inspect, study, audit, take extracts from such books, accounts or other records, and may, upon giving a receipt therefor, remove any such material that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected, and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

24.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under this Act, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

(a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act; or

(b) to his counsel; or

(c) with the consent of the person to whom the information relates.
(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act. 1975, c. 40, s. 25.

25. Subject to sections 26 and 27 and the regulations, no licence shall be issued or government store established for the sale of liquor in a municipality,

(a) in which the sale of liquor or the sale of liquor under that class of licence or store was prohibited under the law as it existed immediately before the 4th day of February, 1976; or

(b) in which, although the sale of liquor is not prohibited by law, no licence has been issued or government store established since the 16th day of September, 1916. 1975, c. 40, s. 26.

26.—(1) The council of a municipality may submit one or more of the questions prescribed by the regulations respecting the authorization for the sale of liquor in the municipality to a vote.

(2) The council of a municipality shall submit to a vote such questions prescribed by the regulations respecting the authorization for the sale of liquor in the municipality as are requested by petition signed by at least 25 per cent of the persons appearing on the list of electors, as revised, prepared for the previous municipal election. 1977, c. 62, s. 122.

(3) Where 60 per cent of the electors voting on a question required to be submitted by virtue of clause 25 (a) vote in the affirmative, it is lawful to establish government stores, or issue the classes of licences in the municipality accordingly.

(4) Where 40 per cent of the electors voting on a question required to be submitted by virtue of clause 25 (b) vote in the affirmative, it is lawful to establish government stores or issue the classes of licences in the municipality accordingly. 1975, c. 40, s. 27 (2, 3).

27.—(1) The council of a municipality in which a government store is established or liquor is authorized to be sold under a licence may, and on petition as provided in section 26 shall, submit to the electors such questions respecting the closing of the store or premises as are prescribed by the regulations.
(2) Where 60 per cent of the electors voting on the question or questions vote in the negative, from and after the 31st day of March in the following year, any government store established in the municipality shall be closed, or licences of any class for premises in the municipality shall be discontinued, as the case may be, in accordance with the question or questions submitted and voted upon. 1975, c. 40, s. 28.

28. Where a question is submitted in a municipality under section 26 or 27, neither that question nor any other question shall be submitted in the municipality until after the expiration of a period of three years from the date of such submission. 1975, c. 40, s. 29.

29. The day fixed for taking the vote on any question or questions shall be the day upon which, under the *Municipal Elections Act*, a poll would be held at the election of members of the council of the municipality unless the council, with the approval of the Board, fixes some other day and notifies the clerk of the municipality to that effect, but a poll shall not be held on any such question or questions until after the expiration of two months from the passing of a by-law for submitting the question or questions where the council submits the question or questions without a petition, nor until after the expiration of two months from the filing of the petition, as the case may be. 1977, c. 62, s. 124, *part."

30.—(1) The persons qualified to vote upon a question or questions are such persons as would be eligible to vote at an election held on that day pursuant to the *Municipal Elections Act*. 1977, c. 62, s. 124, *part."

(2) Where the vote is held on a day other than the date set for the election of members to the council of the municipality, for the purpose of determining the period during which a person may qualify as an elector entitled to vote on the question, the reference in paragraph 4 of subsection 92 (4) of the *Municipal Elections Act* to the order of the Ontario Municipal Board given under section 132 of the *Municipal Act* shall be deemed to be a reference to the date of the approval given by the Board as required by section 29 of this Act. 1978, c. 12, s. 8.


32. The returning officer shall make his return to the Board showing the number of votes polled for the affirmative and negative on the question or questions submitted and,
upon the receipt of such return, the Board shall give notice thereof in The Ontario Gazette showing the total number of votes polled in the municipality for the affirmative and negative upon the question or questions. 1977, c. 62, s. 124, part.

33.—(1) No amalgamation of a municipality with another municipality and no annexation of the whole or a part of a municipality to another municipality affects the operation of this Act at the time of the amalgamation or annexation in the municipality amalgamated or municipality or part annexed or elsewhere until such operation is affected pursuant to a vote under this Act in the municipality amalgamated or municipality or part annexed, as the case may be. 1975, c. 40, s. 34 (1).

(2) The persons qualified to sign a petition pursuant to section 26 or 27 are the persons whose names appeared on the list of electors, as revised, prepared for the previous municipal election held in the municipality amalgamated or municipality or part annexed, as the case may be.

(3) The persons qualified to vote upon a question or questions are the persons who would be eligible to vote at an election held in the municipality amalgamated or municipality or part annexed, as the case may be, held pursuant to the Municipal Elections Act. 1977, c. 62, s. 125.

