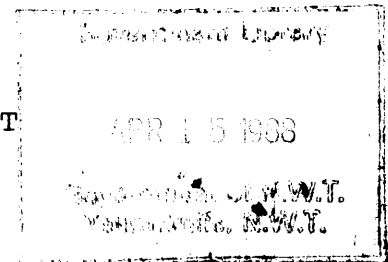


TABLED DOCUMENT NO. 136-88(J)
TABLED ON

APR 14 1988

LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

AN ACT TO AMEND THE LIQUOR ACT



Statement of Purpose

The purpose of this Bill is to amend the Liquor Act to allow for the establishment of facilities for manufacturing liquor in the Northwest Territories.

IMPORTANT

This Bill is tabled for public review. This proposed Act does not represent the final policy of the Government of the Northwest Territories and is subject to change after public review and comments. Furthermore, changes of a technical nature can be expected to prepare the Bill for introduction in the Legislative Assembly.

LIQUOR ACT

The Commissioner of the Northwest Territories, 5
by and with the advice and consent of the
Legislative Assembly, enacts as follows:

1. This Act amends the Liquor Act. 10

2. The following is added after paragraph 2(1)(5.2):

"facility for manufacturing liquor" (5.3) "facility for manufacturing liquor" means (i) any facility for the commercial manufacture of liquor in the Territories, including a brewery or distillery, where the person operating the facility is licensed to operate it under an Act of Canada, or (ii) a winery for the commercial manufacture of wine in the Territories that complies with the laws of Canada; 15 20 25

"General Manager" (5.4) "General Manager" means the General Manager of the Commission;". 30

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

"manufacturer" (13.1) "manufacturer" means a person who operates a facility to manufacture liquor in the Territories; 35

"manufacturer's permit" (13.2) "manufacturer's permit" means a permit issued under paragraph 11(1)(a.1);". 40

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): 45

"(e.1) a brew pub licence to a holder of a manufacturer's permit for the sale and consumption of liquor;". 50



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 liquor under section 48 of the Northwest Territories Act;" 5

7. The following is added after subsection 11(1): 10

"Restriction

(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; 15

(b) in the case of an application respecting a winery, the winery does not comply with the laws of Canada; 20

(c) in the case of an application respecting a facility to manufacture liquor other than a winery, the applicant is not licensed to operate the facility under an Act of Canada; 25

(d) the applicant is a minor;

(e) the applicant is not an individual and

(i) the majority of the applicant's directors or officers are minors, or 30

(ii) the individual who is in charge of the facility in respect of which the application is made is a minor;

(f) the applicant is a member, employee or agent of the Board or Commission; 35

(g) the applicant operates a liquor store under this Act;

(h) 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; 40

(i) in the opinion of the Commissioner, the applicant is not the true owner of the facility in respect of which the application is made; 45

(j) the applicant has been convicted of the prescribed offences; or 50

(k) the applicant has not complied with this Act or the regulations."

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

"Authority of manufacturer's permit (3.2) A manufacturer's permit issued under this section authorizes holder of the permit to 5
(a) manufacture at the premises described on the permit, and
(b) sell to the Commission, the quantity and category, class, variety, brand or kind of liquor described in the permit." 10

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. 15

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. 20

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. 25

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. 30

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. 35

Offence 11.3. Every person who 40
(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) 45
is guilty of an offence.

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.	5
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	10
	(a) unless the Commissioner approves the issue or transfer; and	15
	(b) the transferor has paid the prescribed fee in full."	
	10. Subsection 22(1) is repealed and the following substituted:	20
"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.	25
Prohibition	(1.1) Subject to subsection (1), no licence may be granted, renewed or transferred under this Act to or in respect of	
	(a) a person who is under agreement with any other person to sell the liquor of any manufacturer;	30
	(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;	35
	(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	40
	(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."	45
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11. Paragraph 71(b) is amended by adding "manufacturer's permits" before "wine permits".

12. The following is added after section 74:

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"FACILITIES FOR MANUFACTURING LIQUOR

Prohibition

74.1.(1) No person shall manufacture liquor 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 liquor except
 - (a) to the Commission; and
 - (b) in accordance with a manufacturer's permit.

