

**LEGISLATIVE ASSEMBLY OF THE
NORTHWEST TERRITORIES
6TH COUNCIL, 42ND SESSION**

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COUNCIL OF THE NORTHWEST TERRITORIES
CANADA

Yellowknife, N.W.T.,
8 June 1970.

COMMISSIONER OF THE N.W.T.

Attention: Members of Council

Legislative Committee Report (Liquor Ordinance)

Attached please find a summary of the changes made to the proposed Liquor Ordinance (Bill 8, January Session, 1970) and incorporated into the present Liquor Ordinance (Bill 14-42).

The Committee appointed by the Commissioner originally comprised Chief John Tetlichi, Mr. Williamson and myself, but Mr. Williamson withdrew as he was unable to serve due to other commitments.

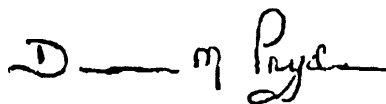
Your Committee met with several hotel operators to discuss the Ordinance but only made amendments which were considered to be in the best interest of the general public. These have been included in the present Bill.

We also held discussions with Mr. T.C. Robinson, Superintendent of Liquor, and were able to draw on his many years of experience when considering points in the Ordinance.

Mr. Frank Smith, Legal Adviser, was of the most valuable assistance. Your Committee met with him on many occasions and carefully examined the entire Bill clause by clause. Based on our consultations with him, we made numerous changes to the wording of the Bill and have introduced them into the present Bill for the consideration of Council Members.

We wish to thank all of these gentleman who contributed time and experience towards re-drafting better legislation in regard to the Liquor Ordinance. Mr. Smith in particular spent many hours of his own time and deserves the gratitude of the Council and of the generally public.

Respectfully submitted,

A handwritten signature in cursive script, reading "Duncan M. Pryde". The signature is written in dark ink and is positioned to the right of the typed name.

Duncan M. Pryde,
Chairman,
Legislative Committee.

Summary of revisions made to the proposed Liquor Ordinance (Bill 8, January Session, 1970) and incorporated into the present Liquor Ordinance (Bill 1442, June Session, 1970) for the consideration of Council Members.

"Agent" This term has been defined and used consistently throughout the Bill to denote a person appointed to sell liquor to the general public in an isolated where no other liquor store exists. In the earlier Bill this person was classed as a "vendor" but we found that certain parts of the Bill would be considerably clarified if the new term were introduced and the older term retained to denote a salesperson in a proper liquor store.

Please note that "Agent" in this specific case is capitalized; where the word occurs without capitalization the general meaning is implied.

"application" As many different forms of applications occur in the text of the Bill, we found it helpful to clearly define the term "application" so that when the term is used alone it would have only the specific meaning of this definition.

"ineligible person" This term was included under the definitions of Bill 8 but is deleted from the definitions of the present Bill. The term is used in various parts of the present Bill but it is everywhere clearly defined by the context. Its inclusion under definitions is redundant.

"Justice" This term was included in the definitions of Bill 8 but is deleted from the present definitions as the meaning is covered in the Interpretation Ordinance.

"liquor store" Subsection (13)(ii) of the earlier Bill read that part of the premises operated by a vendor appointed pursuant to section 11 that is used by him for the sale

of liquor as a vendor; The pertinent subsection in the revised Bill now reads: that part of the premises operated by an Agent that is used by him for the sale of liquor;

"minor" This term was included under the definitions in Bill 8 but is deleted from the definitions of the present Bill as it is not used in the body of the Bill.

"peace officer" The definition of a peace officer in Bill 8 included the words and includes an inspector. These latter words are deleted from the definition in the present Bill as your Committee feels that it is neither necessary nor desirable for a liquor inspector to have the wide-ranging powers of a peace-officer (see section 99 for the powers of a peace-officer). Adequate provision is made in section 105 to give an inspector sufficient power to carry out his duties.

"public place" Subsection (iii) of the earlier Bill 8 read: any conveyance in a public place; and now reads: any vehicle in a public place. The term "conveyance" has been deleted here and elsewhere throughout the present Bill as there has never been a definition given. It has regularly been replaced by "vehicle" which has been fully defined under this section of the present Bill.