34.—(1) Where it is made to appear to the satisfaction of the Board that a person, resident or sojourning in Ontario, by excessive drinking of liquor, misspends, wastes or lessens his estate, or injures his health, or interrupts the peace and happiness of his family, the Board may make an order of interdiction prohibiting the sale of liquor to him until further ordered.

(2) Sections 11, 12 and 14 apply in respect of the proposal to make and the making of the interdiction order in the same manner as to a proposal to revoke and the revocation of a licence.

(3) Every interdicted person keeping or having in his possession or under his control or consuming any liquor is guilty of an offence, and the court making the conviction may in and by the conviction declare the liquor and all packages in which the liquor is contained forfeited to Her Majesty in right of Ontario.

(4) Upon an order of interdiction being made, the interdicted person shall deliver forthwith to the Board all liquor
in his possession or under his control to be kept for him by the Board until the order of interdiction is revoked or set aside, or, at the option of the Board, such liquor may be purchased from him at a price to be fixed by the Board.

(5) The Board shall notify all managers of government stores, and such other persons as are prescribed by the regulations of the order of interdiction.

(6) No person shall knowingly procure for, sell or give any liquor to an interdicted person, nor directly or indirectly assist in procuring or supplying any liquor to an interdicted person.

(7) No interdicted person shall enter upon the premises of a government store. 1975, c. 40, s. 35.

35. Upon an application to the Board by a person in respect of whom an order of interdiction has been made, and upon it being made to appear to the satisfaction of the Board that the circumstances of the case did not warrant the making of the order of interdiction or upon proof that the interdicted person has refrained from drunkenness for at least twelve months immediately preceding the application, the Board may by order set aside the order of interdiction, and the interdicted person may be restored to all his rights under this Act and the regulations, and the Board shall accordingly forthwith notify all persons notified of the original order. 1975, c. 40, s. 36.

36.—(1) In this section,

(a) "detoxification centre" means a public hospital designated by the regulations;

(b) "municipality" means a municipality responsible for maintaining a police force.

(2) Where a police officer finds a person in a public place apparently in contravention of subsection 45 (3), he may take such person into custody and, in lieu of laying an information in respect of the contravention, may escort the person to a detoxification centre.

(3) No action or other proceedings for damages shall be instituted against any physician or any hospital or officer or employee thereof on the grounds only that he examines or treats without consent a person in a detoxification centre under subsection (2) who is brought to the centre by a police officer. 1975, c. 40, s. 37.

37. Where it appears that a person in contravention of subsection 45 (3) may benefit therefrom, the court may order the person to be detained for a period of ninety days or such lesser
period as the court thinks advisable in an institution for the reclamation of alcoholics that is designated for the purpose by the regulations, but, if at any time during this period the superintendent of the institution is of the opinion that further detention therein will not benefit him, the superintendent may release him. 1975, c. 40, s. 38.

38.—(1) No person shall, directly or indirectly, hold himself out or act as agent or representative of a manufacturer in respect of the sale of liquor or canvass for, receive, take or solicit an order for the sale of liquor by a manufacturer or hold himself out or act as an agent or intermediary for the purpose unless he is registered with the Board as an agent or representative of such manufacturer.

(2) An applicant for registration is entitled to be registered except where the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with the law and with integrity and honesty.

(3) The provisions of this Act applying to the issuance, refusal, suspension or revocation of a licence apply, with necessary modifications, to the granting, refusal, suspension or revocation of a registration. 1975, c. 40, s. 39.

39. The Lieutenant Governor in Council may make regulations,

(a) prescribing classes of licences and permits and the terms and conditions to which each class is subject;

(b) providing for issuance of licences and for renewals and transfer thereof;

(c) establishing licensing districts and prescribing the maximum number of licences for the sale of liquor in each licensing district or any part thereof;

(d) prescribing classes of premises and confining the issuance of any specified class or classes of licences to any specified class or classes of premises;

(e) providing for the reclassification of premises by the Board;

(f) governing and providing for the issuance of permits for special occasions and prescribing the special occasions for which permits may be issued;
(g) providing for the registration of agents and representatives of manufacturers;

(h) regulating the conduct of agents and representatives registered under section 38;

(i) requiring the payment of fees in respect of applications for and the issuance, renewal or transfer of licences, permits and registrations;

(j) prescribing classes of licences or permits that may be issued in respect of premises in a municipality notwithstanding section 25;

(k) requiring the holders of licences and permits to provide the Board with such information and returns respecting the sale of liquor and the premises, methods and practices connected therewith as is prescribed and requiring any information provided to be verified by oath;

