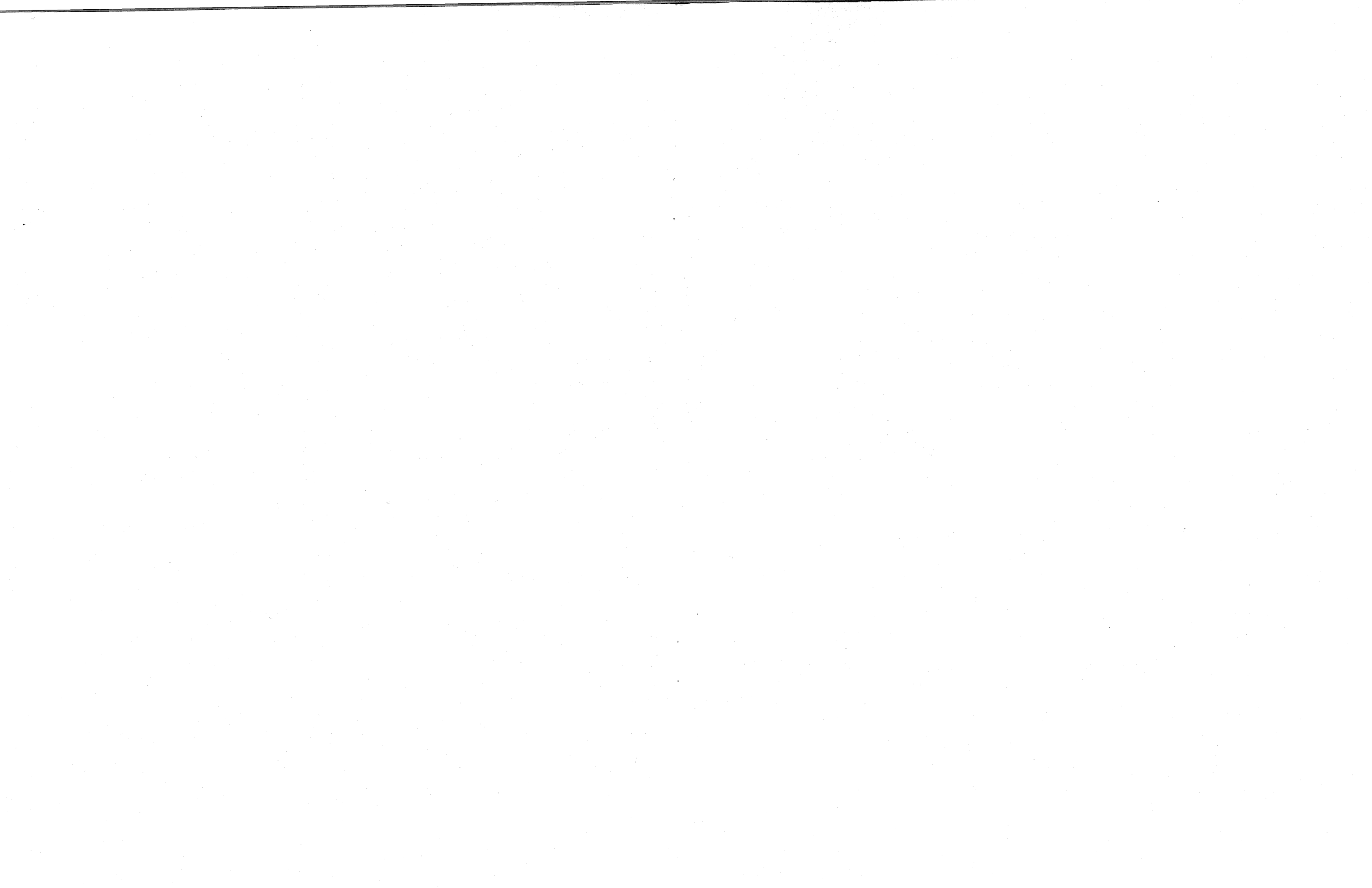


Liquor Law Review

**Re-Writing Liquor Laws
In the Northwest Territories**

A Legislative Action Paper





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November 1994

Forward

In Canada, it is generally a federal responsibility to set standards for the labelling of liquor products. It is uncertain how much authority the Northwest Territories might have in trying to legislate in these matters.

There is another consideration, too. Differences of opinion exist with respect to how much impact "health warning labels" make on the drinking behaviour of at-risk consumers. It is questionable whether much of the southern research that has been conducted on this topic can be generalized to NWT populations.

So, while most people told the *Liquor Law Review* that they strongly favoured watching the NWT's current labelling policy to assess its effectiveness ... some wondered whether, over the long haul, money now devoted to labelling couldn't be better spent on other sorts of educational and awareness programming. From that point of view, we would need a *lot more information* before a decision could be made to go toward making statutory requirements for product labelling.

People also suggested many ways they believed the effectiveness of liquor warning labels could be improved. Some recommended, for instance, that some way be found to print warning labels in all Official Languages — or to use "icons" or little drawings that could convey the warning message to people who don't read very well.

Others said that the new liquor law should require licence-holders to display "warning posters" in licensed premises.

Several groups and individuals referred to a series of stark, reality-based public service announcements about impaired driving that are now being broadcast on Canadian television — pointing out that the best way to get people to listen is to "reach out and grab their attention". Many felt that, in the NWT, public communications about liquor-related health risks should use the same approach.

Territorial Parks

Some individuals and groups have commented about the use of liquor in Territorial campsites and day-use areas. Many related accounts of situations where southern tourists and local families wanting to share leisure time together, have been annoyed or frightened by drunks. Residents of communities near Territorial parks often express concern about the frequency with which drinking parties are held ... especially involving young people.

There are a range of potential strategies for dealing with these concerns. The new liquor legislation could say that alcohol is prohibited in Territorial parks ... or limit its use to certain days or areas. One suggestion, for instance, would see liquor restricted from parks on long weekends. Perhaps it should be clearly disallowed from day-use areas.

Here again, though, it's important to build a *balanced* approach. Solutions will likely be found as more people share their views during the continuing discussion of this *Legislative Action Paper*.

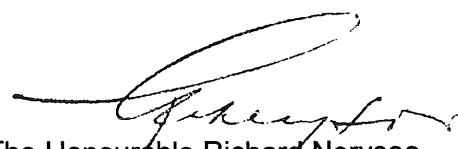
In one way or another, every resident of the Northwest Territories is affected by the presence of liquor in our society. In establishing a new framework for liquor control, it is essential to take this into careful consideration. Our legislation must be strong and easily understood, but it also has to be balanced in a way that reflects values shared by the people of our Northern communities.

The *Liquor Law Review* was established to identify a new legislative foundation for the way liquor should be regulated. Through extensive consultations in all regions, the process has been aimed at finding out how people are feeling about the subject of liquor control, and listening carefully to their thoughts on how this Government's regulatory mechanisms can be improved.

This *Legislative Action Paper* is intended to summarize the concerns, recommendations and proposals that have been received to date during the *Liquor Law Review*. It outlines a number of principles and strategies that could be used to form the basis of a new *Act*.

This document represents, not the completion but, rather, a focusing of the continuing discussions now underway to plan new liquor laws. It is hoped that the *Legislative Action Paper* will be a valuable source of information on how to best frame our liquor legislation. Moreover, it is hoped that all Northwest Territories' residents find it useful in considering, and responding to, the various ideas that have been suggested during *Liquor Law Review* discussions.

By continuing to share perspectives, both within the Legislative Assembly and in our communities, we will be able to work toward new liquor legislation that is effective, balanced and fully representative of public priorities.



The Honourable Richard Nerysoo,
Minister of Safety and Public Services.

Executive Summary

At the direction of the Minister of Safety and Public Services, a comprehensive review of Northwest Territories' liquor legislation was conducted beginning in December 1993. Ultimately, this will lead to the development of a new *Liquor Act*. The review involved an extensive public consultation strategy, asking Northerners to make recommendations on ways that the Territorial liquor control system could be improved. This *Legislative Action Paper* summarizes a range of principles and concepts on which a new *Liquor Act* could be based.

The Process:

The *Liquor Law Review* used a variety of procedures to inform the public about the initiative and to encourage a response. Groups directly affected by Territorial liquor legislation — licensees, community governments, aboriginal organizations, social agencies and others — were contacted and encouraged to submit their views. Information flyers and questionnaires were sent out to all NWT households. Project personnel visited municipalities and settlements in all regions to attend council meetings, stakeholder interviews, public forums and community gatherings where liquor control issues were discussed. Many community residents took advantage of the opportunity to telephone or write *Liquor Law Review* offices with their views. Additional research was carried out in the Department of Safety and Public Services to augment opinions received over the course of the public consultations.

The Concerns:

Questionnaires, public meetings, and other input received during this period provided the *Liquor Law Review* with a good understanding of liquor control issues that are causing concern for NWT communities. People commented on a range of topics, but main sources of concern included:

- the impact that alcohol abuse is having on the social well-being of people in many Northern communities.
- the frequency with which liquor is being sold illegally in communities all across the Northwest Territories.
- the access that young people have to liquor.
- the feeling that liquor control is driven by "distance decision-making", and the need for greater community involvement in the design of regulatory systems.

Other "Ideas"

A number of "miscellaneous" suggestions can be added to the recommendations received by the *Liquor Law Review*. These deal with various subjects, and bear consideration during the review of this *Legislative Action Paper*.

Liquor Advertising

Presently, there are requirements for the Liquor Licensing Board to pre-approve any advertising of liquor. This can be time-consuming for the board and is one of the "annoyances" that some distributors and licensees often commented on.

At the same time, there was also considerable concern expressed by the public about the potential that advertising has for influencing children. Images that depict inappropriate alcohol use or advertising for events that portray a "Go Wild!" theme were something that several parents, educators and others mentioned to the *Liquor Law Review*.

One approach might be to ensure that there is *some* control over the regulation of advertising, but to make it reasonable and problem-focused, rather than a duty that's carried out solely as an administrative exercise.

Guidelines should be provided, outlining expectations for anyone who wishes to advertise a liquor product ... or to promote a certain product in conjunction with a special event. It should become the responsibility of advertisers to become familiar with, and to follow, the guidelines.

This places an onus on the advertisers to find out what the guidelines are — rather than putting the board and its staff in the position of saying "yes" or "no" to each and every liquor advertisement that anyone wants to use.

In situations where advertisers failed to follow the guidelines, then the *Liquor Act* should contain provisions that government officials could use to take action.

What should the guidelines say? For advertising on television or radio, a Code has already been established by the *Canadian Radio and Telecommunications Commission* (CRTC) to deal with the promotion of alcoholic beverages. Our new legislation could establish this code as our guidelines for the tiny amount of broadcast liquor advertising that originates within the Northwest Territories.

For print advertising, guidelines might include, among others:

- an expectation that advertisers won't encourage liquor use by minors or use wording that implies misuse or immoderate consumption;
- restrictions on depicting people with liquor prior to or while operating a vehicle;
- requirements that prevent advertisers from conveying the impression that alcohol consumption is necessary in obtaining social prestige, popularity or escape from social problems.

Health Warning Labels

Frequently, during the *Liquor Law Review*, there were comments about the use of "warning labels" on liquor products sold in the Northwest Territories. These are adhesive stickers that bear a statement mentioning risks or problems that can be associated with excessive alcohol use.

Since May 1993, the NWT Liquor Commission began placing health warning labels on each bottle of wine and spirits and on each six-pack of beer or coolers. Presently, the Northwest Territories and the Yukon are the only jurisdictions in Canada to have an internal policy that places warning labels on alcohol products.

During the *Liquor Law Review*, several social agencies and many individuals applauded the Commission's decision.

Some argued that the government should go even further. They said that this should be made a requirement, under the *Liquor Act* — and it was suggested that the onus for labelling packages should be shifted to liquor manufacturers with a statutory requirement that any liquor imported into the NWT should be already labelled.

Other input suggested that this might be hard to do. The Northwest Territories is a small market and it's sometimes uncertain whether very unique packaging requirements could result in many brands just not being made available.

Developing new plebiscite procedures will be challenging ... particularly if new legislation expands the flexibility that communities can exercise in setting their own framework for local regulation of liquor. Ideas will need to be developed in close consultation with communities and with Members of the Legislative Assembly.

Liquor Surcharges

One of the ideas brought up by many communities was that new liquor legislation should enable municipalities to apply surcharges to the price of any liquor sold locally. Some leaders agreed that, "We're dealing with the negative repercussions of having liquor here — we should also be able to benefit from sharing in liquor revenue potential".

This may be an intriguing concept. Funds raised through liquor surcharges could be used to support municipal priorities. There would always need to be some consideration given to the implications involved in raising liquor prices ... but those are issues that could be discussed and decided at the *community* level.



Empowering Individuals

Finally, people told the *Liquor Law Review* that the new legislation should incorporate a different approach — that it should look at empowering *individual* residents in communities to make a difference.

There were calls for a formalized "public complaints process", in which individuals might be able to bring their concerns about licensed establishments before the Liquor Licensing Board for review. Essentially, this could be extended to give members of the public a few of the same authorities that liquor inspectors exercise in identifying problems and initiating solutions.

Some staff employed in bars and other licensed establishments commented during the *Liquor Law Review* that they would like to be able to "report" co-workers or the licensee when they became aware of violations that had taken place. But, they feared for their jobs or that they might be harassed. A few suggested that our new legislation should include "whistleblower protection" provisions, similar to those used in some legislation in the United States. These could make it an offence for anyone to take action against another person because they tried to improve conditions in a liquor environment.

Another idea has been that the new legislation should establish a mandatory requirement that all licensees carry civil liability insurance.



This innovative and widely supported suggestion would better allow individuals to take action in the civil courts in circumstances where they felt they had been aggrieved by the actions of someone who sells liquor.

Our present *Act* already goes some distance in establishing the civil liability of licence-holders, by including a section that defines it. However, many people felt that the definition is too restrictive and does not reflect recent trends in civil judgments across Canada.

"Community-Based Liquor Control"

As a general trend, the *Liquor Law Review* heard that the framework for our new regulatory legislation should be geared, as much as possible, to giving communities the powers and authorities they need to solve their own problems.

Whether in Nunavut communities or the west, people felt confident and enthusiastic about the idea of finding ... and implementing ... solutions to liquor control issues, both at an individual and at a community level.

The Principles:

People did more than talk about their concerns. They told the *Liquor Law Review* about things they believe are important in community living ... and about the role that alcohol plays in Northern society. They proposed ideas about the values and purposes that should make up the foundation of our new liquor legislation.

