

Liquor Act Review

improving liquor legislation in the NWT



Discussion Guide

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1. LIQUOR ACT REVIEW || Welcome

Introduction

Individuals, families, communities, non-government organizations, and government all have a role to play in the safe and responsible use of liquor. One of the ways the Government of the Northwest Territories (GNWT) plays its part is by enacting the NWT *Liquor Act*. This legislation provides the GNWT with the legal authority to identify who may purchase, consume, and sell liquor in the NWT. The purpose of the *Liquor Act* is to protect the public by regulating the conditions under which liquor can be used and sold.

The current NWT *Liquor Act* was established in 1983. It has been amended several times since then, although few amendments have occurred in the last 10 years. Today's *Liquor Act* is fragmented and not flexible enough to adapt to the political, economic, and social priorities of NWT residents.

The Liquor Act Review will identify ways to improve the NWT *Liquor Act* so that it is more relevant, balanced, and easily understood.

How do I use this Discussion Guide?

This Discussion Guide briefly describes the purpose of liquor legislation, why a review is needed, and how the review will occur. It also provides a summary of the main issues and some early suggestions for improving the NWT *Liquor Act*.

Reading through the Discussion Guide will give you a basic understanding of liquor legislation and familiarize you with the key points for discussion. A number of questions are provided to stimulate debate. These questions can be used as a template to formulate your suggestions.

How can I get Involved?

The Liquor Act Review wants to hear your suggestions for improving liquor legislation in the NWT.

1. Attend one of the public consultation meetings scheduled for fall 2005.
2. Submit comments online at: www.fin.gov.nt.ca/liquor_act_review
3. Submit comments by mail or fax to:

Liquor Act Review
GNWT Department of Finance
Yellowknife NT, X1A 2L9
Fax: 867-873-0414

Check the Liquor Act Review website for more information at: www.fin.gov.nt.ca/liquor_act_review

2. LIQUOR ACT REVIEW || Understanding the Project

What is the Liquor Act Review?

The Liquor Act Review is an examination of liquor legislation in the NWT. Its purpose is to find ways to improve the *Liquor Act* so it is more relevant, effective, and consistent with the priorities of NWT residents.

The Liquor Act Review will focus specifically on those aspects of liquor control that can be addressed through legislation – such as placing restrictions on the use and sale of liquor products. It will not attempt to address issues that go beyond legislation, such as treating alcohol addiction. These issues are broad and require a multi-faceted approach involving government, non-government organizations, communities and individuals.

The Liquor Act Review involves five main activities:

- A review of background documents and other NWT material related to the *Liquor Act*
- An examination of legislation, policy, and research from other Canadian jurisdictions to identify common issues and potential solutions
- A series of interviews with those who administer the *Act* to identify the administrative challenges
- Solicitation of written comments from stakeholders and other interested parties
- Public consultations to obtain suggestions for improving the *Liquor Act*

Why is the Liquor Act Review needed?

Changes to the social, economic and political environment in the NWT have created a need to improve the NWT *Liquor Act*. The advent of self-government makes the “one size fits all” approach of the current legislation obsolete. Rapid resource development, improvements to transportation systems, the growing capacity of communities, and new ideas about liquor control across Canada have intensified the need for more relevant liquor legislation in the NWT.