(l) controlling the advertising of liquor or its availability for sale and requiring that the form of advertisement or public notice be subject to the approval of the Board;

(m) exempting uses of alcohol from the application of section 49;

(n) prescribing the questions for the purpose of voting on questions under sections 26 and 27;

(o) prescribing the form of ballots to be used for voting upon a question submitted in a municipality;

(p) prescribing standards for premises or the part thereof used in connection with the sale of liquor by the holders of licences and permits and the accommodation, equipment and facilities therein and prescribing or prohibiting methods and practices in connection with the serving of liquor;

(q) prescribing the circumstances under which the manufacturer of liquor may give by gift any liquor;

(r) prescribing the minimum alcoholic content of wine and beer for the purposes of clauses (1) (b) and (p);

(s) prescribing classes of premises in which the sale of liquor is authorized on which a person under the age of eighteen years may enter;

(t) designating public hospitals as detoxification centres;
(u) designating institutions for the reclamation of alcoholics detained therein under section 37 and governing the transfer and admission of persons to and detention of persons in such institutions and providing for the government and operation of such institutions;

(v) prescribing rules for proceedings before the Board or the Tribunal;

(w) prescribing the form and content of the application for and of the card for proof of age, requiring the payment of a fee for its issuance and prescribing the amount thereof;

(x) exempting any person, product or premises or any class thereof from any provision of this Act or the regulations;

(y) prescribing any matter that by this Act is required or permitted to be or referred to as prescribed by the regulations;

(z) prohibiting or regulating and controlling the possession of liquor in provincial parks. 1975, c. 40, s. 40; 1978, c. 42, s. 1.

40. Liquor shall be deemed to be an intoxicating liquor for the purposes of the Importation of Intoxicating Liquors Act (Canada). 1975, c. 40, s. 41.

41. No person shall purchase liquor except from a government store or from a person authorized by licence or permit to sell. 1975, c. 40, s. 42.

42. No manufacturer of liquor shall in Ontario, by himself, his clerk, servant or agent, give any liquor to any person, except as is permitted by and in accordance with the regulations. 1975, c. 40, s. 43.

43. No person shall sell or supply liquor or permit liquor to be sold or supplied to any person in or apparently in an intoxicated condition. 1975, c. 40, s. 44.

44.—(1) No person shall knowingly sell or supply liquor to a person under the age of nineteen years.

(2) No person shall sell or supply liquor to a person who is apparently under the age of nineteen years, and, in any prosecution for a contravention of this subsection, the justice
shall determine from the appearance of such person and other relevant circumstances whether he is apparently under the age of nineteen years.

(3) No person under the age of nineteen years shall have, consume, attempt to purchase, purchase or otherwise obtain liquor.

(4) Subsection (3) does not operate to prohibit a person of the age of eighteen years being in possession of liquor during the course of his employment on premises in which the sale of liquor is authorized.

(5) No person under the age of nineteen years shall enter or remain on premises in which the sale of liquor is authorized except those classes of premises that are prescribed by the regulations.

(6) Subsection (5) does not apply to a person of the age of eighteen years employed on premises in which the sale of liquor is authorized while he is on such premises during the course of his employment.

(7) This section does not apply to the supplying of liquor to a person under the age of nineteen years by the parent or guardian of such person in a residence as defined in section 45 or to the consumption of liquor therein by such person.

(8) A person who sells or supplies liquor to another person shall be deemed not to be in contravention of subsection (1) or (2) if, before he sells or supplies the liquor, a card in the form prescribed by the regulations is produced to him by the person to whom he sells or supplies the liquor, which purports to be issued by the Board to the person producing it and if there is no apparent inconsistency on the face of the card or between the card and the person producing it. 1978, c. 42, s. 2.

45.—(1) In this section,

(a) "public place" means a place to which the general public is invited or permitted access, whether or not for a fee;

(b) "residence" means a place that is actually occupied and used as a dwelling, whether or not in common
with other persons, including all premises used in conjunction therewith that is not a public place, and where the place occupied and used as a dwelling is a tent, includes the land immediately adjacent and used in conjunction therewith.

(2) No person shall consume liquor in any place other than a premises in respect of which a licence or permit is issued or a residence. 1975, c. 40, s. 46 (1, 2).

(3) No person shall have liquor in any place other than a premises in respect of which a licence or permit is issued or a residence except where the liquor is in a closed container and the container is not displayed to public view. 1978, c. 42, s. 3 (1).

(4) No person shall be in an intoxicated condition in a public place or in any part of a residence that is used in common by persons occupying more than one dwelling therein. 1975, c. 40, s. 46 (3).