From these consultations, it has been possible to identify a series of principles — or *fundamental concepts* — to guide the development of a new *Liquor Act*. We are proposing that the new legislation will need to be based on these concepts:

1. In the Northwest Territories, liquor should be regarded as a "**regulated product**". The *Liquor Act* and regulations should define parameters for controlling the sale, distribution, possession and consumption of liquor.
2. New legislation should not be planned in isolation. An effective, responsive liquor control system should be seen as one of many factors that can contribute to community "wellness". Liquor regulation impacts on health and social policy, on community development and on many other areas. These should be taken into account when new legislative approaches are being considered.
3. Territorial liquor legislation should not necessarily be modeled after similar laws enacted by other Canadian provinces. While it may be instructive to examine approaches taken in other jurisdictions, the new *Liquor Act* should be tailored to meet the specific Northern needs that people have identified. Elements that promise to work well in the NWT should be incorporated, regardless of whether they have been adopted elsewhere in Canada.
4. Liquor control systems, institutions and standards should be "powerful" enough to ensure that the goals of the legislation can be achieved. They have to be regularly evaluated to determine whether they are accomplishing the desired effect. The new legislation should reflect community priorities and empower local measures for liquor control.
5. The new *Liquor Act* should reflect a parity — or *balance* — between the interests of varying lifestyles. On one hand, it has to be recognized that many Northerners enjoy a consistently moderate and responsible pattern of liquor consumption. On the other, it must also be acknowledged that excessive or irresponsible liquor consumption has been linked to many of the social problems that plague NWT communities. New liquor control legislation should be designed in a manner that reflects both these realities.

Options for Legislative Action:

In addition to peoples' ideas about the *guiding principles* that should frame our liquor legislation, the *Liquor Law Review* also received a range of public recommendations about specific components that should be included in the new *Liquor Act*. These suggestions frequently dealt with the "nuts and bolts" of the new legislation — very specific ideas about how it should be put together. In some cases, participants wanted to see the legislation work toward certain objectives ... in others, they had ideas about the kind of organizational framework that should be established ... and, for some, there were specific strategies or standards that they felt should be included in the new liquor laws.

These are not Government "plans". They are ideas, based on suggestions received from members of the public who believed that they would be positive *elements* to a new *Liquor Act*. They are "possibilities", offered for consideration and comment by the Legislative Assembly and people of the Northwest Territories.

The following options were suggested as elements that the Government should consider building into the new *Liquor Act*. People across the NWT told the *Liquor Law Review* that our new liquor legislation should focus on:

- ◆ **Establishing a broad definition of liquor.** All beverages containing 0.5% alcohol by volume, or more, should be defined as "liquor". Different regulatory schemes could be developed for liquor that differs in alcohol content. As a general rule, the higher the alcohol content, the more restrictive the regulatory system could be.
- ◆ **Setting out *all* the definitions, systems, institutions, standards, general procedures, offences and penalties necessary for a liquor control framework in the Northwest Territories.** Many of these may differ from current structures and practices, or from legislation that exists elsewhere in Canada.
- ◆ **Including sensible, enforceable restrictions on products that contain alcohol but are not intended for use as beverages.**
- ◆ **Expanding alternatives available for communities to exercise local control over liquor regulation.** The *Liquor Act* should lay out a liquor control system for the Northwest Territories as a whole. But, where individual communities or regions wish to establish their own framework for regulating liquor, there could be mechanisms in place to transfer certain aspects of the liquor control system. "Minimum standards" should be defined that apply all across the NWT but, beyond that, communities or regions could have considerable flexibility in developing systems that meet local needs.
- ◆ **Organizing the new legislation in a more logical manner and using "plain language" that can be readily understood.** There could be requirements to make summaries of the *Act* and regulations ... and information about the way our liquor control system works ... available in all Official Languages.

Options for Legislative Action: Community Approaches

The *Liquor Law Review* received the following public recommendations:

- ◆ **Develop a more flexible, consistent process for holding community plebiscites that determine local options for liquor control.**
- ◆ **Allow communities to place surcharges on the price of liquor sold locally. Communities could also be allowed to set fees for administrative activities performed by municipal bodies that have responsibility for liquor regulation.**
- ◆ **Empower individual members of communities with the authority to take action on liquor control matters.** Formal procedures for filing a public complaint could be developed. Civil liability could be more clearly established for persons who sell liquor. There could be mandatory requirements for licensees to carry a certain level of liability insurance.

Alcohol Education Committees

Other communities have established elected Alcohol Education committees that serve several purposes. In addition to approving liquor orders, they often serve an important advisory role with the municipal council, exercise authorities that can involve the "withdrawal" of liquor eligibility and operate the local addictions treatment projects.

Indeed, some of the input received by the *Liquor Law Review* suggested that these multiple roles create difficulties. Many communities are questioning whether it is appropriate for one committee to be, on one hand, approving the delivery of liquor to residents and, on the other, addressing the social problems associated with alcohol abuse. This "role conflict" is heightened by the fact that committees receive no funding for the work they do administering liquor orders. Often the administrative costs are being paid from treatment funding.

Some communities have suggested that the new liquor legislation should allow the transfer of responsibility for liquor orders to a sub-committee of the municipal council or band, leaving the Alcohol Education Committee free to perform functions in supervising local treatment programming.

It might also be a valuable addition to provide Alcohol Committees with the legal authority to establish fees — added to the cost of liquor — to pay for the administrative expenses incurred in processing liquor orders.

Restricted Quantities Systems

A few communities operate by way of a quota system, where the amount of liquor that one is allowed to have is restricted.

The *Liquor Law Review* received "mixed messages" about the way people regarded this local option. For some, it was seen as ineffective ... as buyers tended to simply go to other communities, or to "stock up" on bottle at a time.

For others, though, it provided a valuable "cap" on the baseline amount of liquor that was present in their community. Often, fears were expressed in "quota communities" that if there were no restrictions on liquor possession, there could be an immediate and overwhelming increase in alcohol-related problems.

Regardless of the position that individuals took, though, there was strong consensus that it should be up to the community to decide.

Plebiscites

A range of problems exist with the way plebiscites are carried out under our current legislation. Many of these are technical — prescribed forms are outdated and difficult to use, the *Act* and regulations are unclear on the subject of fees, and so forth.

But, generally, people in communities were confused about plebiscite procedures and requirements. They want a simpler approach.

Empowering Communities

If there was one message that stood out most clearly over the course of the *Liquor Law Review*, it was to build new legislation around a recognition that communities should have better control over liquor regulation at the local level.

Presently, the *Liquor Act* allows for communities to establish certain options for dealing with liquor, if residents approve them during a plebiscite. A community, for instance, can establish a system that prohibits people from possessing liquor. Alternatively, *restricted quantities* — or “quotas” — can be established on the amount of liquor that individuals are allowed to have. Or, communities can vote to set up an *Alcohol Education Committee* that must approve all liquor orders.

There are additional *local options* that can be exercised, if they are put to a successful plebiscite, such as the limitation of hours for licensed premises.

People told the *Liquor Law Review* that more “freedom” was necessary for communities to establish the kinds of systems that would meet local needs. This might be accommodated by the “Community-Based” approach described in an earlier section of this *Legislative Action Paper*.

Liquor Prohibition

During the *Liquor Law Review*, a lot of comments were made about the current local options systems.

To many, for example, the idea of prohibiting liquor in communities is a self-defeating concept. People point to the fact that “dry communities” still have difficulty with the influx of liquor ... and that, sometimes, limited availability forces people to turn to “bootleggers”, non-beverage alcohol or other drugs. Concerns about the constitutionality of local prohibition appears to be largely unwarranted, but, undoubtedly, the system does place a significant burden on local police and other resources.

Yet, many people in the prohibited communities visited by the *Liquor Law Review* ... and even more who wrote in or returned questionnaires ... stressed that they would not want to see the prohibition option done away with.

They pointed out that, despite some drawbacks, prohibition does succeed in keeping liquor abuse off the streets and out of the homes of elders. They emphasized that, rather than “getting rid of” prohibition, the new legislation should enhance the kinds of things that communities could do to make it work effectively.

Some of the ideas that were suggested included creating an option where communities, by plebiscite, could not only prohibit liquor possession ... but also make it an offence to be intoxicated.

Legal authority to establish binding agreements with air carriers were also seen as a possible route for enhancing control in a restricted/prohibited environment.

Again, many felt that stronger search and seizure powers for police would be helpful, particularly at airports. Ideas about enabling the appointment of Liquor Enforcement Officers, reporting to municipal councils, was well received in prohibited communities.

Notwithstanding the drawbacks, many felt that local options to establish prohibited systems for local control should be retained.



◆ Organizing legislative content into three discrete conceptual groupings:

- general requirements for the way liquor is to be manufactured, sold, distributed, possessed, transported and consumed in the Northwest Territories;
- standards and procedures for issuing and monitoring licences that allow for the operation of places where people can go to drink outside their homes;
- “local options” allowing communities or regions to establish distinctive systems for liquor control.

Three separate statutes could be developed, one to deal with each of the conceptual groups. Or all could be included in a single *Act* as they are now.

◆ Establishing clearly that the Government of the Northwest Territories (GNWT) has a dual responsibility for ensuring that (a) liquor is properly regulated, and (b) that revenue is generated, for the public benefit, from the sale of liquor. To fulfill these responsibilities, there could be avenues within the *Liquor Act* that allow the GNWT to transfer certain authorities to local governments or to the private sector.

◆ Re-focusing duties of the Liquor Licensing Board. The board's role could shift away from specific licensing details, disciplinary hearings and the making of regulations. Instead, the board could be established in a manner that allows it to decide appeals of administrative decisions, to develop policy, to advise the Minister and to promote public awareness of liquor legislation. Where it is in the public interest, the Minister responsible for administering the *Liquor Act* could be empowered to delegate some or all of the board's powers to community or regional bodies.

◆ Enabling a more flexible organizational structure for the NWT Liquor Commission. The Liquor Commission should remain the government institution that undertakes the importation and distribution of liquor. It should also have responsibility for collecting revenue from the sale of liquor and for transferring it to other government revenue funds, according to requirements laid out in the *Act*. However, these responsibilities could be consistent with a range of organizational frameworks that differ from the current structure of the Liquor Commission, such as a *crown corporation*.

◆ Clarifying that the eligibility to purchase, possess and consume liquor is not a “right”. The *Act* should also indicate that this entitlement can be lost under certain conditions. Basic age and other eligibility criteria should specify which individuals are entitled to have liquor. However, basic eligibility criteria should be considered “minimum standards” that apply everywhere in the Northwest Territories. Communities should not be able to establish their own “drinking age”.

- ◆ ***Making it a more serious offence for persons younger than the “drinking age” to consume liquor. A wider range of penalties and other consequences could be developed, and the new legislation could be framed in a manner that incorporates community justice alternatives whenever possible.***
- ◆ ***Developing a mechanism that allows liquor sellers and law enforcement authorities to determine whether a person is entitled to possess or consume liquor.***
- ◆ ***Establishing criteria that clearly specify who is eligible to operate businesses or to sponsor events where liquor is sold. In general, the sale of liquor should be restricted to designated liquor stores, licensed premises or permitted “special occasions”. However, the Act could also establish new avenues for retailing liquor as part of the available local options for liquor control.***
- ◆ ***Defining minimum and maximum penalties for persons convicted of illegally selling or distributing liquor. These should be significant enough to deter further offences. Persons convicted of liquor distribution offences could lose their eligibility to purchase and possess liquor. Penalties could be higher for persons who illegally distribute liquor to minors.***
- ◆ ***Establishing a new permit system for monitoring the purchase of large volumes of liquor. Individuals could be able to purchase, transport or store more than a specified quantity only if they have first acquired a permit.***
- ◆ ***Creating a more straightforward, expedient process for issuing and monitoring liquor licences. The Act should make it clear that licensees are responsible for ensuring that their establishments are operated in a legal and orderly fashion. More significant penalties could be established for licensees that violate the Act or regulations.***
- ◆ ***Developing a “tiered” system of licensing. Liquor licensees who maintain a record of responsible conduct could be given more responsibility for “self-regulation”.***
- ◆ ***Strengthening the duties and powers of liquor inspectors and law enforcement authorities.***
- ◆ ***Continuing to include provisions that allow police to take persons who are intoxicated in a public place into temporary custody.***
- ◆ ***Developing a more flexible, consistent process for holding community plebiscites that determine local options for liquor control.***
- ◆ ***Allowing communities to place surcharges on the price of liquor sold locally. Communities could also be allowed to set fees for administrative activities performed by municipal bodies that have responsibility for liquor regulation.***
- ◆ ***Empowering individual members of communities with the authority to take action on liquor control matters. Formal procedures for filing a public complaint could be developed. Civil liability could be more clearly established for persons who sell liquor. There could be mandatory requirements for licensees to carry a certain level of liability insurance.***

(4) *it should be made an offence to obstruct a liquor inspector in the performance of an investigation.*

(5) *Another area the Act might address is to give inspectors the power to require any person to produce satisfactory proof of age. This would be particularly important if the new legislation established mandatory “proof of eligibility” cards. Consideration could also be given to providing inspectors with the authority to detain suspects until the police arrive.*

Liquor Enforcement Officer

One of the more intriguing ideas was the notion that the new legislation could establish a unique type of law enforcement official — a Liquor Enforcement Officer. This position would combine the duties and powers of a liquor inspector with some of the authorities given under the law to police officers.

The Act could, for example, allow Liquor Enforcement Officers to carry out the inspection of bars and other licensed premises ... but also to investigate possible liquor transportation offences, with limited search and seizure powers. Liquor Enforcement Officers could be established under the authority of community governments and would be accountable to the local administration.

Over the past several months, some communities have already explored possibilities for the development of a *Special By-law Officer*. The concept of establishing a Liquor Enforcement Officer coincides with that model.

Public Intoxication

Presently, the *Liquor Act* makes it an offence to be drunk in a public place. Police are allowed to take intoxicated persons into temporary custody. Charges can only be laid if permission is received from the Territorial Minister of Justice.

Throughout the review, many people suggested that it should be easier for police to charge individuals who are repeatedly having to be taken into custody. Some suggested a “*three strikes and you’re in court!*” principle.

It’s debatable whether problems of public drunkenness will be resolved by streaming addicted, sometimes homeless, persons toward the correctional system. Presently, the approval of the Minister of Justice is required before charges of public drunkenness can be laid. Most people felt that current requirements for ministerial permission should be left in the Act.

At the same time, there are certain characteristics that people would like to count on when they visit a lounge, tavern or licensed dining room.

Over the course of the review, for instance, many people indicated that it is important to them to feel "safe" when they are in an environment where drinking is taking place. They suggested that the new *Liquor Act* should ensure that licensees have sufficient resources in place to prevent over-crowding, to ensure fire safety standards are met and to deal with disorderly patrons.

Violence in licensed premises should not be tolerated. It was suggested that new legislation should deal sternly with the presence or use of weapons in places where liquor is sold for consumption.

Other comments were received suggesting that there should be standards in place for the sort of entertainment that takes place in licensed premises. Many of these called for complete prohibition on nude or "exotic" dancing in licensed establishments throughout the Northwest Territories.