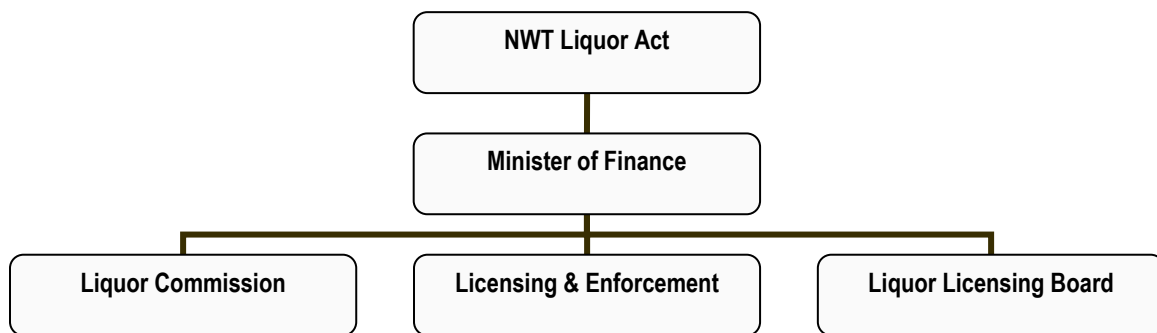
Balance is at the heart of liquor legislation. Strong legislation that protects youth, controls the illegal sale of liquor and provides safe conditions in licensed establishments is required. At the same time legislation must allow for personal responsibility and varying community priorities. The Liquor Act Review will identify ways to strike a healthy balance.

3. LIQUOR ACT REVIEW || Understanding the Liquor Act

The NWT *Liquor Act* governs all aspects of the purchase, sale, and consumption of liquor in the NWT. Its purpose is to protect the public by regulating the conditions under which liquor may be used and sold.

Figure 1 below depicts how the NWT liquor system is governed. A description of each of the major legislative elements follows.

Figure 1 – Governance Structure of the NWT Liquor System



General Terms and Conditions

The *Act* identifies who may purchase, sell, or consume liquor in the NWT, and outlines the offences and penalties associated with liquor control.

Liquor Sales and Distribution

The *Act* allows for the establishment of the Liquor Commission. The Liquor Commission oversees the operation of liquor stores and the purchasing, selling, classifying, and distribution of liquor in the NWT.

The NWT Liquor Commission contracts with private agents to operate all of the liquor stores and warehouses in the NWT. There are currently seven liquor stores in six NWT communities. Residents from communities where there is no liquor store (and liquor is not prohibited) may order liquor from one of the seven stores and have it delivered to their communities.

The *Act* also allows for the issuing of import permits, which authorizes the importation of liquor into the NWT, subject to the payment of a fee.

Licensed Premises

The *Act* establishes the NWT Liquor Licensing Board (LLB) to regulate the sale of liquor in licensed premises. The Board is quasi-judicial and operates at arm's length from the government. Its members are appointed by the Minister of Finance.

The LLB has four main responsibilities. It hears license applications; issues liquor licenses; makes regulations governing the operation of licensed premises; and conducts show-cause hearings where licensees are alleged to have violated the *Act*. Decisions of the LLB may be appealed to the Supreme Court on matters of error or where the LLB may have exceeded its jurisdiction.

The LLB is not involved in enforcement or inspection activities. Liquor inspectors, appointed by the Minister of Finance, monitor the conduct of licensees and report infractions. The GNWT Licensing and Enforcement office oversees the administrative duties related to licensing and inspection.

Community Options

The *Act* allows communities to impose more liquor restrictions than those already contained in the *Act*. By holding a plebiscite in which 60 percent of those voting agree, a community can become prohibited (no liquor allowed) or restricted (liquor allowed subject to restrictions). A community must also hold a plebiscite before a liquor license may be granted for the first time in that community. As well, the *Act* allows the Minister to impose, at the request of a community, temporary prohibition in that community for a special occasion.

4. LIQUOR ACT REVIEW || Understanding the Structural Issues

Structural issues refer to the way the liquor control system is governed, who is authorized to make decisions, and by what means decisions can be made. In the NWT, the structure of the liquor control system has not kept pace with changes occurring over the last 10 years, such as economic growth and self-government. Under self-government, communities and regions will be taking on more responsibility than ever before and the structure of the *Liquor Act* is not conducive to this change. Similarly, there are many structural changes occurring in other Canadian jurisdictions that are worth considering in the NWT.

Community Control

1. Community Involvement in Restricting Liquor

NWT residents who want to change the level of liquor restriction in their communities must petition the Minister of Finance to hold a plebiscite. The question on the plebiscite may address restriction, prohibition, restriction by an alcohol education committee, or no restriction at all. The plebiscite question must be supported by 60% of those voting to be accepted.