(5) A police officer may arrest without warrant any person whom he finds contravening subsection (4) where, in the opinion of the police officer, to do so is necessary for the safety of the person or is necessary to protect another person from injury. 1978, c. 42, s. 3 (2).

46. — (1) The council of a municipality, including a metropolitan or regional municipality, may by by-law designate stadia, arenas and other recreational areas within the municipality owned or controlled by the municipality as places where possession of liquor is prohibited.

(2) A designation under subsection (1) does not operate to prevent the Board from issuing any licence or permit under this Act.

(3) No person shall have liquor in a place designated under subsection (1).

(4) Subsection (3) does not apply to a person in possession of liquor under the authority of a licence or permit or in possession of liquor purchased on premises in respect of which a licence or permit is issued. 1978, c. 42, s. 4.

47. — (1) The holder of a licence or permit issued in respect of premises shall ensure that any person whom he has reasonable grounds to believe,

(a) is unlawfully on the premises;
(b) is on the premises for an unlawful purpose; or

(c) is contravening the law on the premises, does not remain on the premises and may request the person to leave the premises immediately and if the request is not forthwith complied with may remove him or cause him to be removed by the use of no more force than is necessary.

(2) Where there are reasonable grounds to believe that a disturbance or breach of the peace is being caused on a licensed premises sufficient to constitute a threat to the public safety, a police officer may require that all persons vacate the premises and the holder of the licence or permit shall ensure, with the assistance of the police officer, if necessary, that the premises are vacated. 1975, c. 40, s. 47.

(3) The holder of a licence or his employee may,

(a) request a person to leave; or

(b) forbid a person to enter the licensed premises,

where he has reason to believe that the presence of that person on the premises is undesirable.

(4) No person shall,

(a) remain on licensed premises after he is requested to leave by the holder of the licence or his employee; or

(b) re-enter the licensed premises on the same day he was requested to leave. 1978, c. 42, s. 5.

48.—(1) No person shall drive or have the care or control of a motor vehicle as defined in the *Highway Traffic Act* or motorized snow vehicle, whether it is in motion or not, while there is contained therein any liquor, except,

(a) liquor in a bottle or package that is unopened and the seal unbroken; or

(b) liquor in a bottle or package that is packed with personal effects in baggage that is fastened closed or that is not otherwise readily available to any person in the vehicle.

(2) A police officer may at any time, without a warrant, enter and search any vehicle or other conveyance in which he has reasonable grounds to believe that liquor is unlawfully
kept or had, and search any person found in such vehicle or other conveyance. 1975, c. 40, s. 48.

49. No person shall,

(a) drink alcohol in a form that is not a liquor; or

(b) supply alcohol in a form that is not a liquor to another when he knows or ought to know that the other intends it to be used as a drink. 1975, c. 40, s. 49.

50.—(1) No person shall advertise liquor or display public notice that liquor is available for sale except in accordance with the regulations.

(2) Where the Board believes on reasonable and probable grounds that any advertisement or public notice is in contravention of this Act or the regulations, the Board may order the immediate cessation of the use of such advertisement or notice, and the provisions of this Act applying to the imposition by the Board of a condition of the licence apply with necessary modifications to the order, and the order of the Board shall take effect immediately, but the Tribunal may grant a stay until the Board’s order becomes final. 1975, c. 40, s. 50.

51.—(1) Liquor kept for sale or offered for sale in contravention of section 4 and liquor purchased in contravention of section 41 is forfeited to the Board.

(2) Where liquor to which subsection (1) applies is seized by a police officer, he shall forthwith make or cause to be made a report of the particulars of the seizure to the Board and shall deliver the liquor or cause the liquor to be delivered to the Board as soon as the due process of the law permits. 1975, c. 40, s. 51.

52.—(1) Any person who is over the age of nineteen years and not an interdicted person may apply to the Board for a card indicating that such person has attained the age of nineteen years.

(2) A card issued by the Board shall contain a photographic likeness of the applicant and otherwise be in the form prescribed by the regulations.

(3) No person shall supply false information or a false photographic likeness in an application made under subsection (1), or alter in any way, any card issued by the Board.
False card

(4) No person shall present as evidence of his age any card purporting to be issued by the Board other than a card issued to him by the Board. 1975, c. 40, s. 52 (2-4).

Civil liability

53. Where any person or his servant or agent sells liquor to or for a person whose condition is such that the consumption of liquor would apparently intoxicate him or increase his intoxication so that he would be in danger of causing injury to his person or injury or damage to the person or property of others, if the person to or for whom the liquor is sold while so intoxicated,

(a) commits suicide or meets death by accident, an action under Part V of the Family Law Reform Act lies against the person who or whose servant or agent sold the liquor; or

(b) causes injury or damage to the person or property of another person, such other person is entitled to recover an amount to compensate him for his injury or damage from the person who or whose servant or agent sold the liquor. 1975, c. 40, s. 53.