The question of whether Territorial legislation should try to spell out exactly what types of entertainment meet community standards is another difficult one. Whenever the issue has come up, it has been clear that there is a full range of opinion on the subject. A suggested approach, however, would see decisions about entertainment restrictions included as something that voters could decide for themselves ... as part of the local options available for "community-based" liquor control.

Several review participants expressed shock and dismay, however, to learn that there is no prohibition against *minors* engaging in "exotic dancing" in NWT bars. In fact, our current legislation specifically *allows* persons under the "drinking age" to be present in licensed premises for the purpose of providing entertainment.

Other concerns on "bar entertainment" noted that our current legislation is silent about the use of pyro-technics (fire and explosive devices) as part of stage shows in a place where liquor is served. Others looked to southern jurisdictions where video lotteries are allowed in licensed premises and wondered why it's not happening here.

Several municipalities stressed that provisions in our current laws requiring licensed premises to adhere to local by-laws should be retained.

Liquor Inspectors and Other Law Enforcement Authorities

Throughout the review, people commented that inspectors and the RCMP should be given more authority to deal with liquor problems that exist in communities by:

(1) *lightening the administrative burden imposed on police* by current requirements for dealing with liquor that has been seized. Hours are spent cataloguing, disposing and returning liquor bottles that have been acquired as part of a prosecution.

(2) *expanding search and seizure provisions* that police can undertake, especially at airports and in restricted communities.

This is a difficult one to address. There are constitutional limits on the scope of search and seizure powers that may be given to the police. Section 8 of the *Charter of Rights and Freedoms* guarantees everyone the right to be secure against unreasonable search and seizure.

Search and seizure powers similar to the ones that are currently set out in the Territorial *Liquor Act* have been found by the courts to be consistent with this *Charter* guarantee. But, it's not clear from the case law how much "elbow room" there is to expand these powers further. There may be no room left at all.

On the other hand, people stressed to the *Liquor Law Review* that the circumstances of small communities in the Northwest Territories are dramatically different from those in the south.

With that in mind, it may be possible to explore possible justifications for new search and seizure powers that would be of questionable constitutional validity if they were set out in southern legislation.

(3) *allowing peace officers to suspend or cancel liquor licences.* Territorial liquor inspectors can temporarily suspend or cancel the licence of a bar or other establishment. But, presently, there is nothing specific in the *Liquor Act* that allows a peace officer to close it down, even if there is a serious violation of the *Act* or regulations. Many people felt that this should be changed in the new legislation.

New Concepts:

Several of the public recommendations received during the *Liquor Law Review* would represent significant departures from our current liquor control system. Some of the most innovative changes have been suggested by the public in the following areas:

NO "RIGHT" TO LIQUOR. From the outset, many called for the new *Act* to recognize that the use of liquor is not a "right". They felt that this should be underscored in the way the NWT approaches liquor control procedures. One way might be to create a new *proof of eligibility* licence that can be used by vendors and law enforcement agencies to recognize who is ... and isn't ... legally eligible to purchase and consume liquor.

YOUTH AND LIQUOR. Several suggestions dealt with youth. There were strong recommendations that the minimum "drinking age" in the Northwest Territories should be raised to 21 years, in order to prevent very young teens from experimenting with alcohol. This idea sparked considerable debate. Those opposed to the concept pointed out that it may be both impractical and unwise to try to place more limits on Northern youth.

ILLEGAL LIQUOR SALES. People called for much tougher strategies for dealing with "bootlegging" — the illegal sale and distribution of liquor. Many expressed support for heavier penalties and for a permit system to monitor large-volume purchases. At the same time, it was recognized that the illegal trade in liquor sometimes flourishes to fill needs created by inaccessibility. Some people felt that the best way to address "bootlegging" is to carefully expand the distribution system, allowing better access to legal liquor at the community level through local distributors, extended "off-sales" or allowing bars to open on Sundays.

MORE ENFORCEMENT. Many people felt that enhanced powers were needed for peace officers and liquor inspectors. There were even suggestions that the new *Act* should establish a "Liquor Control Officer" — sort of a *special by-law officer* — who could carry out inspections of licensed premises, but also take on some duties for enforcing liquor control requirements in communities.

COMMUNITY FOCUS. Many felt, though, that the best way to deal with liquor control problems at the community level was to transfer more authority for the development of effective local options. They argued that there should be some "*minimum standards*" that apply everywhere in the NWT and there should be a "standard" Territorial liquor control model that is followed in cases where communities don't wish to set up anything different for themselves. But, for communities interested in developing their own solutions, resources and strategies, there should be wider flexibility available in designing liquor control systems that work. These "local systems" could be considered by plebiscite and become law if supported by voters in the community. In all regions, there was strong support for the notion of "community-based" liquor control.

Some of these concepts received a great deal of support in communities. Others generated considerable debate. Decisions as to whether they are incorporated in draft legislation will be based on feedback received from the Legislative Assembly and the public at large. Indeed, as this *Legislative Action Paper* is reviewed, there will very likely be other suggestions about components that should be built into the new liquor control system.

Two other proposals attracted a lot of public attention over the course of the review: one called for the restriction of liquor sales to pregnant women; the other recommended allowing communities to establish their own "drinking age" through a local options plebiscite. While motivated by an earnest concern over the apparent incidence of foetal alcohol syndrome, suggested limitations on the sale of liquor to women during pregnancy would be virtually unenforceable, could have created health risks through the avoidance of prenatal care and may be in violation of the Canadian *Charter of Rights and Freedoms*. The establishment of community-specific drinking ages also raises difficult constitutional and enforcement issues. Based on opinions expressed during community consultations and on research carried out during the *Liquor Law Review*, these proposals will not be considered for inclusion in new legislation.

In some cases, people raised issues with the way specific businesses were selling liquor. In others, they didn't have problems with any particular licensee — they just wanted to make sure that fewer liquor licences were being given out.

New licensing procedures are needed, according to many of the people who contacted the *Liquor Law Review*. Specifics will need to emerge through further public discussion and from the feedback received from the Legislative Assembly. But, as a starting point, people felt that liquor licensing should be a more straightforward process, with more opportunities for communities to vet applications and influence the outcome of licensing decisions.

Classes of Licences

Right now, the *Liquor Act* specifies no less than twelve different kinds — or "classes" — of liquor licence for which people can apply.

It has been suggested that the licensing process could be made simpler and more efficient if several of these were combined. There could be a lot of benefit to a system where there were basically three different "classes" of licence:

- a "liquor-primary licence" to include bars, cocktail lounges, brew-pubs and clubs.
- a "food-primary licence" to include dining rooms; and
- a *special licence* to include canteens, remote facilities, "guest rooms" or other more unique licensing situations.

A "Tiered" Licensing System

It was suggested — by some of the NWT's liquor licensees, incidentally — that a new approach should be taken to the way licences are given out. One idea was that there could be a "tiered" licensing system, in which businesses that had maintained a record of good conduct with the Liquor Licensing Board could be given the opportunity to exercise more responsibility for self-regulation.

Under the present liquor control system, there is very little that licensed premises can do without seeking administrative approvals from the Liquor Licensing Board. The setting of special "happy hour" prices ... most promotional activities and advertising ... or special adjustment of hours or physical premises all have to be submitted for approval.

These tight approval requirements create an administrative burden for both licensees and board officials and, for many responsible operators, it's hard to justify whether they are really accomplishing very much. The time that is spent by government personnel in handling these specific administrative matters, according to some people, could be better devoted to public awareness and education, or to a more active program of enforcement.

Perhaps, there should be two "tiers" of licences — one for those licensees who have not been "in trouble" with the Liquor Licensing Board ... and one for those who have.

Licensees with a spotty record of conduct would need to follow the same procedures as exist now.

Those who had demonstrated continuing compliance with the *Act* and regulations, however, might be given additional authority to set their own prices ... to offer "specials" ... and possibly even to pay lower licensing fees.

Decisions about which licensees should be classed as "Tier One" and which should become "Tier Two" facilities could be made by the Liquor Licensing Board at the time when annual licence renewals are under consideration.

There may be some attractive features to this idea. It allows the system to "get tough" on less responsible licensees — not through expensive and complicated enforcement and prosecution — but, rather, by rewarding competitors who are behaving in a responsible fashion. It is an approach that uses *positive reinforcement* to encourage compliance ... as opposed to relying on *punishment* to deal with violations.

Several bar managers and owners liked the idea because they could visualize staff members working together to try to attain the highest, most "privileged" level of licensing ... and then working to keep it.

The "Drinking Environment"

It's always a difficult question to decide how much a government wants to "dictate" the type of environment that businesses are allowed to operate. As some people pointed out, that decision is best made by the patrons themselves. Environments that meet consumer needs, over the long run, will survive. Others won't.

Contents

Our current *Liquor Act* makes it an offence for anyone who doesn't have a licence, permit or designated liquor store to sell liquor.

Currently, someone convicted of selling liquor illegally can be sentenced to pay a fine up to \$5000 on the first offence ... or to go to jail for up to six months.

Upon conviction for a second "bootlegging" offence, one can face a *minimum* fine of \$5,000 up to a *maximum* of \$10,000 — or up to 12 months in jail.

Many people who spoke to the *Liquor Law Review* suggested that these penalties should be reviewed. They felt that, while the maximum penalties were sufficient for most situations, they would prefer to see high minimum penalties established as well. They sometimes related accounts where communities had been shocked to see how far below the maximum fine certain longterm "bootleggers" received upon sentencing.

Many participants also suggested that convicted "bootleggers" should face incarceration rather than a fine. Significant jail sentences, according to many of the people who attended public meetings, should be given out more often to first offenders ... and should be automatic for committing a subsequent offence.

Others urged the *Liquor Law Review* to consider finding different sorts of effective penalties to address "bootlegging". They suggested mechanisms that allow communities to force convicted "bootleggers" to move away.

Some people said that "work-camp" placements should be used. Others suggested that offender rehabilitation should take place in culturally traditional environments where positive values and skills could be learned through practice and elders' teachings. Many people felt that, whenever possible, community justice alternatives should be employed.

**Permit Systems
To Control the Purchase of
Large Volumes of Liquor**

It was also suggested that some control could be exerted over "bootlegging" if access to large liquor volumes could be better controlled.

In some regions of the NWT, people who want to sell liquor illegally make regular visits to liquor stores in neighbouring communities to "stock up". Frequently, they purchase several cases and transport it home for illegal re-sale.

Several groups and individuals pointed out that, in monitoring volume purchases of liquor, it would be useful to establish a new system of permits. People wishing to buy *more* than a prescribed amount of liquor — say, two 40-oz. bottles of whiskey or a couple of cases of beer — would need to obtain a permit, indicating the date of purchase, the amount of liquor and the community in which it is to be used. Copies of the permit would be forwarded to the RCMP detachment at the destination community.

Anyone found transporting large volumes without the permit could be charged with an offence under the new *Liquor Act*.

This system would provide law enforcement authorities with a record of people in the community or region who had purchased large volumes of liquor. Police would be aware of when large quantities were being brought into the community. Should problems occur later with an increase in illegal liquor sales, the police would be able to use this information to initiate investigations and take appropriate action.

Certainly, this wouldn't be the entire answer. There are concerns that "bootleggers" in some regions could get around permit requirements by recruiting more people to purchase quantities below the minimum limit and then pooling their inventories. Some people, during *Liquor Law Review* meetings, also mentioned that there could be significant cost and infrastructure requirements involved in setting up such a system. Others indicated that they tend to buy large quantities only once in a while — such as when preparing for Christmas visitors or a New Year's party — and that they would resent the idea of having to obtain a special permit each time.

Yet, for many reasons, this could be a concept worthy of additional consideration. Even if there were certain implementation difficulties, it may offer opportunities for another tool that communities can use in combatting illegal liquor sales.

Licensed Premises

The *Liquor Law Review* heard concerns about the way some licensed establishments are allowed to operate.

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No Room for "Bootleggers"

In most Northern communities, the term "bootlegging" is used to refer to any illegal sale of liquor. It seems to be happening, to a different degree, everywhere in the Northwest Territories.

"Bootlegging" creates serious problems for a number of reasons:

- it tends to bring large quantities of liquor into communities over a short period of time. The resulting widespread intoxication can lead to levels of violence and disruption that overwhelm a community and put huge pressures on the local leadership, law enforcement personnel and health professionals.
- it targets people who are least able to deal with the health and financial consequences of excessive alcohol use. "Bootleggers" frequently sell to people who would be considered too intoxicated to buy liquor from a legal outlet. Often, they sell to children. This increases the risk of accidents and crime in the community.
- it sends a terrible message to young people. It reinforces attitudes that suggest it's okay to break the law ... and that "getting rich quick" is better than working hard to attain academic success, traditional knowledge or work experience.
- it prevents the government from collecting revenue that could be used to fund programs and services needed by communities.

**Options for Legislative Action:
Dealing with Unlawful and Irresponsible Use of Liquor**

The *Liquor Law Review* heard that the new *Act* should:

- ◆ **Define minimum and maximum penalties for persons convicted of illegally selling or distributing liquor. These should be significant enough to deter further offences. Persons convicted of liquor distribution offences could lose their eligibility to purchase and possess liquor. Penalties could be higher for persons who illegally distribute liquor to minors.**
- ◆ **Establish a new permit system for monitoring the purchase of large volumes of liquor. Individuals could be able to purchase, transport or store more than a specified quantity only if they have first acquired a permit.**
- ◆ **Create a more straightforward, expedient process for issuing and monitoring liquor licences. The *Act* should make it clear that licensees are responsible for ensuring that their establishments are operated in a legal and orderly fashion. More significant penalties could be established for licensees that violate the *Act* or regulations.**
- ◆ **Develop a "tiered" system of licensing. Liquor licensees who maintain a record of responsible conduct could be given more responsibility for "self-regulation".**
- ◆ **Strengthen the duties and powers of liquor inspectors and law enforcement authorities.**
- ◆ **Continue to include provisions that allow police to take persons who are intoxicated in a public place into temporary custody.**

"Getting Tough" with the Unlawful or Irresponsible Use of Liquor

Northerners are becoming "fed up" with illegal patterns of liquor consumption. That's what officials working with the *Liquor Law Review* heard in just about every community visited ... and saw reflected in many of the submissions, letters and questionnaire responses that were sent in.

People were upset about the apparent ease with which members of their own communities ... and sometimes outsiders ... were able to make a living by selling liquor illegally. Too often, this sort of "bootlegging" is targeted at the more vulnerable members of the community — at families where there is little disposable income, at persons known to have chemical dependencies, or at the youth.

People were upset about the way some Southern work-crews show disrespect for local standards by bringing alcohol into restricted communities.

People were also concerned that there is too much uncontrolled drunkenness. Many commented that feasts or traditional community events have been spoiled when intoxicated individuals showed up. Some worried that noisy drunks at Territorial campsites or the sight of intoxicated people wandering through town would affect tourism. They were concerned by the association between excessive alcohol use and sexually transmitted disease ... or suicide.