"regulations" The earlier Bill did not take into account the fact that certain regulations would lie within the powers of the Board. This has been corrected in the present Bill.

"spirits" This term is rarely if ever used in the present Bill, but it is retained on the advice of the Legal Advisor as it may occur from time to time under certain of the new regulations.

Section 3 has been entirely re-written to clarify the wording in Bill 8, but the substance of the section remains unchanged.

Section 5 (1) has been re-worded to remove the words and the regulations which occurred after Ordinance in the earlier Bill. No regulation in the Liquor Ordinance can give the Board any powers, duties or functions and the words are therefore completely superfluous.

Subsection (b) was amended by substituting the words advise on for the earlier approve.

A new subsection (c) reading may recommend persons to act as Agents to sell liquor was added to this section of the present Bill as your Committee believes that this is a proper function of the Board.

Section 5 (2) replaces section 6 of the earlier Bill and adds the words or permits after the words authorized by the Board to issue licences.

Section 6. Board Regulations

Under the provisions of Bill 8 which Council Members received in June, only the Commissioner had the power to make regulations, orders and directions. This was set out in section 117 of that Bill.

Your Committee examined these powers very closely and came to the conclusion that the right to make certain regulations should be vested in the Board if we wish that body to act in other than a purely advisory capacity. In other words, the Board should have some teeth.

Accordingly, we have made a fundamental distinction between those regulations which pertain to the operation of liquor stores and those which pertain to the operation of licensed premises. We believe that the former regulations should remain within the power of the Commissioner while the latter should be allocated to the Liquor Control Board. This removes some of the burden of the day to day operation of the liquor system from the shoulders of the Commissioner and increases the authority of the Board to make regulations with a certain degree of independence.

Subsections (r), (s), (t) and (u) are new and were added by your Committee as provisions to cover them did not appear to exist elsewhere in the Bill.

Section 7. It appeared to your Committee that it should be mandatory for the Commissioner to appoint a General Manager. Accordingly, Section 7 of the earlier Bill which read: The Commissioner may appoint a General Manager... has been amended to read: The Commissioner shall appoint a General Manager... in the present Bill.

Section 12 has been re-worded for clarification but the substance remains the same as in the earlier Bill.

Section 14 of the earlier Bill has been amended to include the words or Agent after the word vendor in each of the subsections.

Section 16 of the earlier Bill which pertains to the method of delivery of liquor from liquor stores was amended by deleting subsection (b). This subsection read: by delivery to a place designated by the purchaser and was deleted because your Committee does not believe that the Liquor store should be responsible for home delivery of liquor by local purchasers.

Section 18 of the earlier Bill read : No vendor shall allow any liquor to be consumed on the premises of a liquor store and no person shall consume any liquor on such premises. Your Committee deleted this section from the present Bill on the grounds that a liquor store is a public place and drinking therein is effectively prohibited under section 64 (1) of the present Bill.

Section 18 of the present Bill replaces section 19 of the earlier Bill and has been completely re-written for clarification. There is no change in substance.

Section 22 was amended to read: ... and lawfully possess forty fluid ounces of spirits or wine or twelve pints of beer in place of: ...and lawfully possess one bottle of spirits or wine or twelve pints of beer which occurred in the earlier Bill. Your Committee felt that a definite amount of spirits would be better than the vague term one bottle.

Section 24 of the earlier Bill also referred to the consumption of liquor for sacramental or medicinal purposes. These references have been deleted from section 24 of the present Bill and transferred to section 65

and section 66. The transferral of references to the consumption of liquor to these two sections means that the Bill gains in uniformity. All references to the unlawful consumption of liquor (and to the exemptions thereof) are now subsumed under sections 64 to 67.

Section 26 of the earlier Bill read: Where a toilet or culinary product, perfume, lotion or flavouring extract or essence, contains alcohol... and the same section of the present Bill now reads: Where any substance contains alcohol... This section deals with substances which contain alcohol and also contain ingredients that make them unsuitable for beverages. Your Committee felt that this section would be improved by widening the definition of the products listed in the first sentence as it did not seem to cover such substances as methyl hydrate. Members of Council are aware of the problems created by people drinking methyl hydrate in several northern settlements.