This petitioning and plebiscite process is cumbersome, and the available options do not allow for more creative approaches. As well, the option of a community education committee has rarely been used, and there is only one such committee in the NWT. Finally, there are mixed feelings about the 60% plebiscite threshold. Some feel the threshold should be lowered to 50% plus one. Others would argue that changes to liquor restriction will not be effective without a substantial degree of support in the community.

Simplification is required, yet the rules should not be so relaxed that restrictions can be implemented without community consultation. Whatever new options are developed, safeguards will be needed so community decisions are enforceable and changes cannot be made without the agreement of community members.

Questions: How can communities be more involved in restricting liquor use and sales, and what options should be available to them? What percentage of community support should be required to change liquor restrictions in a community?

2. Community Involvement in Restricting Licenses

The current *Liquor Act* and regulations apply to all licensed premises across the NWT. Communities may have different views on issues like Special Occasion Permits, Sunday openings, or hours of operation. One argument is that rules for licensed premises should be the same across the NWT. Another viewpoint is that the LLB should have the flexibility to consider community preferences, recognizing that the NWT is diverse. This might mean the LLB would set minimum standards and communities could make additional bylaws that further restrict licenses.

Question: How can communities be more involved in setting restrictions for licensed premises?

3. Special Prohibition Orders

Under the *Liquor Act* communities may ask the Minister to impose a 10 day period of prohibition during a special event. Applications must be submitted 15 days in advance. Once a special prohibition order is approved, a community may not consume, sell, purchase, or transport liquor for the prohibition period. Enforcement is normally done by the RCMP, with voluntary assistance from communities.

Some communities want more control over special prohibition orders, such as simplifying the process or varying the length of the prohibition. Discussion is needed to determine what leeway communities could be granted to impose their own prohibition periods.

Questions: How can the process of imposing special prohibition orders be more flexible?

Social Responsibility

4. Liquor Revenues

Some jurisdictions designate a portion of liquor revenues for addiction prevention and treatment programs. NWT liquor revenues are not earmarked in this way; however, all net liquor revenue goes to the GNWT consolidated revenue fund. This fund is used to pay for GNWT programs, including prevention and treatment programs, as determined by the public and the Legislative Assembly. Some people think earmarking funds is inappropriate because it forces program funding to depend on high liquor consumption. They also believe earmarking links the *Liquor Act's* goal of safe and responsible liquor use, with the opposite behaviours of liquor misuse and abuse. Others, however, argue that liquor revenues should only be used for prevention and treatment programs.

Question: Should a portion of net liquor revenues be designated for addiction prevention and treatment programs?

5. Public Education

All jurisdictions conduct some form of public education related to responsible alcohol consumption. Some jurisdictions also aggressively market liquor products through their liquor distribution arm. The NWT has taken a different approach by encouraging the safe and responsible sale, supply, and distribution of liquor. For example, the Liquor Commission is a partner in many initiatives like impaired driving prevention campaigns, positive messages on liquor store bags, and the distribution of booklets and posters regarding responsible and safe retailing. The NWT is one of few Canadian jurisdictions that apply healthy message labels to liquor bottles.

Some people think the NWT liquor system needs to do more. They would like to see the current efforts expanded to address the issue of addiction. Others believe that legislation and regulation are not the tools to address such a complex social issue. Instead they see a broad partnership of government departments, agencies, NGOs and communities working together to address these issues.

Question: To what extent should the Liquor Commission be involved in public education?

Regulation of Liquor Sales and Distribution

6. Administrative Structure

Liquor sales and distribution are regulated differently across Canada. Some jurisdictions appoint public boards to oversee these functions. They believe a board that represents the diversity of the public is the best approach. Others have created a crown corporation. They believe decisions related to liquor sales and distribution should be at arm's length from the government, yet accountable to it. Still other jurisdictions have given these responsibilities directly to employees of a government department. They see the administration of liquor regulations no differently than other government functions. In the NWT, liquor sales and distribution are overseen by the NWT Liquor Commission. The Commission is established by the Minister of Finance as an agency of government, and its employees are public servants.