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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 liquor.

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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.

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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.

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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.

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Compliance

(3) The holder of a manufacturer's permit shall comply with a direction given under subsection (2) within seven days after the direction is received by the holder.

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Inspection

- 74.4.(1) The General Manager or a person designated by the General Manager may
 - (a) examine a facility for manufacturing liquor to ensure that it complies with this Act and the regulations;

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	(b) demand from a manufacturer samples of liquor 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 liquor; and	5
	(d) temporarily remove any books, documents, vouchers or other papers referred to in paragraph (c), where the General Manager or his designate gives a receipt for them to the person from whom they are taken.	10
Obligation on manufacturer	(2) A manufacturer shall, on the demand of the General Manager or his delegate,	15
	(a) immediately furnish samples of liquor as required under paragraph (1)(b);	
	(b) produce for the General Manager or his designate all books, documents, vouchers or other papers referred to in paragraph (1)(c);	20
	(c) give the General Manager or his designate every reasonable facility for making an examination of the books, documents, vouchers or other papers demanded by him; and	25
	(d) permit the General Manager or his designate to make copies of any of the books, documents, vouchers or other papers demanded by him.	30
Evidence	(3) A copy of a book, document, voucher or other paper obtained under this section and certified by the General Manager or his designate 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.	35
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 liquor.	40
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nsion of licence or permit	74.5.(1) Where the General Manager believes, on reasonable grounds, that	5
	(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,	10
	the General Manager or a person designated by the General Manager may suspend the operation of any permit for the facility until the conditions are removed or remedied.	
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	(2) Where a manufacturer's permit is suspended under subsection (1), the holder of the permit may appeal the suspension to the Supreme Court on the ground that the General Manager erred in law or exceeded his jurisdiction.	20
Investigation	74.6.(1) The General Manager may make such investigation as the General Manager 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	25
	(b) any facility for manufacturing liquor.	
Idem	(2) For the purposes of an investigation under this section, the General Manager may, by order,	30
	(a) subject to subsections (3) and (5), authorize a designated person to enter and search any facility for manufacturing liquor in which the General Manager believes on reasonable grounds there may be evidence relevant to the matters being investigated and seize any documents, records, liquor or any other property belonging to, in the possession or under the control of, any person that the General Manager considers relevant to the investigation; and	35
	(b) appoint an accountant or other expert to examine documents, records or other property or any matters that the General Manager considers relevant to the investigation.	45

Warrant	(3) Before exercising the powers referred to in paragraph (2)(a), the designated person shall obtain a warrant issued under subsection (4).	
Authority to issue warrant	(4) Where, on an <u>ex parte</u> 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)	5
	(a) anything in respect of which an offence against this Act or the regulations has been or is suspected to have been committed, or	10
	(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,	15
	the justice of the peace may issue a warrant under his hand authorizing a person designated by the General Manager 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 General Manager considers relevant to the investigation.	20
Warrant not necessary	(5) Notwithstanding subsection (3), a person designated by the General Manager may exercise any of the powers referred to in paragraph (2)(a) without a warrant if the conditions for obtaining the warrant under subsection (4) exist but by reason of exigent circumstances it would not be practicable to obtain the warrant.	30
Exigent circumstances	(6) For the purposes of subsection (5), exigent circumstances include circumstances in which the delay resulting from obtaining a warrant would result in danger to human life or safety or the loss or destruction of evidence.	35
	13. Subsection 76(1) is amended by	
	(a) striking out "and" in paragraph (m);	
	(b) striking out "." in paragraph (n) and substituting ";"; and	45
	(c) adding the following after paragraph (n):	
	"(o) prescribing offences referred to in paragraph 11(1.1)(j);	50
	(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); 5
- (s) prescribing the manner of bottling and labelling liquor manufactured by a manufacturer;
- (t) prescribing the form of identification to be carried by a person acting under section 74.4; and 10
- (u) prescribing the powers and duties of the General Manager respecting facilities for manufacturing liquor;".