Occasionally, people also expressed concerns about the way some licensed premises operate. There was a perception that there is often too much violence ... too much inebriation ... and too little that authorities can do.

Impaired driving was seen as a problem in many communities. While people were aware that, in recent years, education and enforcement programs have caused a dramatic change in attitudes toward drinking and driving, they still know that it tends to happen too much in the Northwest Territories. In some communities, there were concerns about alcohol impairment and the operation of snowmobiles and boats.

Frequently, during the *Liquor Law Review*, many participants made reference to the stand that Northern governments have made to bring about a "zero tolerance" of violence. They pointed out that better control of alcohol abuse will need to be implemented in order to reach the goals of this movement.

Presently, much of our *Liquor Act* attempts to deal with these issues. There are offences and penalties for people who sell alcohol unlawfully ... there are procedures in place for dealing with individuals who are intoxicated in public ... and there is a process for disciplining bars and other licensees when they violate the standards they're supposed to follow.

But, to a large degree, it seems that NWT residents have lost confidence in the existing systems. People often told the *Liquor Law Review* that they believed that "nothing's working". They said that police and liquor inspectors need better enforcement tools and that communities should have more authority to find their own solutions.

It should be stressed that, in focusing on these problems, it can become easy to lose sight of the fact that a great many Northern residents regularly demonstrate a respect for responsible alcohol consumption and for our liquor control laws. Indeed, the vast majority of people who live in the Northwest Territories have never sold or bought a "bootleg" bottle, have never started a bar fight and will always be careful not to drink and drive.

Regrettably, that doesn't lessen the impact of those who do break the law with liquor. It's true that underlying social problems just can't be addressed by changing the law — and there are many excellent awareness and treatment programs going on in the NWT right now to help communities deal with excessive or abusive alcohol use. At the same time, the new *Liquor Act* needs to address the way problems are fueled by shortcomings in the way we regulate supply. It's time to "get serious" about controlling the illegal and inappropriate use of liquor.

THE LIQUOR LAW REVIEW

Beginning in December 1993, the Minister of Safety and Public Services initiated a comprehensive review of liquor control legislation and practice in the Northwest Territories. This has included examining the way liquor sales, distribution, manufacture, possession and consumption are regulated. The goal of the initiative is to develop a new and improved *Liquor Act*.

Over the course of the review, participants have recommended a new approach to liquor regulation. Some changes have been suggested by regulatory and law enforcement officials. More often, though, ideas have come from people outside government ...

... community leaders ...

... individuals who own or work in places where liquor is sold ...

... workers in social agencies ...

... and other members of the public ...

... who would like to see changes in our liquor control system.

This *Legislative Action Paper* has now been tabled in the Legislative Assembly and summarizes the ideas and recommendations that Northerners have been providing during the *Liquor Law Review*. It is aimed at allowing legislators and other individuals to consider — and comment on — the principles and strategies that could be used to form the basis for new liquor laws.

Our Current Legislation

The *Liquor Act* is the Territorial statute that puts our liquor control system in place. It deals with a broad range of areas, including:

- the *definition* of liquor ... and criteria for determining who is *eligible* to drink it;
- the operation of *liquor stores* and *breweries*;
- the procedures for *licensing* and *inspecting* bars, dining lounges and other places where people can drink liquor outside the home;
- the *standards*, or "rules", that licensed establishments have to follow when selling liquor ... and provisions for *penalizing* them when they violate the law;
- mechanisms for controlling "*bootlegging*" and the illegal manufacturing of "*home-brewed liquor*";
- and a wide variety of other liquor control standards and practices.

In fact, just about everything that has anything to do with the way liquor is regulated in the Northwest Territories is laid out in this Act.

Principle No. 1:

In the Northwest Territories, liquor should be regarded as a "regulated product". The *Liquor Act* and regulations should define parameters for controlling the sale, distribution, possession and consumption of liquor.

But, the *Liquor Act* has not been reviewed in a comprehensive fashion since 1969. That year, a special panel made recommendations to former Commissioner Stuart Hodgson about the model we should use to control the sale and distribution of liquor.

Since that time, the liquor industry has changed. The types of products on the market have changed.

Liquor trends in other jurisdictions — and court decisions about regulatory matters — have changed.

And, of course, Northwest Territories' communities have changed.

Yet, the basic structure for our liquor control system has remained pretty much the same.

Over the years, however, there have been many isolated amendments to sections of the *Act*. These have been needed to mend "loop-holes" or to respond to shortcomings that became apparent when trying to enforce liquor control standards.

Amending the *Liquor Act* over and over has been time-consuming for the Legislative Assembly and expensive for the Government.

It has also resulted in "patchwork" legislation that most people find very difficult to use. Licensees say it's hard to understand what is expected of them. Authorities find it cumbersome to enforce. Municipalities are frustrated by inconsistencies and limitations in the legislation ... particularly when it comes to exercising *local options* for liquor control.

Not surprisingly, it became apparent over the course of the *Liquor Law Review* that there is a real lack of awareness about our liquor control system. NWT residents said they didn't really understand the role of the Liquor Licensing Board, the mechanisms for making changes in community local options and other important aspects of liquor regulation.

Clearly, the present *Liquor Act* has not been meeting anyone's needs particularly well. After 25 years, it's time to update our legislation so it reflects Northerners' views about how liquor should be regulated today.

Emphasis in server training curricula could also be placed on developing and enhancing communication skills, conflict resolution, safety awareness and knowledge of licensees' legal responsibilities.

The *Liquor Law Review* received a number of recommendations that staff who work in licensed premises should be required to take this sort of training ... and that perhaps a certification program for bar managers should be established. This has been a trend that some other parts of Canada have followed and there are now several well-developed training programs available.

Use of Liquor by Minors Under Parental Supervision

During the review, some people said that changes are needed to liquor law provisions that allow parents or guardians to supply liquor to youth. Presently, a section of the *Liquor Act* allows minors to consume liquor if they are supplied by a parent or guardian in their home or residence. Under the current law, minors are also eligible to drink beer or wine at a banquet or licensed dining room when accompanied by their parents or guardians.

The underlying idea, when the present legislation was being developed, was that youth could better acquire moderate and responsible drinking habits if they were exposed to supervised drinking experiences within the family circle. It was thought that family drinking at mealtimes would provide an opportunity for parents to teach teenaged sons and daughters about responsible alcohol consumption.

Considerable opposition to this part of our current legislation has been expressed at public meetings and in calls and letters received by the *Liquor Law Review*. Most of it centered around concerns that it isn't leading to young people being shown how to drink responsibly

In fact, many people believed that it was having the opposite effect. Several review participants talked about poorly supervised family parties, where youngsters and parents engage in excessive drinking. They feared that youth were learning inappropriate drinking patterns, but that there was little law enforcement authorities could do when confronted by such situations.

Many people felt that current exemptions to the "drinking age" should be removed from the new *Act*. They felt that, once the "drinking age" has been established, it should apply to all youth and under all circumstances.

Others disagreed. They suggested that the GNWT has no business trying to dictate parenting styles — or intruding into the domestic lives of private citizens unless there's evidence that problems are occurring in that particular home.

Again, further discussion will be necessary to decide how best to deal with situations where parents allow their minor children to consume liquor.

The Public Consultation Process

Some people recommended that, again with community approval and tight regulatory systems, beer and wine should be sold at convenience stores.

Others have suggested that the hours for "off-premises sales" at licensed premises and at liquor stores should be extended, if that's what people in the community want.

In some jurisdictions, new operations known as "brew-on-premises" or "u-brew" facilities have opened up. These businesses lease space and equipment that people interested in home-brewing beer can use. There has been some interest in a few of the larger communities for opening this sort of facility.

As well, some people have questioned whether it's necessary for bars to be closed on Sundays. In some cases, as with "sports bars", that's when events of primary interest occur. Many *Liquor Law Review* participants argued that, with the range of contemporary lifestyles now present in the North, this should be something that voters decide for themselves as part of a "local options" package.

Who Can Work in Places Where Liquor is Sold?

The present *Liquor Act* provides certain standards for identifying who is allowed to be employed in the sale and distribution of liquor. Some of the people forwarding submissions to the *Liquor Law Review* suggested that this is an area that needs to be re-visited in the development of our new legislation.

Many felt, for instance, that young people under the "drinking age" should not be employed in places where liquor is being sold.

The current *Liquor Act* prevents minors from actually selling liquor in licensed premises — but allows them to work there if they are providing entertainment or, in licensed dining rooms, if they are not involved in handling liquor. There is nothing in the present *Liquor Act* about whether youth can work in liquor stores.

These exemptions were criticized by some of the people who spoke or wrote to the *Liquor Law Review*. They felt that the current legislation provides too much room for abuse ... and that youngsters should be restricted from working in places where liquor is sold. On the other hand, many Northern students who aren't yet of legal "drinking age" use summer or part-time employment in the hospitality industry to help finance their education. The issue of whether young people can work in liquor outlets, and in what capacity, is another one of those items that will benefit from further discussion while this *Legislative Action Paper* is being reviewed by the legislature.

There were also many recommendations that a statutory requirement for "server training" is needed. That is, people working in bars, dining rooms or other establishments where liquor is sold should be required to undertake a formal training program. Course content could aim at building better awareness of alcohol effects and of the problems, including foetal alcohol syndrome, associated with excessive drinking.

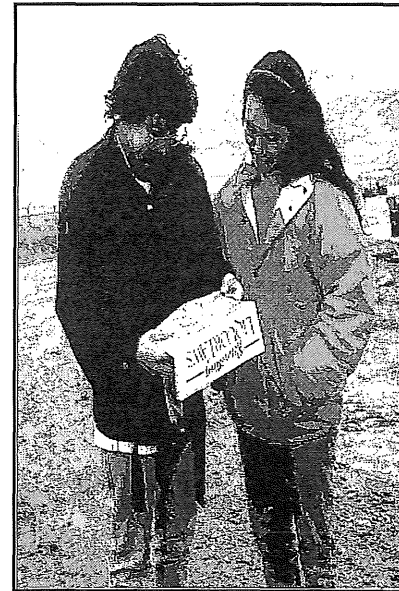
There were other arguments favouring a new and more "open" approach to liquor distribution, as well. Many of the people who contacted the *Liquor Law Review* pointed out that, in trying to deal with alcohol-related social problems, our system has become unfairly restrictive for "responsible" users of liquor products.

They argued that, under our current legislation, the selection of products is too limited. They felt that the range of allowable drinking environments is too restrictive. Many *Liquor Law Review* respondents sent in questionnaires with the opinion that our system succeeds in causing inconvenience for "responsible" drinkers while doing little to address the real problems. They felt that effective regulatory standards could be maintained, even if liquor was made more widely available.

For these reasons, a number of suggestions were received that a new approach should be provided for making liquor available in NWT communities.

This could, perhaps, include enabling otherwise-restricted communities to vote on whether there should be a single "local distributor" or franchisee who is allowed to transport liquor from the nearest store or warehouse and sell it to residents according to pre-established restrictions.

It might also include enabling restricted communities to vote on whether their restrictions should be set aside periodically for the purpose of "special events" where people could acquire experience in the "responsible" use of liquor.



From the outset of the project, it was realized that solutions to liquor control problems would be found — not in departmental offices and boardrooms — but by finding out what people in NWT communities wanted to see in their liquor legislation.

In June 1994, the Minister of Safety and Public Services (Hon. Richard Nerysoo) initiated a major public consultation strategy, asking for NWT residents for their suggestions about how Territorial liquor legislation could be made better.

Over the past several months, departmental personnel have been consulting with local governments, liquor licensees, social agencies, business organizations and other interested groups and individuals across the Northwest Territories.

Input from Stakeholder Groups

Key Territorial organizations were contacted early in the process with a request to provide comments and suggestions about improving the *Liquor Act*.

Aboriginal and regional organizations, municipal and band councils, Metis locals, advocacy groups, and professional and industry associations were all invited to participate in the review.

Many have responded with written briefs or resolutions recommending changes to our liquor laws. In several cases, project staff were invited to meet with organization representatives to discuss proposals and recommended improvements.

Preliminary Consultations

Early on in the *Liquor Law Review*, Fort Smith, Iqaluit and Yellowknife were targeted for preliminary consultations, aimed at identifying main issues that would need to be examined over the course of the project.

Meetings were held with licensees, aboriginal leaders, municipal officials and community groups. Issues raised during these initial discussions were highlighted in information materials distributed later in the review process.

Questionnaire Mail-Out

An information flyer, outlining key issues and encouraging public participation, was mailed to NWT households in June.

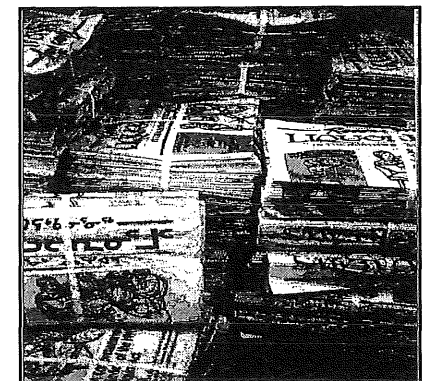
An enclosed questionnaire was provided, in all NWT Official Languages, so that readers could return their suggestions. Over 400 responses were received, with input coming from communities in all regions.

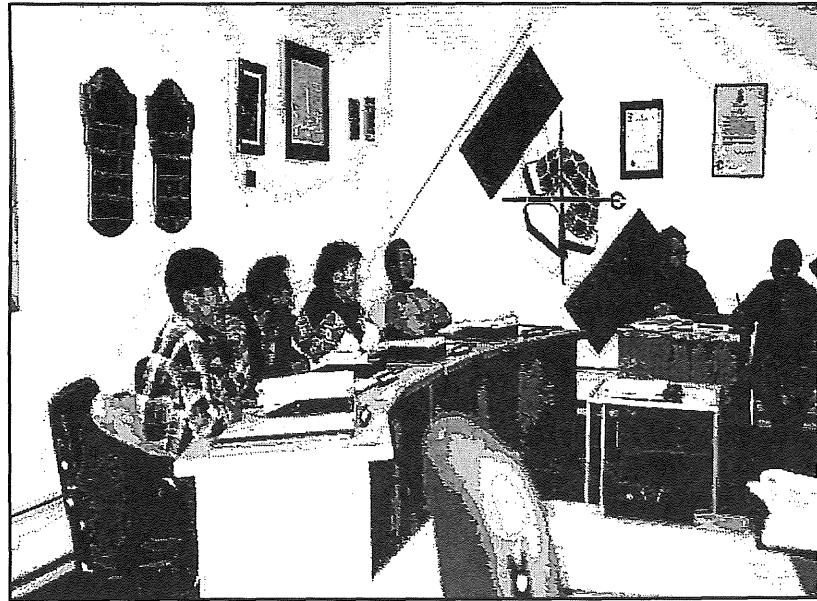
A little more than half the respondents indicated that they would like to be included on a mailing-list. Newsletters were sent out and follow-up surveys were used to "fine-tune" some of the questionnaire data.