Question: How should liquor sales and distribution be administered in the NWT?

Regulation of Licensed Premises

7. License Approvals

The Liquor Licensing Board approves all liquor licenses. In some jurisdictions, government employees handle license approvals. They see licensing as a fairly straight-forward task that does not require the structure and cost of a Board. On the other hand, having all licensing handled by a Board that represents the residents of the jurisdiction, assures the public of fairness and accountability in decision-making.

Question: Who should be responsible for approving liquor licenses in the NWT?

8. Show-Cause Hearings and Appeals

The Liquor Licensing Board conducts show-cause hearings where licensees have allegedly violated the *Liquor Act*. The Board considers all evidence and makes decisions accordingly. Appeals may be made to the Supreme Court, but only on matters of error or where the LLB may have exceeded its authority.

In some jurisdictions when a violation is alleged, the licensee may avoid a hearing by admitting to the violation. Government officials then fine the licensee according to an established range of penalties. The licensee may appeal to the Board and a show-cause hearing is held. Decisions of the Board are final.

Advocates of this approach say most infractions are straight forward and easily handled by government officials. Licensees may not contest the allegations, and having a quick and simple process is welcomed. This approach reserves the more costly and time-consuming hearing process for more serious cases.

There are also disadvantages to this approach. Having government officials assess infractions and administer penalties is not an arm's length approach. As well, Board members may lose some of their expertise if they are not regularly involved and the number of appeals is small. This could be addressed somewhat by requiring the Board's lawyer to attend all appeal hearings.

Question: How should show-cause hearings and appeals be handled?

9. Regulating Licensed Premises

The *Liquor Act* gives the LLB the power to make regulations governing licensed premises. Because the LLB has first-hand knowledge of licensing issues, it is easily able to recognize when regulatory changes are required. The LLB works with legislative lawyers to ensure all changes are legally appropriate. This process has worked well. The NWT is the only jurisdiction where the LLB has this authority.

It could be argued that because the LLB makes disciplinary decisions, it should only apply the rules and not be in a position to create them. Some see this as a conflict of interest, as it would be if a judge could both make a law and apply it. All other *Liquor Act* regulations and, indeed, most NWT regulations are made by a Minister or the Commissioner of the NWT. Where the Minister or Commissioner wishes to defer to the expertise of a Board, the regulations require compliance with Board policy.

Question: Who should have the authority to make regulations for licensed premises?

10. Partnerships

Some people would like to see stronger partnerships between the Liquor Licensing Board and the licensees. Similarly, it has been suggested that licensees should be able to self-regulate. There does not, however, seem to be a common understanding of what is meant by partnerships and self-regulation, and it is questionable how this would work. One idea may be to reduce license renewal fees for license holders with no infractions or violations. Another might be to remove the detail from certain regulations, allowing licensees more leeway to interpret how to provide safe and responsible environments for their patrons. It could be argued that the latter is inappropriate because the purpose of regulations is, in fact, to set specific parameters.

Question: What types of partnerships are appropriate between the Liquor Licensing Board and licensees?

Clarifying the Role of the Liquor Licensing Board

11. The LLB Should Not Be Involved in Enforcement

Under the *Act*, the LLB has the authority to prescribe the duties and powers of inspectors, and authorize the inspection or investigation of licensed premises. This is problematic. The LLB is an administrative tribunal that makes disciplinary judgements and applies penalties for violations. Evidence of these violations is brought to the attention of the LLB through the inspectors. Allowing the LLB to have influence over inspectors creates a conflict of interest, akin to judges having the authority to influence police officers. This issue was brought to light in the recent Hughes Report. The Board, because of its adjudicative functions, must be able to demonstrate that it is independent and free from bias (or perceived bias). The *Act* and regulations need to be amended to remove any enforcement authorities from the LLB.