The wording of this section was also made more uniform by deleting several references to product and substituting the term substance.

Section 27 (j) was corrected by deleting the word liquor which occurred in the earlier Bill and replacing it with beer.

Section 27 (2) was amended by adding the words or persons designated by the General Manager with the approval... and deleting the words subject to the general direction.

Section 28 (2) of the earlier Bill read: Except as provided in this Ordinance, no person may sell liquor without a licence.

This subsection has been deleted from the present Bill as the general prohibition of Section 57 appears to be adequate.

Section 35 was re-written for clarification, but no change in substance was made.

Section 37 of the earlier Bill was discarded and the present section entered in its place.

Section 38 (2) was amended by inserting the word knowingly between ...who in his application and fails to make.

Section 41 of the earlier Bill was re-written to clarify the meaning of vested interest.

Section 42 of the earlier Bill stated that the Board shall hold such public meetings as it deems necessary for the hearing and determination of the various applications. In considering this section, your Committee decided that a public meeting for the hearing and determination of applications for new licences should be made mandatory in the interests of fairness to all parties concerned. This stipulation was not felt to be necessary for the other types of applications

The section was re-written in accordance with the views of your Committee.

Section 45 of the earlier Bill was somewhat confusingly worded. This has now been re-written for the present Bill, but the substance remains unchanged.

Section 49 has been re-written for clarification.

Subsections 52 (e) and (f) have been re-written to clear up some typographical errors in the earlier Bill. The substance is unchanged.

Section 54 has been re-written for clarification.

Section 58 (3) (b) has been amended by adding the words dining lounge after public dining room. These words appear to have been inadvertently omitted from the earlier Bill.

Section 59 has been amended by inserting the word knowingly between no person shall and procure or sell....

Subsection 61 (2) is new.

Subsection 65 (2) is new.

Section 66 is an expansion of the same section in the earlier Bill. It originally read: no interdict shall consume liquor but made no references

to the lawful exemptions which have been noted in the expanded section of the present Bill.

Section 69 of the earlier Bill read: The Board shall in every licence that is granted specify the part of the establishment to which the sale, serving and consumption of liquor is restricted and confined.

Your Committee felt that this particular section was unnecessary and therefore deleted it from the present Bill.

Section 70 (3)(a) of the earlier Bill read: any constable or police officer while on duty to consume liquor

This subsection was deleted as being impractical and not really necessary. Your Committee felt that members of police forces frequently entered bars on undercover work (as has happened recently in Yellowknife) and partake of drink while observing suspects. Furthermore, all police forces to our knowledge have regulations or unwritten laws prohibiting their members from drinking while in uniform. The subsection is therefore redundant and has accordingly been deleted from the present Bill.

Subsections 70 (5) (a) and (b) of the present Bill are new and were inserted at the request of several hotel operators. Your Committee suggests that these subsections are reasonable and are consequential to subsection 70 (4).

Section 71 (1) of the earlier Bill has been deleted as being unnecessary. It originally read : Except as otherwise provided in this Ordinance or the regulations no person under the age of nineteen years shall have, purchase or consume liquor on any licensed premises. Your Committee considers that no part of the Ordinance or regulations allow such provisions to any person under the age of nineteen and the general prohibition would apply. The entire subsection is therefore superfluous.

Section 73 has been amended by adding the word knowingly between while such child is and unattended by a competent person.

Section 76 has been completely re-written to correct some considerable vagueness in the pertinent section of the earlier Bill. The changes

have been substantial and the Committee therefore suggests that Council Members compare the old and the new versions.

Section 87 (1) has been amended by adding the words: or beer from a licensed premises for consumption off the premises. The earlier Bill had only prohibited a person from purchasing liquor from a liquor store.

Subsections 99 (1) and (2) were amended by deleting the words or other conveyance wherever such words appeared. As noted earlier in this report the term conveyance is nowhere defined and is actually unnecessary in view of the clear definition of vehicle.

Subsection 100 (1) or other conveyance has been deleted several times. Also deleted several times from subsection (5).