Community Visits

In many ways, though, the *most effective* strategy was to hear Northerners' views first-hand, by getting together with them in their own communities ... at meetings, in their workplaces, or as a guest in their homes. Project personnel travelled to 26 communities and all regions during the review.

This provided an opportunity to listen to the concerns that Northerners in all regions had about the way liquor is controlled ... and to collect suggestions on how our liquor control system might be made better.





Community Consultation Model

Right from the start of the *Liquor Law Review* process, it has been felt that community consultations should be driven by local planning.

Municipal authorities, Chambers of Commerce, aboriginal organizations, social agencies and other groups were informed about the initiative and encouraged to identify the consultation strategy that would best meet the needs of their particular community.

Project personnel made themselves available to attend council meetings, public forums or community gatherings if requested by interested groups or individuals. The approach has been to have local organizers tell departmental staff how they can fit into the community's plans.

This has worked well. But, it has resulted in consultation activities varying somewhat from one community to another.

In some cases, formal meetings were held with local municipal or band councils ... in others, large public meetings were organized.

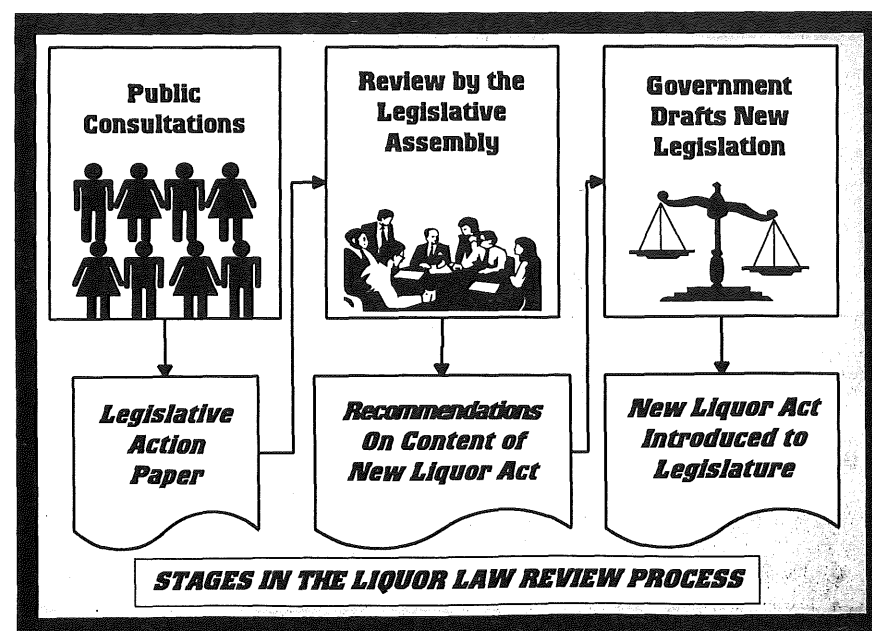
In several communities, local radio was used to inform listeners about the initiative and to collect ideas about changes that people believed should be made. This was often combined with more formal meetings with local committees.

Project personnel met with representatives of a number of regional and aboriginal organizations. Other groups submitted position statements in the form of resolutions or correspondence. Throughout the review, many *individuals* have also written, phoned or faxed their ideas to the *Liquor Law Review*.

Additional Research

Along with public consultation activities, considerable internal research was carried out. A comparative survey of liquor control legislation in other jurisdictions was conducted. Prior government and other reports were reviewed. Interdepartmental consultations were arranged to focus on areas of common interest.

Generally, though, the most ... and *best* ... perspectives were generated through the public consultation process. People all across the Territories have been taking advantage of the opportunity to tell the *Liquor Law Review* what they think about changing the legislation.



Still others have wondered how such a system could work when dealing with transient labourers and tourists from other places. It has been suggested that "if you can licence visitors to catch a trout, you should be able to design a system for temporary drinking licences" — but people at public discussions have questioned how easily this could really be done.

The concept of "licensing Northern drinkers" has attracted a great deal of discussion during public consultations. Some participants have seen it as an innovative solution that offers an opportunity for the Northwest Territories to take a leadership role nationally and internationally. Others have said it's just plain misguided.

One thing is certain. This strategy would underscore the perception that one's entitlement to drinking is not automatic. More discussion is necessary to determine Northerners' views on moving toward a *proof of eligibility* licensing system, in order for the idea to be fully assessed.

Selling Liquor

In addition to saying who is eligible to "purchase, possess and consume" liquor, the *Act* also deals with liquor sales and distribution. Our current legislation says that one can only sell liquor legally in the Northwest Territories if:

- one has a facility designated as a "liquor store" by the Minister.
- one has a "Special Occasion Permit (Resale)". To do this, you must be a non-commercial organization in existence for at least six months.

- one has a liquor licence, issued by the Liquor Licensing Board.

- one has a permit to operate a brewery. In this case, you are only able to sell your product to the NWT Liquor Commission. If you have a "brew-pub" licence you can also sell to the public.

You may become ineligible to sell liquor if your "Special Occasion Permit" is cancelled or if your brewery permit or liquor licence is suspended or cancelled by the Liquor Licensing Board.

More Restrictions on the Eligibility to Sell Liquor?

During the public consultations, it was clear that very different points of view existed about the definition of who can ... and can't ... sell liquor.

Some people provided the *Liquor Law Review* with recommendations that the new *Act* should place more limitations on the type of person who is allowed to get into the "liquor industry" in the Northwest Territories. Others said that, essentially, the government should "back off" and let marketplace values determine the kinds of operators who would succeed. The best position probably lies somewhere in between!

During public consultations, several "guiding concepts" were suggested. One was that people who sell liquor in the Northwest Territories must "demonstrate a respect for the law and a commitment to orderly community living."

There was a sense in some of the submissions received by the *Liquor Law Review* that anyone who sells liquor should, by law, have to give something back to the community. In a few public meetings, participants suggested that only permanent residents of the community should be able to obtain liquor licences. They did not like the idea of having a liquor business operated by someone who was not a community resident.

Many people suggested that the new legislation should contain some system that allows communities to sanction any application for a liquor licence. There was strong sentiment favouring the principle that governments and individuals at the community level should be able to exert a *significant* influence over who is allowed to become — or remain — involved in the sale of liquor.

Broadening Liquor Distribution Channels

At the same time, many of the questionnaire responses and public comments told the *Liquor Law Review* that communities are seriously concerned about "bootlegging". There was a widespread opinion that there is just too much liquor being sold illegally and that the government needs to take a new approach to dealing with it.

It was suggested, over and over, that "the best way to put bootleggers out of business is to out-compete them by making liquor more available through legal channels". Many people argued that the government should be moving to "open up" more avenues for the legal distribution of liquor.

The Legislative Action Paper

At the same time, it's also important to recognize the grave concern that was expressed to the *Liquor Law Review* about the incidence of FAS/FAE in the Northwest Territories. Many people stressed that this is a problem that begs for serious attention.

More open public discussion will undoubtedly lead to a better awareness of FAS/FAE issues in Northern communities and help to identify workable educational and community support interventions. But, at this time, there is no potential for proceeding with legislative solutions to this problem.

Proof of Eligibility to Possess and Consume Liquor

Several groups suggested an interesting concept during *Liquor Law Review* consultations:

Create a "proof of eligibility" card — a licence to show that one is eligible to have liquor.

The idea is that, in the NWT, all people above the "drinking age" should obtain a card, showing their birthdate and photo, that proves they are legally eligible to use liquor.

Anyone wishing to buy liquor — either at a liquor store or in a licensed establishment — would need to have their card with them. Persons would not receive their *proof of eligibility* card until they were legally able to drink. Those who lost their eligibility .. as the result of "interdiction" by a Justice of the Peace, a court order or other legal actions ... would have to surrender their card.

People proposing this idea suggested that the new *Act* could make it an offence to purchase liquor without a card ... or to sell or supply liquor to someone without a card.

While sometimes acknowledging that the idea may be a little "farfetched", people participating in public consultations kept bringing it up. The more it was discussed, the more it became apparent that it might have a lot of merit.

Presently, for instance, there are concerns about underage access to licensed premises. Licensees point out that it can be very hard to tell if patrons has reached the legal "drinking age".

If there was a *proof of eligibility* system in place, the question would no longer be: "Did that patron appear to be under the legal age?" It would become: "Did that patron have a card?" Enforcement of "drinking age" laws would be made more effective. It would be easier for licensees and liquor store operators to know when customers were too young — and it would be easier for liquor inspectors or police to take action. This was seen by many as a definite advantage to considering this proposal.

People have pointed out that interdiction procedures have lost effectiveness because it's not always possible to know who is on the "interdict list". Again, a *proof of eligibility* system would be helpful in determining who is ... and isn't ... allowed to drink legally.

"Bootleggers", offenders with probation orders prohibiting the possession of alcohol and possibly even persons convicted of impaired driving could be made to surrender their card when a sentence is imposed.

During *Liquor Law Review* consultations, the people who work in bars and other licensed premises said the the new legislation should contain a straightforward procedure where patrons who are consistent troublemakers can be formally "barred". Several felt that, to be effective, this should include a temporary withdrawal of eligibility to drink at *any* establishments. Perhaps, such a mechanism could be built into a *"proof of eligibility"* system. If one makes trouble too many times when drinking, perhaps bar operators, family members, community leaders or others should be able to ask the court to suspend that person's eligibility and remove his or her card for a period of time.

This idea is not without its critics, too. Some people told the *Liquor Law Review* that it would be offensive to have the Territorial government make people carry a card that's not required elsewhere in Canada. They said it would feel too much like "big brother" would be trying to control their lives. Others see it creating additional costs and bureaucracy. They wonder whether it would be difficult to issue cards in smaller communities ... and who would be responsible for doing it.

A wealth of ideas has been received as a result of public consultations and research already undertaken by the *Liquor Law Review*. Many of these are detailed in this document.

Purpose of the Legislative Action Paper

This *Legislative Action Paper* deals with the *Liquor Act* and some of the policy considerations that may need to be taken into account when changes are made.

Readers should be clear that this document is *not* a statement of what the GNWT *intends* to do ...

... rather, it *is* a statement of what it *could* do, if Northerners agree.

It presents an outline of the principles that the Government would like to see in place to guide the way our liquor control system should operate.

It also summarizes a range of strategies and approaches that people across the NWT have suggested to the *Liquor Law Review*. These are ideas that could be incorporated in our new liquor legislation, based on feedback from the Legislative Assembly and the public at large.

The paper has been tabled in the Legislative Assembly. Members of the public will be able to examine proposals contained in the paper and to provide their views. With feedback received from the Legislative Assembly and NWT residents, the government can proceed to draft a new liquor law.

This legislative process seeks to ensure public involvement in the development of our new liquor laws. NWT residents have an opportunity to comment on proposals for legislative action at every stage. It recognizes that, in some way or another, all residents of the NWT are "stakeholders" in our liquor control system.

Content of the Legislative Action Paper

The following sections outline input received during the *Liquor Law Review*. They focus on broad goals and specific strategies that *could* be used as a framework for our new liquor control legislation. The following topics are included for discussion:

- ◆ *The Need for a "Big Picture" Perspective*
- ◆ *"Made in the NWT Solutions"*
- ◆ *The Scope, Structure and Function of New Liquor Legislation*
- ◆ *Three Desired Outcomes: Effectiveness, Balance and Community Priorities*
- ◆ *The Government's Role in the Sale and Regulation of Liquor*
- ◆ *Eligibility to Sell, Possess and Consume Liquor*
- ◆ *"Getting Tough" with the Unlawful or Irresponsible Use of Liquor*
- ◆ *Empowering Communities*
- ◆ *"Other" Ideas*

The Need for a "Big Picture" Perspective

Early on in the review process, participants pointed out that the drafting of a new *Liquor Act* had to be viewed carefully ... and within a broad context.

They expressed a concern that, too often, regulatory legislation can give rise to administrative "empires" that begin to see the world solely from the perspective of their own goals and objectives.

Sometimes, they said, there isn't enough consideration of the "big picture" when government plans to make changes in its regulatory systems and procedures. The end result is that "new approaches" in one area can have unintended consequences for another.

People who contacted the *Liquor Law Review* or spoke up at public meetings noted that, in developing new liquor legislation, it's important to consider the broader implications of any new regulatory measures.

This will need to be an important component of the discussions that are now taking place around concepts outlined in this *Legislative Action Paper*.

In reviewing the possible directions outlined here, readers will need to not only ask "can we do that?"... but also "should we do it?" Even when it seems that a particular proposal promises to be effective in addressing some aspect of our liquor control problem, it should be evaluated in terms of its enforceability, its cost, its possible influence on other community priorities, and so on.

Principle No. 2:

New legislation should not be planned in isolation. An effective, responsive liquor control system should be seen as one of many factors that can contribute to community "wellness". Liquor regulation impacts on health and social policy, on community development and on many other areas. These should be taken into account when new legislative approaches are being considered.

We need, as well, to be clear on the purposes that we're trying to achieve with our liquor laws.

Fifty or sixty years ago, all across Canada and the United States, governments began making serious efforts to control the sale and distribution of liquor, primarily because they wanted to stem the involvement of organized crime.

Over the years, legislative mandates and emphases have shifted to also include regulation that safeguards government revenues. And, there has been an even more recent "harm reduction" trend to regard liquor laws as a factor that contributes to community "wellness".

In examining proposals outlined in this *Legislative Action Paper*, it may be useful to keep these multiple purposes in mind. Some of the ideas received by the *Liquor Law Review* may work quite well to accomplish one goal ... but not at all for another. It is important to consider the implications of each one for the communities, individuals and organizations that will be affected.

A range of innovative and promising suggestions are outlined in this paper. In deciding which ones to include in our new liquor laws, it will be important for discussions to focus — not only on the ideas themselves — but also on the "big picture".

Liquor Distribution Affects Many Different Aspects of Northern Living



They suggested that a "hard line" needed to be taken with people who behave in an irresponsible or illegal fashion with liquor. Eligibility restriction was seen as an appropriate consequence for inappropriate or irresponsible conduct with liquor. Some people felt, for instance, that if drinkers engaged in violent behaviour or caused disturbances, they should become automatically ineligible to purchase or possess liquor for a period of time.

