

LIQUOR ACT

The Commissioner of the Northwest Territories, by and with the advice and consent of the Legislative Assembly, enacts as follows:

1. This Act amends the Liquor Act.

2. The following is added after paragraph 2(1)(4):

"brewery"

(4.1) "brewery" means any facility for the commercial manufacture of beer in the Territories."

3. The following is added after paragraph 2(1)(13):

"manufacturer"

(13.1) "manufacturer" means a person who operates a facility to manufacture beer in the Territories;

"manufacturer's permit"

(13.2) "manufacturer's permit" means a permit issued under paragraph 11(1)(a.1)."

4. Paragraph 2(1)(17) is amended by adding "a manufacturer's permit," after "an imported liquor permit,".

5. The following is added after paragraph 10(1)(e):

"(e.1) a brew pub licence to a holder of a manufacturer's permit for the sale and consumption of beer;"

6. The following is added after paragraph 11(1)(a):

"(a.1) subject to subsection (1.1), manufacturers' permits to authorize the operation of facilities for manufacturing beer under section 48 of the Northwest Territories Act;"

7. The following is added after subsection 11(1):

(1.1) The Commissioner shall not issue a manufacturer's permit where

- (a) the facility in respect of which the application is made is to be located in an area that is prohibited or restricted under this Act;
- (b) the applicant is a minor;
- (c) the applicant is not an individual and
 - (i) the majority of the applicant's directors or officers are minors, or
 - (ii) the individual who is in charge of the facility in respect of which the application is made is a minor;
- (d) the applicant is a member, employee or agent of the Board or Commission;
- (e) the applicant operates a liquor store under this Act;
- (f) the facility in respect of which the application is made is owned or partly owned by a member, employee or agent of the Board or Commission or by a person who operates a liquor store under this Act;
- (g) in the opinion of the Commissioner, the applicant is not the true owner of the facility in respect of which the application is made;
- (h) the applicant has been convicted of the prescribed offences; or
- (i) the applicant has not complied with this Act or the regulations."

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8. The following is added after subsection 11(3.1):

(3.2) A manufacturer's permit issued under this section authorizes the holder of the permit to

- (a) manufacture at the premises described on the permit, and
- (b) sell to the Commission, the quantity and category, class, variety or brand of beer described in the permit."

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"Authority of manufacturer's permit

9. The following is added after section 11:

"Restrictions on renewal and transfer	11.1.(1) Subsection 11(1.1) applies to the renewal and transfer of a manufacturer's permit.	
Renewal of manufacturer's permit	(2) The holder of a manufacturer's permit who wishes to have the permit renewed shall apply to the Commissioner in the prescribed manner.	5
Transfer of manufacturer's permit	(3) No holder of a manufacturer's permit shall transfer the permit to another person unless the transfer has been approved by the Commissioner.	10
Transfer fee	(4) Where the Commissioner approves a transfer of a manufacturer's permit, the transferor shall pay the prescribed fee and the transfer is deemed not to be final until the fee has been paid in full.	15
Particulars	11.2 Where a company applies for the issuance, renewal or transfer of a manufacturer's permit, the Commissioner may require the directors of the company to produce particulars of the officers and shareholders of the company.	20
Offence	11.3 Every person who (a) applies for the issuance, renewal or transfer of a manufacturer's permit, and (b) knowingly fails to make full disclosure to the Commissioner regarding any provision of subsection 11(1.1) is guilty of an offence.	25 30
Issue or transfer of shares	11.4(1) Where the holder of a manufacturer's permit is a company, the directors of the company shall submit to the Commissioner for approval any issue or transfer of shares of the company that results in a shareholder beneficially owning or controlling more than 10% of the voting rights attached to all shares of the company for the time being outstanding.	35 40
Idem	(2) Where, in the opinion of the Commissioner, an issue or transfer of shares of a company results in a change referred to in subsection (1), the issue or transfer is deemed not to be final (a) unless the Commissioner approves the issue or transfer; and (b) the transferor has paid the prescribed fee in full."	45 50

10. Subsection 22(1) is repealed and the following substituted:

"Application by manufacturer

22.(1) The holder of a manufacturer's permit may apply to the Board for a brew pub licence or an off-premises licence.

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Prohibition

(1.1) Subject to subsection (1), no licence may be granted, renewed or transferred under this Act to or in respect of:

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

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

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(c) a person who, by reason of any agreement, arrangement, concession, obligation or understanding, oral or written or direct or indirect, with any other person promotes the sale of the liquor of any manufacturer; or

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(d) any premises in which a manufacturer of liquor has an interest, whether freehold or leasehold, or by way of mortgage, lien or charge upon any chattel property therein, whether or not such interest is direct or indirect or contingent or by way of suretyship or guarantee."

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11. Paragraph 71(1)(b) is amended by adding "manufacturers' permits," before "wine permits".

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12. The following is added after section 74:

"FACILITIES FOR MANUFACTURING BEER

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Prohibition

74.1.(1) No person shall manufacture beer in the Territories except

(a) under a manufacturer's permit; and

(b) in accordance with this Act and the regulations.