Subsection 105 (2) of the earlier Bill read: An inspector appointed pursuant to subsection (1) is for the purposes of this Ordinance a peace officer.

This subsection has been deleted from the present Bill.

Section 109 has been re-written for clarification. No change in substance has occurred.

Section 116 of the earlier Bill has been re-written for clarification. No change in substance has occurred.

Section 117 of the earlier Bill has now become section 117 and section 6 of the present Bill. The reasons for the division of regulations was given earlier in this report.

The Concordance appended to the earlier Bill has been revised and brought up to date.

Concordance - Revised Liquor Ordinance

<u>Sections of Revised Ordinance</u>	<u>Description of Section</u>	<u>Sections of Old Ordinance</u>
1.	Short Title	1.
2.	Definitions	2.
<u>PART I - Administration and Organization</u>		
3.	Liquor Control Board	new
4.	Prohibited actions by Board Members and Public Servants	new
5.	Powers and Duties of Board	new
6.	Board Regulations	new
7.	Appointment of General Manager	5. title of Superintendent discarded
8., 9	Powers and Duties of General Manager	4., 6., and 8 7. dropped as unnecessary
10.	Finance	3.
<u>PART II - Purchase and Sale of Liquor</u>		
11.	establishment of liquor stores	4. (a)
11. (2)	persons entitled to purchase (age lowered to 19)	9. (1)
12.	appointment of merchants as agents	5. (1) in part
13.	Designation of vendors	5. (1) in part
14.	Formalities of purchase	11.
15.	arrangements with provinces	16. (2)
16.	delivery of liquor	16. (1)
17.	effect of delivery	new
18.	delivery of liquor to and from liquor stores	8. (e) in part
19.	transportation of liquor	new
20.	rights to purchase	9.
21.	gifts of liquor	new
22.	imported liquor	new
23.	exemption permitting liquor on Canadian Forces Aircraft for medicinal purposes	new

<u>Sections of Revised Ordinance</u>	<u>Description of Section</u>	<u>Sections of Old Ordinance</u>
24.	sacramental liquor	29.
25.	pharmaceutical preparations	30.
26.	culinary preparations	31.
<u>PART III - Licenses and Permits</u>		
27.	types of licences	12. (some new Licences)
28.	authority of licence	12. (7)
29.	classes of permits	13. and 13. (a)
30.	expiration of licences and permits	15.
<u>PART IV - Licensing Procedures</u>		
31.	form of proceedings before Board	new
32.	review of Board Order	new
33.	Board powers - evidence	new
34.	Board investigations	new
35.	Board audit	new
36.	validity of orders	new
37.	appeal from order or decision	new
38.	persons not entitled to licences	new (see section 13.)
39.	when issue of licences prohibited	12. (a)
40.	application by a corporation	new
41.	no vested right in licence	new
42.	Board public hearings	new
43., 44.	application formalities	new (see section 12.)
45.	advertising	new
46., 47.	personal appearance on application	new
48.	filing of objections	new
49., 50., 51., 52., 53 and 54.	cancellation and suspension	15. (3)

Sections of
Revised Ordinance

Description of Section

Sections of
Old Ordinance

55., 56.

transfer of licence

new

PART V - Prohibitions
and Penalties

57., 58., 59.

unlawful sale and supply
of liquor

19. (1) (b)
21., 22., 23

60.

giving custody of liquor
to minor

new

61., 62., 63.

unlawful purchase and
possession of liquor

18., 20., 24 (1)

64., 65., 66.
67.

unlawful consumption

19. (1) (c), 19 (2)
24. (1)

68., 69., 70.,
71., 72.

licensed premises -
prohibitions

in regulations

73.

neglecting children

new

74.

inducements to licensees

see 12. (a)

75.

interdict on licensed
premises

24. (1)

76.

civil liability of
licensees

new

77., 78., 79.,
80.

public drunkenness

19. (1) (a), 19. (a)

81.

taxis not to transport liquor

21. (a)

82., 83., 84.

Interdiction

26., 27

85 (1)

penalties to individuals

37. (1) (a)

85. (2)

penalties to corporation

37. (2) (a)

86.

general penalty

38.