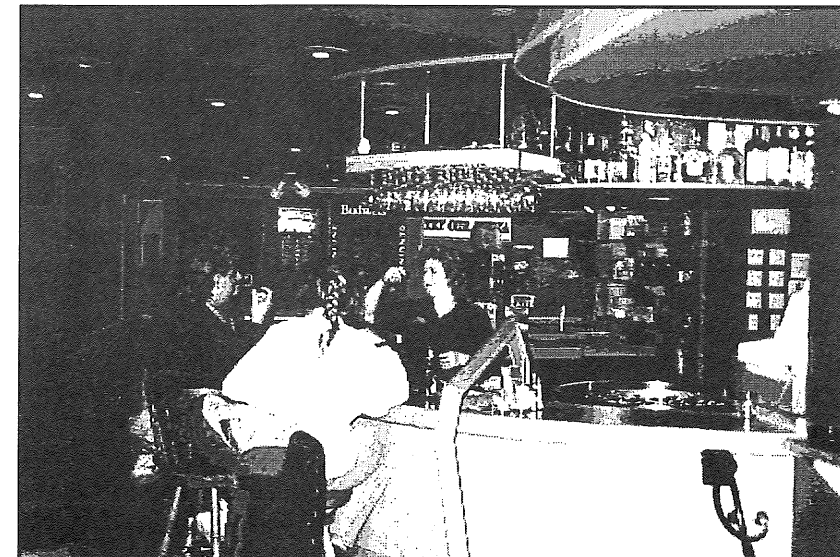
Suggestions also called for taking a "tougher stand" against persons convicted of impaired driving. Several people felt that our new liquor legislation should include provisions that allow the "interdiction" of impaired drivers, in addition to any penalties that may be imposed under other legislation. There were strong feelings, in many communities, that "if you drink and drive, it's not enough to lose your drivers' licence — you should also lose the 'privilege' of drinking."

However, research and additional public debate identified a profusion of enforcement, health policy and, possibly, constitutional difficulties.

People noted, for instance, that it would be very difficult for managers or servers in licensed establishments to recognize when a woman is in the early months of her pregnancy. Accordingly, it would be hard to enforce any sort of legislation that tried to prohibit licensees from selling liquor to pregnant women.

There are risks that such restrictions could create unintended harm to the health of expectant mothers. For some, they might encourage a more secretive pattern of alcohol use ... or the substitution of other intoxicants. There is also a risk that pregnant women struggling with alcohol dependency might be inclined to avoid seeing their physicians or nurses for prenatal care, because they believed there could be legal consequences for liquor use. Many people told the *Liquor Law Review* that such restrictions could also be seen as "scapegoating" women.

As well, there are strong possibilities that a constitutional challenge could be mounted against a *Liquor Act* provision prohibiting pregnant women from buying, possessing or being served alcohol. It is possible that liquor legislation that resulted in a denial of services or access to services provided under the control of the government would not be recognized by the Courts.



Presently, the *Liquor Act* allows a Justice of the Peace to prohibit persons convicted of "bootlegging" or supplying minors from purchasing any more liquor from liquor stores for a period of time — but not from bars or other licensed premises.

Several people argued that our new legislation should go much further. They felt that a loss of eligibility should be "automatic", with no exceptions, and should prevent convicted "bootleggers" from purchasing any liquor at all in the Northwest Territories.

Liquor Restrictions for Pregnant Women

There were other suggestions about limiting one's eligibility to possess liquor when conditions present a risk to health or to community living. One of these — recommending that liquor sales to pregnant women be restricted — was discussed at length over the course of the review.

This recommendation was aimed at decreasing the incidence of foetal alcohol syndrome or effects (FAS/FAE).

Community-Specific Age Eligibility

Over the course of the review, some communities suggested that, perhaps, the new legislation should allow for each community to establish its own "drinking age".

In some ways, the concept of letting communities establish their own "drinking ages" through local options has a lot of merit. With the differences existing between NWT communities in size, social framework and availability of alcohol, it's easy to see that some might want to have a higher "drinking age" than others.

On the other hand, many review participants pointed out that serious difficulties could be created by having the "drinking age" vary from one community to the next. Communities where residents did not want to support an increased "drinking age" could become a magnet for underage drinkers. In communities with highways, people felt there would be a risk that 19- and 20-year olds would drive to other communities ... and then return home after drinking. Potential constitutional problems could arise because people would be treated differently on the basis of their age and home community.

For many reasons, it may be better to regard the age of eligibility for liquor consumption as one of those "minimum standards" that needs to be established in the same way for all communities. Maybe that should be 19 ... maybe it should be 21 ... but, either way, the same age should be used all across the NWT.

Regardless of what is decided on the specific "drinking age", many people pointed out that our new legislation will need to include a better mechanism for identifying whether or not young people are over that age limit. Presently, the *Act* lays out some expectations about providing "proof of age", but they are weak. There are no standards for defining an "acceptable" proof of age. Similarly, there are no provisions dealing with the issuance of ID cards. Many people — especially those who are working in licensed establishments — identified this as an important area for improvement.

Other Eligibility Restrictions

Even if you are above the minimum "drinking age", our current legislation sets out other ways that you can lose your entitlement to have liquor.

One of these can take place if you live in a community where there's a legally-established Alcohol Education Committee, and that committee decides to "withdraw" your eligibility.

With the *Liquor Act* we have now, an Alcohol Education Committee can take this action if there are obvious problems with the way an individual is using liquor. These include "excessive drinking", mispending or wasting money, injuring one's health or interrupting the peace and happiness of the family or community. The *Act* also stops anyone from giving or selling liquor to people who have lost their eligibility in this way.

There are other ways that you might lose your eligibility to possess or consume liquor, under our present laws.

One of these involves a procedure called "interdiction", in which a Justice of the Peace can prohibit an individual from having or purchasing liquor. An "order of interdiction" can be made by the justice for the same kinds of reasons that an Alcohol Committee can withdraw a person's eligibility. A list of "interdicts" is maintained by the Liquor Licensing Board. Again, no one is allowed to supply liquor to anyone who is on the "interdict list" and the interdicted person is not allowed to have liquor.

There are other circumstances under which a judge or Justice of the Peace can take away an individual's eligibility to purchase liquor — such as when a probation order is issued by the court as the result of a conviction in a criminal matter.

During the *Liquor Law Review*, many people suggested that, while the thinking behind these kinds of restrictions is supportable, they are very difficult to enforce. Operators of licensed premises and liquor stores often pointed out that there is no way for them to know whether a patron — especially someone from out of town — is legally eligible to purchase liquor at their establishment.

New Criteria for Defining Eligibility

Some of the questionnaire responses and input received during public consultations also suggested that the new *Liquor Act* should go a lot further in identifying conditions under which individuals should lose their eligibility to purchase liquor.

"Made-in-the-NWT" Solutions



The size and demographic profile of Northern community environments ... the challenge of product distribution within existing transportation networks ... the often complex nature of local government ... and the devastating persistence of certain social problems — these are just a few of the "special factors" that will need to be accommodated in planning our new *Liquor Act*.

That's not to say that legislative trends across the country ought to be ignored. Indeed, the *Liquor Law Review* has carried out extensive research comparing liquor control systems that exist in other jurisdictions. Input has been received from national organizations concerned with substance abuse issues ... and from brewing companies, distilleries and their national associations.

Also, it has been helpful to hear from RCMP detachment personnel, health officials and businesspeople who have commented on what ideas "work well" in different places they've been.

But, for the most part, the focus of the *Liquor Law Review* has been on identifying principles, strategies and ideas that cater specifically to the needs of Northern communities — and on finding "Made-in-the-NWT" solutions.

Throughout the *Liquor Law Review* consultations, groups and individuals frequently expressed strong feelings about the way our new legislation should be designed. Several commented that, too often, it seems like there's a tendency to simply adopt what they're doing in other Canadian jurisdictions.

This may require some new "innovations" that set our legislation apart from the way regulatory matters are carried out in other parts of the country. "Answers" to liquor control problems have to be tailored to the environment in which they are to be implemented.

They said that, especially with our new liquor laws, it's not going to be good enough to just copy liquor control models from other provinces' legislation. We need a new *Liquor Act* that reflects the values, the priorities and the ideas of people all across the Northwest Territories. We need "Made-in-the-NWT" solutions to address Northern problems.

Certainly, the uniqueness of the NWT can't be denied. Much of our approach to liquor regulation will have to be dictated by features that just aren't present elsewhere in Canada.

Principle No. 3:

Territorial liquor legislation should not necessarily be modeled after similar laws enacted by other Canadian provinces. While it may be instructive to examine approaches taken in other jurisdictions, the new *Liquor Act* should be tailored to meet the specific Northern needs that people have identified. Elements that promise to work well in the NWT should be incorporated, regardless of whether they have been adopted elsewhere in Canada.

The Scope, Structure and Function Of New Liquor Legislation

A fair number of the questionnaire responses, written submissions and public comments received by the *Liquor Law Review* included ideas about the way our new legislation should be organized. People also had definite views on the sorts of products and situations that should be covered by the Territorial *Liquor Act*.

What Should be Regulated?

Project personnel received many suggestions about the sorts of products that should be controlled by our liquor laws. Generally, people felt that the new *Act* should deal with as wide a breadth of alcohol-based products as possible. Most seemed comfortable with the idea that, if a drink product contained 0.5% alcohol by volume, or more, it should be included in the definition of liquor.

Beer, spirits and wine would all be included in this definition ... along with a wide range of low-alcohol coolers, beers, malt beverages and other products that are now being produced for the Canadian market.

They pointed out that products that contain higher alcohol content — premium and over-proof products — should be more tightly regulated than “light” or “low-alcohol” beverages.

There was a general recognition that the liquor industry responds quickly to market trends and influences. Definitions in our new legislation will need to be flexible to respond to the development of new products and marketing practices. They should also be flexible enough to accommodate changes in public preferences.

Current provisions dealing with sacramental alcohol and alcohol in prescription pharmaceuticals or patent medicines were seen by review participants as being adequate.

People were concerned, on the other hand, about cleansers and hygiene products that contain alcohol — often in very large amounts. These are often referred to as “non-beverage alcohol”.

These products are not intended to be used as beverages, but are sometimes consumed by people desperate for alcohol. There are both immediate and long-term health risks. Abuse of non-beverage alcohol was described by some people as widespread.

While it's true that many store operators in the NWT have taken a very responsible attitude toward voluntary controls on the stocking and sale of such items, there was public support for more regulation of non-beverage alcohol in the new liquor laws.

Although the present *Liquor Act* does contain restrictions on the sale of such products, many people felt they need to be strengthened.

What Should the New Act Contain?

The *Liquor Act* currently deals with a wide range of regulatory topics. During the review, people have had an opportunity to identify the kinds of items that should be included in the scope of our new legislation.

If individuals don't live up to those responsibilities when they're drinking liquor ... or if businesses don't take them seriously when they are selling liquor ... then people felt that they should lose their entitlement to have or to sell liquor. “Responsible” liquor use needs to be emphasized.

Who Should be Eligible to Use Liquor?

Our present *Act* states that every person is eligible to “consume, possess, purchase, sell, transport, import or use” liquor, if:

- they are over 19 years of age;
- they are not apparently intoxicated; and,
- they are not “interdicted”.

That means that, under present Territorial legislation, if you are younger than 19 ... or if you happen to be intoxicated ... you are not allowed to purchase, consume or have anything else to do with liquor. If you do, you're breaking the law.

As a general rule, our current legislation takes the position that, if you're not eligible to consume liquor, then you have no business purchasing or possessing it. This notion was strongly supported by members of the public who provided input during the *Liquor Law Review*.

“The Drinking Age”

During public consultations, a range of opinions were expressed about the way NWT legislation defines the “drinking age”. Many people called for the age of eligibility to be raised to 21 years. Others argued that raising the “drinking age” would create more problems than it would solve.

Those favouring a higher drinking age often commented that young people in the Northwest Territories are starting to drink “too early”. Many felt that an increased drinking age would make it easier to prevent very young teens from beginning to experiment with alcohol.

They also suggested that an increased “drinking age” would reduce the number of students legally able to drink in high school and college. Many people felt that, by raising the age for liquor eligibility, Northern youth would have an extra couple of years to prepare for the challenges that face them in their life ahead.

Many of those who *opposed* the idea of raising the drinking age wondered why teens in the Northwest Territories should not be granted the same level of responsibility as those everywhere else in Canada.

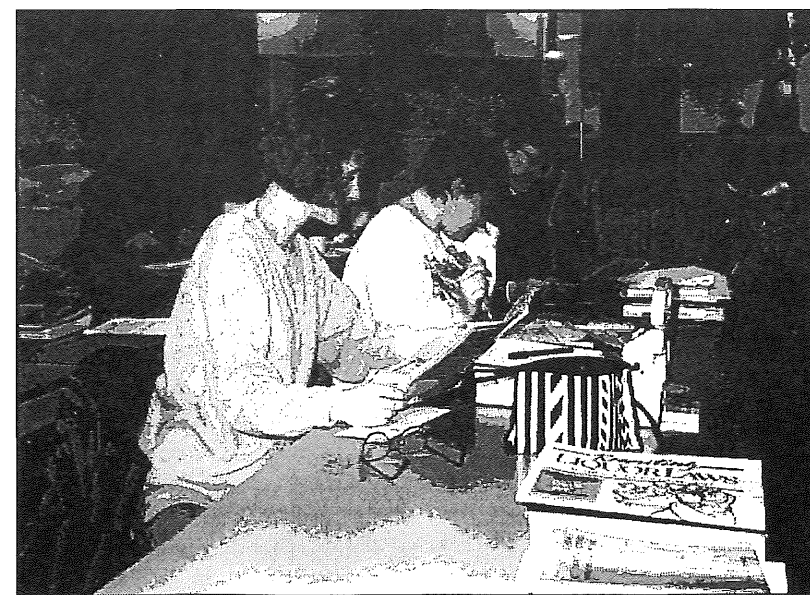
Frequently, *Liquor Law Review* personnel heard the argument that, at nineteen, Northerners are able to do many things associated with mature decision-making ... they are able to vote ... to marry and raise a family ... even to join the Armed Forces and fight for our country. Many people felt that a “mixed message” would be given by denying them the eligibility to use liquor.

Some people worried that raising the “drinking age” would cause youth to experiment more with illegal drugs, inhalants or non-beverage alcohol. Others were concerned that an older “drinking age” could increase the number of minors who have to be charged for possessing liquor unlawfully ... with associated pressures created for law enforcement agencies and the courts.

Questions about whether or not the eligibility age should be raised will need to be examined during the upcoming review of this *Legislative Action Paper*. Advantages and drawbacks of each approach will need to be carefully considered.

WHAT'S COVERED IN THE LIQUOR ACT NOW?