Arrest without warrant

54. Where a police officer finds a person contravening this Act and such person refuses to give his name and address or there are reasonable grounds to believe that the name or address given is false, the police officer may arrest such person without warrant. 1975, c. 40, s. 54.

Offences

55.—(1) Every person who,

(a) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(b) knowingly fails to comply with an order of the Board under subsection 50 (2);

(c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than $10,000 or to imprisonment for a term of not more than one year, or to both. 1975, c. 40, s. 55 (1); 1978, c. 42, s. 7 (1).

(2) In addition to any other penalty or action under this Act, the licence of every person who contravenes subsection 44 (2) shall be suspended for a period of not less than seven days.
(3) Where a person who is the holder of a licence contravenes subsection 44 (2), the fine imposed under subsection (1) shall be not less than $500.

(4) Where a person who is not the holder of a licence contravenes subsection 44 (2), the fine imposed under subsection (1) shall be not less than $100. 1978, c. 42, s. 7 (2).

(5) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is $25,000 and not as provided therein.

(6) No proceeding to prosecute under clause (1) (a) or (b) shall be instituted except with the consent of the Minister.

(7) No proceeding to prosecute under clause (1) (a) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Board.

(8) No proceeding to prosecute under clause (1) (b) or (c) shall be commenced more than two years after the time when the subject-matter of the proceeding arose. 1975, c. 40, s. 55 (2-5).

56.—(1) Where liquor is found by a police officer under circumstances where the liquor constitutes evidence necessary to prove a contravention of this Act, or where an offence is committed under this Act and a police officer, on reasonable and probable grounds, in view of the offence committed and the presence of liquor, believes that a further offence is likely to be committed, the police officer may seize and take away the liquor and packages in which it is kept. 1978, c. 42, s. 8.

(2) A provincial offences court may, upon the application of any person made within thirty days of a seizure under subsection (1), order that the things seized be restored forthwith to the applicant where the court is satisfied that,

(a) the applicant is entitled to possession of the things seized; and

(b) the things seized are not required as evidence in any proceedings in respect of an offence under this Act,

and where the court is satisfied that the applicant is entitled to possession of the things seized but is not satisfied as to the matter mentioned in clause (b), it shall order that the things seized be restored to the applicant,
(c) upon the expiration of three months from the date of the seizure, if no proceedings in respect of an offence under this Act have been commenced; or

(d) upon the final conclusion of any such proceedings.

Forfeiture

(3) Where no application has been made for the return of any thing seized under subsection (1) or an application has been made but upon the hearing thereof no order of restoration has been made, the thing seized is forfeited to the Board.

Idem

(4) Where a person is convicted of an offence under this Act, any thing seized under subsection (1) by means of which the offence was committed is forfeited to the Board.

Certificate as evidence

57. A statement as to,

(a) the licensing or non-licensing of any person;

(b) the filing or non-filing of any document or material required or permitted to be filed with the Board;

(c) the time when the facts upon which proceedings are based first came to the knowledge of the Board; or

(d) any other matter pertaining to such licence, non-licensing, filing or non-filing,
purporting to be certified by the chairman of the Board is, without proof of the office or signature of the chairman, receivable in evidence as prima facie proof of the facts stated therein for all purposes in any action, proceeding or prosecution. 1975, c. 40, s. 57.

Analysis

58. In any prosecution under this Act or the regulations, upon production of a certificate or report signed or purporting to be signed by a federal or provincial analyst as to the analysis or ingredients of any liquor or other fluid or any preparation, compound or substance, the certificate or report is conclusive evidence of the facts stated in the certificate or report and of the authority of the person giving or making it without any proof of appointment or signature. 1975, c. 40, s. 58.

Exception for drugs and medicines

59. Nothing in this Act prevents the sale,

(a) of a drug dispensed as a medicine by a person authorized to do so under the Health Disciplines Act;
(b) of a drug compounded, dispensed or supplied in and by a hospital or a health or custodial institution approved or licensed under any general or special Act under the authority of a prescriber as defined in Part VI of the *Health Disciplines Act* for a person under health care provided by such hospital or health or custodial institution;

(c) subject to section 49, of a medicine registered under the *Food and Drugs Act* (Canada); or

(d) of a drug to a person authorized under the *Health Disciplines Act* to dispense, prescribe or administer drugs,

or the purchase of such drug or medicine sold in accordance with this section. 1975, c. 40, s. 59; 1978, c. 42, s. 9.