87.

declaring persons to be
ineligible to purchase
liquor

39. (a)

88.

residence declared a
public place

38. (a)

89.

procedure regarding sub-
sequent convictions

37. (3)

90.

liability of corporation
officials

new

91.

vicarious liability of
employer

new

92.

description of offence
in a prosecution

new

93.

certificate of analyst

42.

<u>Sections of Revised Ordinance</u>	<u>Description of Section</u>	<u>Sections of Old Ordinance</u>
94.	inference respecting liquor	new
95.	deposition of witnesses re description of liquor	new
96.	inferences on kind and quantity	new
97.	proof of sale and burden of proof	new
98.	Board certificate receivable in evidence as to facts	new
<u>PART VI - Enforcement</u>		
99.	searches, seizures and search warrants (blanket search warrants (34 (3) dropped)	33., 34., 35.
100.	forfeitures - procedure	44., 44. (a)
101.	report of seizure	new
102.	arrest without warrant	32.
103.	search of female	36.
104.	demand of name and address of found-in	34. (a)
105.	appointment of inspectors	5.
<u>PART VIII - Local Option</u>		
106.	plebiscite required	45.
107., 108., 116.	where plebiscite not not required	46.
109.	liquor store opening	47.
110.	petitions for plebiscite	48.
111.	three year intervals between plebiscites	50.
112.	Duties of Board - plebiscite procedure.	51.
113., 114., 115.	Consequences of plebiscite; exemptions	52., 53., 54., 55.
<u>PART VIII - General</u>		
117.	regulations by Commissioner	56.
118.	repeal	
119	Coming into force	

Disposal of Recommendations

1. The Ordinance is directed to this end.
2. Section 12.
3. Section 3.
- 4., 5. Section 3 (2), at discretion of Commissioner.
6. The Ordinance is directed to this end.
7. Section 6.
8. Advice to Board
9. Powers of Board pertain to licencing, with general advisory capacity - Section 5.
10. Advice to Board and General Manager
11. Advice to Board and General Manager
12. Advice to General Manager
13. Advice to General Manager
14. Commissioner, not Board, to determine prices.
15. Section 5 (b) - Board may advise
16. Section 12.
17. Not enacted. New class of licence known as "Off premises licence" gives Board discretionary powers.
18. Section 14.
19. Not specifically included at this time. Could be implemented by Regulation 117 (b).
20. Section 14.
21. Board may advise only. Section 5 (1) G.
22. Part IV
23. Section 33.
24. Advice to Board.
25. Section 42.
26. Sections 55 & 56.
- 27., 28. Section 50.
29. Section 51.
30. Not included at this time.
31. Section 33.
32. Section 37 permits appeal to courts.
- 33., 34., 35. Advice to Board.

36. Advice to Board. Not included at this time.
37. Section 27. Plus "Off premises" Licence.
- 38., 39. Advice to Board for Regulatory Action
40. Section 76.
41. Advice to Board for Regulatory Action.
42. Section 70.
- 43., 44.,
45., 46. Advice to Board for Regulatory Action.
- 47., 48.,
49. To be prescribed by Board Regulation. Section 6(g)
50. Advice to Commissioner
51. Not relevant to this Ordinance.
52. Advice to Board.
53. Section 105.
- 54., 55. Section 105.
- 56., 57. Advice to Board.
58. Sections 85 & 86. Maximum fine increased from \$300. to \$500. for first offence, from \$500. to \$1,000. for subsequent offences.
59. Not relevant to this Ordinance.
60. Section 78.
61. Section 77.
62. Not relevant to this Ordinance.
63. Section 82.
64. Advice to Board.
65. Section 11.
66. Section 58 (3).
67. Advice to Board for Regulatory Action
68. Section 58 (3).
69. Not enacted at this time as it pertains to clubs.
70. Part VII. Board to phrase question(s) after receipt and study of petition.
- 71., 72. Advice to Board.
- 73., 74.,
75. By Board Regulations Section 6.
- 76., 77. By Board Regulation 6.
78. Advice to General Manager.
79. Board Regulations Section 6.

80. Board Regulation Section 6.
81. Advice to Board.
82. Board Regulations Section 6.
83. Advice to General Manager. By Commissioner's Regulation 117.