◇ definition of “liquor”	◇ prohibition, “quotas”, Alcohol Committees and other local options for communities	◇ when it's unlawful to purchase, sell or consume liquor
◇ composition and role of the Liquor Licensing Board	◇ rules for plebiscites to establish local options	◇ liquor consumption by minors
◇ licences and permits that allow liquor sales	◇ civil liability of people who sell liquor	◇ interdiction
◇ “off-sales”	◇ the Liquor Commission	◇ search, seizure and arrest
◇ rules for licensed premises	◇ liquor stores	◇ offences and punishments for violating liquor laws
◇ rules for cancelling or suspending liquor licences	◇ criteria for saying who is and isn't eligible to possess and consume liquor	◇ provisions that allow the GNWT or the Liquor Licensing Board to make regulations about how the <i>Act</i> is to be carried out
◇ duties of liquor inspectors	◇ the “drinking age”	
◇ breweries	◇ public intoxication	



Eligibility to Sell, Possess and Consume Liquor

Options for Legislative Action: Eligibility

People told the *Liquor Law Review* that the new *Act* should:

- ◆ Clarify that the eligibility to purchase, possess and consume liquor is not a "right". The *Act* should also indicate that this entitlement can be lost under certain conditions. Basic age and other eligibility criteria should specify which individuals are entitled to have liquor. However, basic eligibility criteria should be considered "minimum standards" that apply everywhere in the Northwest Territories. Communities should not be able to establish their own "drinking age".
- ◆ Make it a more serious offence for persons younger than the "drinking age" to consume liquor. A wider range of penalties and other consequences could be developed, and the new legislation could be framed in a manner that incorporates community justice alternatives whenever possible.
- ◆ Develop a mechanism that allows liquor sellers and law enforcement authorities to determine whether a person is entitled to possess or consume liquor.
- ◆ Establish criteria that clearly specify who is eligible to operate businesses or to sponsor events where liquor is sold. Also, indicate who is ... and isn't ... able to work in place where liquor is sold. In general, the sale of liquor should be restricted to designated liquor stores, licensed premises or permitted "special occasions". However, the *Act* could also establish new avenues for retailing liquor

A key component of any liquor control system is the framework it provides for identifying who is ... and who isn't ... eligible to deal in liquor.

People told the *Liquor Law Review* that the new legislation should be clear on a very basic point: *No one automatically has a "right" to consume — or to sell — liquor!*

Liquor is a regulated product. Persons wishing to drink ... or wishing to engage legally in the sale or distribution of liquor ... should have to meet certain criteria. In other words, Territorial liquor legislation should set out the conditions that one has to satisfy in order to be considered "eligible" to have or consume liquor.

Once it's established that those conditions have been met and eligibility has been granted, there should be certain things you can expect to do without having to justify why you're allowed. And there should also be certain things you can count on about how you're going to be treated by "the system". In this respect, eligibility to consume liquor can begin to feel a little bit like a "right".

But, there are also certain responsibilities inherent in being able to drink legally — and the government should expect people to tailor their behaviour so that it's consistent with those responsibilities.

The new *Act* will need to define the kinds of products that are being regulated — but it will also need to include "definitions" of the environments, instruments, officials, agencies, transactions and other items covered by the legislation. Many review participants felt that the scope of the *Act* should be as broad as possible.

Any liquor control framework also needs to establish a number of different "systems". For instance, there needs to be a formal framework for reviewing licence applications — and for monitoring whether licensed premises are operating according to the *Act* and regulations. Systems need to be in place to distribute liquor to the various outlets and to collect revenue.

The *Act* also has to contain provisions that set up certain "institutions" with roles to play in the administration of our liquor control framework — government agencies such as the Liquor Licensing Board and the Liquor Commission.

The precise structure and powers of these government boards and commissions may change from what they have been to date. Their organizational framework will need to be considered during the review of this *Legislative Action Paper*.

There may have to be provisions in the new *Act* that establish and enhance administrative bodies for those communities that want to exercise local options for liquor control.

Options for Legislative Action: Content Elements for a New *Liquor Act*

During public consultations, the *Liquor Law Review* heard that new liquor legislation should:

- ◆ Establish a broad definition of liquor. All beverages containing 0.5% alcohol by volume, or more, should be defined as "liquor". Different regulatory schemes could be developed for liquor that differs in alcohol content. As a general rule, the higher the alcohol content, the more restrictive the regulatory system could be.
- ◆ Include sensible, enforceable restrictions on products that contain alcohol but are not intended for use as beverages.
- ◆ Set out *all* the definitions, systems, institutions, standards, general procedures, offences and penalties necessary for a liquor control framework in the Northwest Territories. Many of these may differ from current structures and practices, or from legislation that exists elsewhere in Canada.
- ◆ Organize the new legislation in a more logical manner and using "plain language" that can be readily understood. There could be requirements to make summaries of the *Act* and regulations ... and information about the way our liquor control system works ... available in all Official Languages.
- ◆ Organize legislative content into three discrete conceptual groupings:
 - general requirements for the way liquor is to be manufactured, sold, distributed, possessed, transported and consumed in the Northwest Territories;
 - standards and procedures for issuing and monitoring licences that allow for the operation of places where people can go to drink outside their homes;
 - "local options" allowing communities or regions to establish distinctive systems for liquor control.

Three separate statutes could be developed, one to deal with each of the conceptual groups. Or all could be included in a single *Act* as they are now.

**Options for Legislative Action:
Designing a New Model for "Community-Based" Liquor Control**

During public consultations, participants told the *Liquor Law Review* that our new liquor legislation should:

- ◆ **Expand alternatives available for communities to exercise local control over liquor regulation.** The *Liquor Act* should lay out a liquor control system for the Northwest Territories as a whole. But, where individual communities or regions wish to establish their own framework for regulating liquor, there could be mechanisms in place to transfer certain aspects of the liquor control system. "Minimum standards" should be defined that apply all across the NWT but, beyond that, communities or regions could have considerable flexibility in developing systems that meet local needs.

The new liquor legislation should also include *standards* — or criteria — that we can employ to determine whether liquor sales or consumption are taking place in a fashion that most people consider appropriate. The number of drinks that a patron can order at one time in a bar ... the age one has to reach before being allowed to drink legally ... the conditions that have to be proved before a Justice of the Peace can order a person interdicted ... these are just a few examples of standards that will need to be developed.

Along with the standards, certain uniform *procedures* will have to be described. Procedures are needed for issuing licences, for holding community plebiscites, for conducting investigations and so on.

The most general standards and procedures are likely to be found in the *Liquor Act* itself. Specific standards and procedures are better established in regulations or by policy. Suggestions for some of these new standards and procedures are outlined in later sections of this paper.

The new *Liquor Act* will also need to define kinds of conduct that are regarded as *offences* ... and the *penalties* that violators can expect to receive. During community consultations, many people argued that stiffer penalties are needed.

Some groups and individuals also suggested that one more thing is needed. They recommended including a general statement of principle — a *preamble* — to the *Act*. This statement could proclaim that: (1) alcohol is a regulated substance; (2) that the government and people of the NWT recognize the impact that *inappropriate* use of alcohol can exert on Northern communities; and/or (3) a commitment to address patterns of alcohol abuse and the social problems that result. Others added that such a statement should clarify that one's eligibility to consume liquor is a "privilege", not a "right".

Other people disagreed with including a preamble, pointing out that such statements rarely make a practical difference and can confuse matters legally.

Indeed, many people have suggested that there are other more effective vehicles for indicating the government's commitment to dealing with alcohol abuse issues. They have pointed out that the *purpose* of this *Act* is to "control liquor", not solve the North's social problems. The limited educative value of such a statement would have to be weighed against the possibility that it could be interpreted differently than the Legislative Assembly initially intended.

**"Community-Based"
Liquor Control:
A New Approach**

Almost everywhere *Liquor Law Review* officials went, they heard a strong call for greater community control over liquor regulation. This quickly became one of the key "themes" of public meetings, phone-in radio broadcasts and submissions from interest groups.

People in all regions seemed to be saying, "*We know what will work in our communities! We should have the authority to design liquor control strategies that meet our needs!*"

They asked whether the new *Act* could specify that there had to be representatives from all regions. Some participants also suggested that there should be "guaranteed representation" for aboriginal peoples, women or nominees from the hospitality industry..

Even more often, comments were heard about the *role* of the board. There were opinions that, because of the way our current *Act* is put together, the board has its hands on many matters that are seen as primarily administrative.

Perhaps, when the current legislation was developed ... 25 years ago ... the size of the administrative workload made the Liquor Licensing Board a logical place for such decisions to be made.



Today, many board activities, perhaps including regulation-making authority and some disciplinary proceedings, could be carried out by the public service. The board could quite properly serve a vital role in setting policy and deciding appeals filed by licensees or others who felt that government administrators had not dealt with them properly.

But, for many people who talked to the *Liquor Law Review*, the greatest needs lie in the area of communication and awareness building. Frequently, people made comments that the sort of consultations undertaken as part of the review should be carried out on an ongoing basis. A lot of them felt that this role could be played by the Liquor Licensing Board.

**Options for Legislative Action:
Government Agencies**

During public consultations, participants told the *Liquor Law Review* that the new liquor legislation should:

- ◆ **Re-focus duties of the Liquor Licensing Board.** The board's role could shift away from specific licensing details, disciplinary hearings and the making of regulations. Instead, the board could be established in a manner that allows it to decide appeals of administrative decisions, to develop policy, to advise the Minister and to promote public awareness of liquor legislation. Where it is in the public interest, the Minister responsible for administering the *Liquor Act* could be empowered to delegate some or all of the board's powers to community or regional bodies.
- ◆ **Enable a more flexible organizational structure for the NWT Liquor Commission.** The Liquor Commission should remain the government institution that undertakes the importation and distribution of liquor. It should also have responsibility for collecting revenue from the sale of liquor and for transferring it to other government revenue funds, according to requirements laid out in the *Act*. However, these responsibilities could be consistent with a range of organizational frameworks that differ from the current structure of the Liquor Commission, such as a *crown corporation*".

The GNWT could face an enormous cost — likely in the millions — of “buying back” contracts for retail and warehouse outlets.

Yet, several people told the *Liquor Law Review* that the notion should be considered. They stressed that, presently, there is a real irony in having the government trying to supply, regulate and remedy problems associated with the use of alcohol. They said it's important to look beyond the *status quo*.

Perhaps, the best framework would be one that leaves both distribution and regulatory authority with the government, but allows certain aspects of each to be transferred to communities — or to the private sector — in situations where it makes sense to do so.

Government Agencies

There are two government agencies established under our present *Liquor Act*: the NWT Liquor Commission and the Liquor Licensing Board.

Some social agencies and advocacy groups stressed the need for a greater arms-length relationship between the Commission and the Liquor Licensing Board, to ensure that enforcement policy was not influenced by revenue generation goals.

There were also some interesting suggestions about ways in which the general structure of the Commission might be re-designed. There are probably several different organizational styles that could be consistent with the Commission's statutory role. One may be a “crown corporation” model that would give the Commission more autonomy ... but also ensure that it was possible for the Cabinet to issue directives on its operation.

The *Liquor Licensing Board* is comprised of up to nine members appointed by the Minister, with authority for a very wide range of matters. Under our current legislation, the board grants licences for bars, dining lounges and other licensed premises ... makes regulations ... reviews licensee requests for special prices and events ... and conducts disciplinary hearings in situations where licensees are alleged to have violated the law. During the *Liquor Law Review*, people in communities had many good things to say about the individual members of the board and the contribution they have been making.

At the same time, a number of groups and individuals expressed concern with the way our present legislation structures the board.

The *Liquor Commission* is a branch of the GNWT that has responsibility for selling and distributing liquor. Under the present legislation, bars, liquor stores and other outlets have no choice — they must acquire their liquor only from the Commission. This has been the standard model in Canada for years.

During the *Liquor Law Review*, frequent comments were made about the way the price and selection of liquor items are determined by the Commission — many people felt that prices were too high and that selection was too limited.

The present *Liquor Act* does allow communities to exercise certain options for the local control of liquor. These must be approved in a plebiscite before they can be brought into effect.

But, many communities told the *Liquor Law Review* to go further in making an even broader range of systems available as local options.

They said that the new *Act* should establish a set of “*minimum standards*” — rules that have to apply to all communities across the NWT. But, they said that minimum standards should deal with the fewest possible aspects of our liquor control system.

Having defined the “minimum standards”, they said, the *Act* should then define a “generic” framework for liquor control in the entire NWT — including the systems, institutions, standards and procedures that are needed for it to run smoothly.

Communities that did not wish ... or could not decide whether ... to set up their own unique local framework for liquor control would use this “generic” system.

However, under this new system, communities would also have the option of assuming new liquor control responsibilities ... *if they wanted to!* The *Liquor Act* could give them authority to re-design parts of the liquor control system to meet local needs — except for those items designated as “minimum standards”.

Once the new “local system” had been designed, community residents would vote, in a plebiscite, to determine whether it was acceptable.

If a certain percentage of eligible voters in the community agreed with the “re-designed” local system, then regulations could be made to implement it.

Certainly, this is an idea that needs a lot more detailed discussion. The identification of “minimum standards”, the establishment of straightforward procedures for allowing communities to assume control and the potential financial implications will all have to be carefully considered.

Yet, so many communities expressed such strong support during *Liquor Law Review* consultations, it seems timely and important to include it as one innovation on which the revised *Liquor Act* could be based.

How Should the New Liquor Act Be Organized?

Territorial liquor legislation is presently divided into seventy-six sections ... 331 subsections ... and 129 regulations. *Liquor Law Review* officials received many complaints that the current *Act* is cumbersome, disorganized and very difficult to understand. *People want significant changes in the way it's organized.*

A concern expressed often during public discussions was that ideas are not grouped together well in our present *Liquor Act*. That makes it hard for users of the legislation to find the specific sections they're interested in, and to see how those sections relate to others.

Maybe it would be better if related concepts could be grouped together. All sections of the *Act* could probably be organized into three groupings.

The first group could deal with the general “rules” about liquor that are likely to apply to everyone. Provisions, for instance, that tell who can sell liquor ... how it should be transported ... who's eligible to drink it ... and so on ... all need to be grouped together.

The second grouping could deal with the “rules” — the standards and procedures — for issuing and monitoring liquor licences to bars, lounges, dining rooms and other establishments.

The third grouping could provide the transfer framework for communities wishing to exercise more local control.

One Act? ... Or Three?

Some people even suggested that, instead of a single *Liquor Act*, there could be three — one for each of these groups of concepts. Incidentally, the NWT wouldn't be unique in taking this approach. Several Canadian provinces have one statute that establishes agencies for the distribution and control of liquor and another that deals with licensing procedures.

Some people pointed out that having more specific, individual pieces of legislation would enable people to more easily focus in on aspects of the liquor control laws that were most important to them.

On the other hand, it would also require extensive cross-referencing between the related statutes, could result in a larger and potentially more confusing body of regulations, and could lead to problems of interpretation if content in one *Act* became inconsistent with the content of another.

Options for Legislative Action: Responsibility for Liquor Distribution and Regulation

People told the *Liquor Law Review* that the new *Liquor Act* should:

- ◆ Establish clearly that the Government of the Northwest Territories (GNWT) has a dual responsibility for ensuring that (a) liquor is properly regulated, and (b) that revenue is generated, for the public benefit, from the sale of liquor. To fulfill these responsibilities, there could be avenues within the *Liquor Act* that allow the GNWT to transfer certain authorities to local governments or to the private sector.