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Idem	(2) No manufacturer shall sell beer except (a) to the Commission; and (b) in accordance with a manufacturer's permit.	5
Inducements	74.2.(1) No manufacturer, his agent or employee shall, directly or indirectly, offer to any person operating a licensed premises or liquor store any financial or material inducement for the purpose of increasing the sale or distribution of any brand of beer produced by that manufacturer.	10
Exception	(2) Subsection (1) does not apply if the person operating the licensed premises is operating under a brew pub licence or an off-premises licence granted to the manufacturer.	15
Monthly returns	74.3.(1) Every holder of a manufacturer's permit shall make a monthly return to the Minister showing the gross amount of sales made by the manufacturer.	20
Other returns	(2) The Minister may, in writing, direct the holder of a manufacturer's permit to deliver to the Minister a return (a) in a form approved by the Minister; and (b) setting out the prescribed information.	25
Compliance	(3) The holder of a manufacturer's permit shall comply with a direction given under subsection (2) within 7 days after the direction is received by the holder.	30

Inspection

74.4.(1) The Commission or a person designated by the Commission may

- (a) examine a facility for manufacturing beer to ensure that it complies with this Act and the regulations;
- (b) demand from a manufacturer samples of beer that the manufacturer intends to sell or is selling in the Territories;
- (c) examine all books, documents, vouchers and other papers kept by or in the possession of a manufacturer relating to the manufacture of beer; and
- (d) temporarily remove any books, documents, vouchers or other papers referred to in paragraph (c), where the Commission or its designate gives a receipt for them to the person from whom they are taken.

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Obligation on manufacturer

(2) A manufacturer shall, on the demand of the Commission or its delegate

- (a) immediately furnish samples of beer as required under paragraph (1)(b);
- (b) produce all books, documents, vouchers or other papers referred to in paragraph (1)(c);
- (c) give the Commission or its designate every reasonable facility for making an examination of the books, documents, vouchers or other papers demanded by it; and
- (d) permit the Commission or its designate to make copies of any of the books, documents, vouchers or other papers demanded by it.

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Evidence

(3) A copy of a book, document, voucher or other paper obtained under this section and certified by the Commission to be a true copy shall be admitted in evidence in any action, proceeding or prosecution under this Act as proof of the original record, in the absence of evidence to the contrary, without proof of the signature or official character of the person certifying the paper.

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Identification

(4) A person acting under the authority of this section shall carry identification in the prescribed form and shall, on request, present the identification to the manufacturer or the occupant of a facility for manufacturing beer.

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Suspension of
licence or
permit

74.5.(1) Where the Commission believes, on reasonable grounds, that

(a) conditions exist in a facility for manufacturing liquor that constitute a serious contravention of this Act or the regulations; and

(b) it is necessary in the public interest to have the conditions referred to in paragraph (a) immediately removed or remedied,

the Commission may suspend the operation of any permit for the facility until the conditions are removed or remedied.

(2) Where a manufacturer's permit is suspended under subsection (1), the holder of the permit may appeal the suspension to the Minister.

Investigation

74.6.(1) The Commission may make such investigation as it considers necessary into

(a) the affairs or conduct of any holder of a manufacturer's permit or any of the manufacturer's agents or employees; and

(b) any brewery.

Idem

(2) For the purposes of an investigation under this section, the Commissioner may, by order

(a) subject to subsections (3) and (5), authorize a designated person to enter and search any brewery and seize any documents, records, liquor or any other property belonging to, in the possession or under the control of, any person; and

(b) appoint an accountant or other expert to examine documents, records or other property.

(3) Before exercising the powers referred to in paragraph (2)(a), a designated person shall obtain a warrant issued under subsection (4).

Authority to
issue warrant

(4) Where, on an ex parte application, a justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that there is in the facility referred to in paragraph

(2) (a)

(a) anything in respect of which an offence against this Act or the regulations has been or is suspected to have been committed, or

(b) anything that there are reasonable grounds to believe will afford evidence with respect to the commission of an offence under this Act or the regulations,

the justice of the peace may issue a warrant under his hand authorizing a person designated by the Commission to enter and search the facility subject to any conditions specified in the warrant and to seize any documents, records, liquor or any other property belonging to, in the possession or under the control of any person that the Commission considers relevant to the investigation.

13. Subsection 76 is amended by

(a) striking out "and" in paragraph (m);

(b) striking out "." in paragraph (n) and substituting ";" and

(c) adding the following after paragraph (n);

"(o) prescribing offences referred to in paragraph 11(1.1)(j);

(p) respecting the application for renewal of a manufacturer's permit;

(q) prescribing fees for the transfer of a manufacturer's permit;

(r) prescribing information to be included in a form referred to in subsection 74.3(2);

(s) prescribing the manner of bottling and labelling beer manufactured by a manufacturer; and

(t) prescribing the form of identification to be carried by a person acting under section 74.4."