Not everyone agreed. Other participants argued that “*the best way to regulate something carefully is to make sure you're the seller*”. Others were concerned about seeing the GNWT establish a distribution system that is driven solely by the “profit motive”. The *Liquor Law Review* heard more apprehension than support when the concept was discussed at the community level. Some people suggested that a better route might be to re-structure the Commission so that it was more distant from, but still accountable to, the government.

Three Desired Outcomes: Effectiveness, Balance and Community Priorities

Over the course of the *Liquor Law Review*, people have sometimes wondered:

"What's the bottom line?"

"What are we trying to achieve by changing the Liquor Act?"

To a large extent, answers to those questions come from the public consultation process. Since the start of the review, project staff have been listening carefully to what NWT residents have to say about the kind of liquor control system they would like to see.

People have said, for instance, that they want Territorial legislation to be more *effective*. They want it to reflect a careful *balance* in the way liquor is regulated. And they want the law to establish a system that focuses on the things that communities believe are important.

Effectiveness in Liquor Regulation

One of the themes heard over and over at *Liquor Law Review* consultations was that many Northerners have lost faith in our approach to liquor control. Frequently, people said that they didn't believe the current *Liquor Act* was capable of addressing problems in their communities. Often project staff heard that the *Act* lacks "teeth" when it comes to dealing with illegal liquor use.

Some communities even expressed the view that the GNWT has "lost control" of liquor altogether.

Others focused on the fact that many standards and procedures incorporated in our liquor legislation 25 years ago are now excessive or impractical. Licensing and disciplinary systems were sometimes described as being bound up in "too much red tape".

Liquor licensees told the *Liquor Law Review* that current legislation and policy requires them to "jump through too many hoops" by requiring them to seek Liquor Licensing Board approval for relatively minor operational matters. Some felt that too much time is spent dealing with administrative details, while failing to make much of an impact on the larger issues that really concern Northerners.



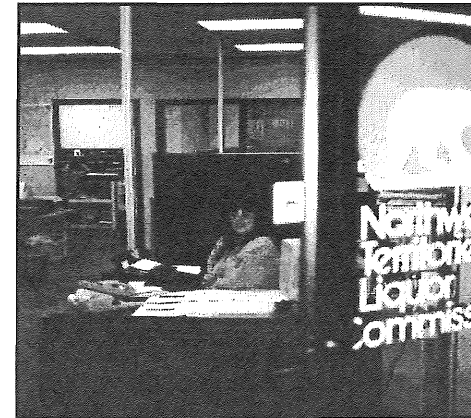
Throughout public consultations, the *Liquor Law Review* frequently heard about a great many areas where participants felt new liquor legislation should be made more effective.

But what did people really mean when they talked about "more effective legislation"? That depended a little on who was talking about it.

Generally, though, most said that "effective legislation" ...

(1) *has to be clearly understandable*. People felt that the new liquor law should be drafted using a plainer style of language that could be more easily read by users. Recommendations were also received that it's necessary to develop summaries of *Liquor Act* content in all Official Languages. Legislation can't be "effective" unless it can be understood.

The Government's Role In the Sale and Regulation of Liquor



Several *Liquor Law Review* participants spoke about the fact that the Government of the Northwest Territories is, on one hand, the seller of liquor and, on the other, the regulator.

This was a source of concern for some. They wondered, at public meetings, about how the GNWT could be "serious" about effective liquor control when so much government revenue is raised through its sale. Some even raised the question: "Why is our government involved in marketing a product that can create so much pain and hardship?"

At the same time, several consumers wrote or spoke to the *Liquor Law Review* to express concern that licensing and distribution systems are too "overcontrolled" and intrude too much in the market.

Right now, the *Liquor Act* states that all liquor sold by licensed premises and liquor stores has to come from the NWT Liquor Commission.

In Canada, provincial governments have the dual responsibility for selling and regulating liquor ... so the NWT is following the national norm in this respect. But, some people have suggested that, maybe, we shouldn't be. They've proposed that the GNWT should concentrate on *regulating* liquor and should generate revenue through taxation at the point of sale.

They've argued that the Liquor Commission's role should be turned over to private businesses, with liquor outlets allowed to buy from whatever source gives them the most economic deal.

Indeed, the whole question of whether or not the GNWT should distance itself from the role of liquor "supplier" generated a certain amount of discussion over the course of the review. It became clear that a range of potential models could exist for re-defining the government's role.

Federal legislation dictates that only the Government of the Northwest Territories will be the sole importer of alcohol in this jurisdiction. Within that framework, however, there may be considerable room for new and innovative approaches.

Some people have suggested that the sale of liquor should be completely "privatized" so it becomes similar to the way tobacco products are now sold. Liquor outlets could be *licensed* to purchase and import liquor products directly from suppliers — on behalf of the GNWT — and to sell liquor in the Northwest Territories. The GNWT would concern itself, then, only with the collection of liquor taxes, regulation and enforcement.

However, the government has also undertaken a number of current "privatization" initiatives over the past few years that involve agreements with private liquor store and warehouse operators.



Considering this diversity, it will be hard to develop legislation that's seen as 100% satisfactory by everyone. Most likely, individuals will find some principles and substantive content of the new *Liquor Act* to their liking ... and won't be fond of other parts.

It will be important, while this *Legislative Action Paper* is being reviewed, for people to comment on where they think the most appropriate balance should lie. Of the ideas they don't like ... *which ones could they live with?* Of concepts they would like to see implemented ... *which ones should be regarded as essential?* A better understanding of different liquor control perspectives should emerge from this dialogue.

Community Priorities in Liquor Regulation

Some people have suggested that the best way of arriving at an appropriate balance is to allow this "give-and-take" to happen at the local level. There, dynamics between different interests can be worked through better ... and liquor control systems can be established that accommodate regional differences.

Indeed, many people told the *Liquor Law Review* that the new legislation should be built, in part, around the principle that it places its priorities on the same things as NWT residents. This was a frequent criticism of our current *Liquor Act*. Many felt that our present legislation places its emphasis in areas that just aren't all that important to people at the community level.

It was pointed out, for instance, that many Northerners perceive the illegal sale and distribution of alcohol to be a major problem in their communities. Yet, the tools that our legislation gives police for addressing the problem are widely seen as weak. The *Act*, in some instances, imposes administrative requirements on the RCMP that divert time from enforcement. People who would like to see convicted "bootleggers" deterred from future violations simply can't understand why penalties often seem so insignificant.

During the *Liquor Law Review*, as well, many groups and individuals stressed that there should be better community input into government decisions. They said that the Liquor Licensing Board should be listening to people's perspectives and using them to influence liquor control policy. Yet, so much of the board's activity has become preoccupied with minute administrative matters that public communication is often overlooked. Consultation — seen as important by many people — appears to them to have a lower priority within the bureaucracy.



In all regions, the *Liquor Law Review* heard about a need for more community awareness of liquor regulations ... and of the impact of alcohol on communities. People were often disillusioned to learn that there is no requirement in the *Act* to inform the public about liquor "rules" in the NWT.

Over and over, there were examples of areas where the present *Act* takes directions that are out of synch with community priorities. Perhaps, one of the principles needed for new liquor legislation should be that it reflects the preferences and values that Northerners consider most important.

During the *Liquor Law Review*, regional and local leaders often disclosed frustration with the *status quo*. They told review officials that, whenever they have come forward with constituents' ideas for improving liquor control practices, they've been confronted with: "Oh, but the *Liquor Act* doesn't allow that to happen". Their answer to this — *Change the Liquor Act!*

Principle No. 4:

Liquor control systems, institutions and standards should be "powerful" enough to ensure that the goals of the legislation can be achieved. They have to be regularly evaluated to determine whether they are accomplishing the desired effect. The new legislation should reflect community priorities and empower local measures for liquor control.

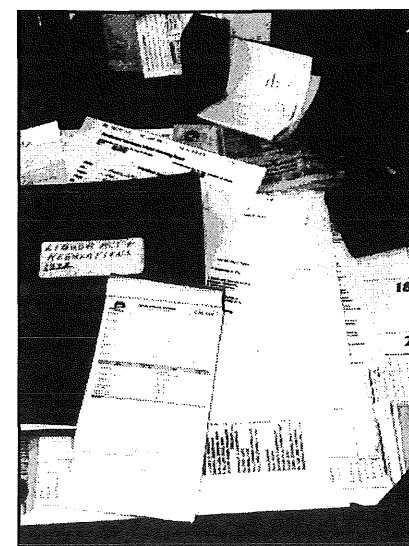
Principle No. 5:

The new *Liquor Act* should reflect a parity - or balance - between the interests of varying lifestyles. On one hand, it has to be recognized that many Northerners enjoy a consistently moderate and responsible pattern of liquor consumption. On the other, it must also be acknowledged that excessive or irresponsible liquor consumption has been linked to many of the social problems that plague NWT communities. New liquor control legislation will have to be designed in a manner that reflects both these realities.

(2) sets standards for conduct that are enforceable. Legislation needs to stand up to court scrutiny. It can only deal with matters that are within the legal jurisdiction of the Northwest Territories and it must be consistent with Canada's *Charter of Rights and Freedoms*. It's also necessary to have "practical" laws that the authorities can enforce — there's no point, for example, to making some behaviour an offence unless it is possible to "catch" people who commit it.

(3) establishes a process for dealing with businesses or individuals who violate the legislation — and contains penalties that are significant enough to help motivate behaviour change. Much public input at community meetings suggested that penalties in the current *Act* are insufficient.

Some people, though, pointed out that it's not the size of the penalty that stops people from breaking the law. It's the feeling of *certainty* that they'll get caught if they do. That's why it becomes so important to have carefully established powers and procedures for enforcing the *Act*.



(4) establishes systems that don't get "bogged down" in paperwork. Our present system loses effectiveness because there are too many administrative levels involved in decision-making. Regulations often become outdated because of a slow and cumbersome system. Requirements for the disposal of illegal liquor consumes time that could be better spent on law enforcement.

(5) allows decisions to be made as close as possible to the people or communities that are affected. Project personnel were often struck by communities' comments that our current approach is failing because of "distance decisionmaking". Community-based liquor control would allow for better integration of local services, more relevant innovation and faster response time in dealing with problems.

Evaluating Effectiveness

How will we know whether the new *Liquor Act* has succeeded in establishing a "more effective" liquor control system? During public consultations, it has been suggested that ... whatever new principles or strategies are built into the revised *Liquor Act* ... they will need to be evaluated over time to ensure that they are achieving the desired effect.

This may be an area where our current liquor control system has fallen down a bit. It's hard to know exactly what sort of effect all our order forms, fees, inspection procedures and hearings are actually having on the way liquor is used in the Northwest Territories. People stressed that there has to be more attention paid to whether our liquor control measures are actually working.

It will be necessary, in doing this, to clearly set out the objectives we're hoping to accomplish with each of the new concepts implemented with the revised *Liquor Act*.

And it will be necessary to find valid indicators — and ways of measuring them. Many people suggested that it's not enough to simply track the amount of liquor being sold — it is also important for government departments to cooperate in identifying what's happening with social, law enforcement and local economic trends related to alcohol use. If more administrative responsibility for liquor control is transferred to communities, maybe evaluation can evolve as an ongoing "headquarters role".

Throughout the review process, people often expressed dismay when discovering that no comprehensive review of liquor legislation has been undertaken in 25 years. Many suggested that the new *Liquor Act* should contain requirements for a mandatory periodic review of legislation. This could mean that the *Act* and liquor regulations had to be reviewed at regular intervals to ensure that they were up-to-date and working well.

It has even been suggested that, if an accurate base of data can be assembled, it might be possible to link liquor pricing and "revenue generation" to the actual health and social costs of alcohol use in the NWT. Certainly, this might be a difficult approach to take right now, but some people have suggested that it may be a principle toward which the NWT could work over the next several years.

Balance in Liquor Regulation

Opinions heard during the review suggested that Territorial liquor legislation should be *effective* ... but that it should also be *balanced*. People felt that the *Liquor Act* should reflect a spirit of "fairness" and an acceptance that a wide range of lifestyles exists in our Northern society.

There were, however, very different views on where the balance should lie. Striking the most appropriate balance for our liquor laws will require a lot of consideration and discussion while this *Legislative Action Paper* is being reviewed. It's possible to begin this process, perhaps, by examining a couple of more "extreme" positions.

"Looking for a Balance": An Extreme Position

Of the 400 or so questionnaire responses received, about 15% to 20% called for the GNWT to consider imposing very significant restrictions on liquor availability. Some suggested that there should be a complete "ban" on all liquor sales in the Northwest Territories. Others proposed a "five-year moratorium", to give Northern communities some time to address existing social problems.

Community consultations and public meetings provided an opportunity to hear what other NWT residents thought of these ideas. While most participants said they could understand the sentiments that would lead to such proposals, they could not favour an outright "ban" on liquor. Many felt that this kind of approach would be unfair to individuals who use liquor in a responsible manner ... and, even more strongly, that it just *simply would not work!*

Attempts to effect a total "ban" on liquor sales, they pointed out, could result in cross-border smuggling from other jurisdictions and may lead some to substitute other intoxicants for the liquor they could no longer obtain. There is a risk that, if attempts were made to completely restrict all liquor, people might regard it as a "forbidden fruit", and yearn for it all the more.

There was another point that a number of people made. For many Northerners, responsible, moderate liquor consumption is just a part of their lifestyle. Many of the people who spoke to the *Liquor Law Review* pointed out that they remembered a "toast to the bride" at their wedding ... having a beer with an opposing player after a softball game ... sharing a bottle of wine while watching a sunset ... or other personal moments ... quite fondly. Others noted that, for some community organizations, the sponsorship of special liquor events is one of the only ways to raise operating funds. They felt that it's hard to see the "fairness" of denying *responsible* consumers any access to liquor products.

The Other Extreme

While some people wanted much less liquor to be available in the Northwest Territories, a handful of people — often speaking out at public meetings — took a different point of view.

"People who want a drink will always find a way to get one ... no matter what's in the law", they said. *"Those who can't handle their liquor won't become any more responsible just because a law is passed — why bother trying to regulate alcohol at all!"*

Certainly, though, others felt that a well-working regulatory system *is* needed. It protects people who may be damaged by the irresponsible use or distribution of liquor and it safeguards revenue that pays for government services and programs. During public consultations, there was usually a consensus among those who spoke to the *Liquor Law Review* that some element of restriction over liquor products should be maintained, and even strengthened.

"Striking a Balance": Reconciling the Extremes

Liquor Law Review consultations have underscored the fact that Northerners hold a variety of differing views about the kind of liquor control framework that's needed.

That's not surprising. The Northwest Territories is a place where regional and community contrasts stand out. The kinds of liquor control problems that confront residents in one community can be quite different from those facing people living in another. Large communities may have different issues than smaller ones. Communities on highways face different problems than those that aren't.

There were other contrasts too. Older people sometimes had different views than youth. People varied in their opinions about how much power governments should have to "intrude" into their private lives. For some, controlling alcohol is seen as a matter of personal or family survival — for others, it raises questions about intrusions on individual "liberty".