12. The LLB Should Not Be Involved in Public Education

There has been much debate about the role of the LLB in public education. Some believe the Board has a social responsibility to advocate for safe and responsible drinking in licensed establishments. They believe the Board's current role of disciplining licensees after infractions occur is too reactive. While this is a commendable philosophy, it must be noted that the LLB has no authority under the *Liquor Act* to engage in public education or to be the catalyst for changing public behaviour. The *Act* is written this way for good reason. Under Canadian law, the LLB is an administrative tribunal, and its involvement with advocacy and enforcement would render the Board's decisions biased. Those who feel the Board should take on an advocacy role must recognize that this is not allowable under Canadian law.

13. The LLB Could Be Involved in Providing Information

As stated in the previous section, the *Liquor Act* cannot be changed to allow the LLB to be involved in advocacy activities. It could, however, be changed to allow the LLB to be more involved in informing the public about the *Act* and how it works. In fact, some people believe the Board does have a role in communicating to the public and other stakeholders about the *Liquor Act* and its regulations, what is allowable, what restrictions are in place, and how the liquor system works. It must be clarified that such communication would be strictly for information purposes and not involve advocacy or any intention to change public behaviour.

Question: Should the Liquor Licensing Board be involved in informing the public about the *Liquor Act*?

5. LIQUOR ACT REVIEW || Understanding the Operational Issues

Just as there are broad issues about the way the liquor control system is structured, there are many operational issues that should be considered. The following issues impact on the way liquor is purchased, sold, and used in the NWT.

General Terms and Conditions

14. Drinking Age

Youth need to be protected from liquor until they are able to make informed decisions about its use. In the *Liquor Act*, youth are eligible to use liquor at age 19. The “drinking age” in other jurisdictions ranges from 18 to 21. There are arguments for both lowering and raising the drinking age. In the NWT, 19 is the age of majority.

Question: What should be the NWT “drinking age”?

15. Deterring Minors

The *Liquor Act* prohibits minors (anyone under 19) from purchasing, selling, or consuming liquor. If they do not comply, minors may be charged up to \$100 or ordered to do community service. Failure to pay the penalty could result in 7 days in jail. Some people think these deterrents are not strong enough.

Suggestions for improvement include higher fines, requiring all fines to be paid before a driver’s license can be issued, making it an offence to possess false identification, or requiring anyone under 25 to show identification to enter a liquor store or licensed premise. Liquor inspectors and peace officers could also be authorized to fine minors on the spot, with a wider range of penalties available.

Question: How can the *Liquor Act* deter minors from the unlawful use of liquor?

16. Parental Supervision of Minors

The *Liquor Act* currently allows minors to consume liquor at home, under the supervision of their parents. The idea is that youth can learn about responsible drinking in a supervised environment. Many parents applaud this as forward-thinking. Others believe this approach is risky should a family be unwilling or unable to create a responsible environment for liquor use.

Question: Should minors be allowed to use liquor at home under their parents’ supervision?

17. Interdiction

The *Liquor Act* allows certain individuals to be prohibited from possessing or purchasing liquor. This is called interdiction. Its purpose is to protect individuals whose excessive drinking puts them or their families at risk.

Interdiction is rarely used. It is very difficult for licensees and liquor store agents to know who is interdicted, particularly in larger communities. Also, determining when someone's drinking is excessive or harmful is subjective and open to bias. It could be argued that interdiction actually removes the incentive for personal responsibility. Some people, however, believe there should be some way to ban certain people from using and purchasing liquor.

Question: Should the *Liquor Act* allow certain individuals to be banned from using and purchasing liquor, and if so, how?

18. Public Intoxication

The *Liquor Act* currently forbids anyone from being intoxicated in public. An intoxicated person may be apprehended by a peace officer for up to 24 hours. That individual, however, cannot be charged unless permission is granted by the Minister of Justice. There is also no authority in the *Liquor Act* to charge an intoxicated person found in a prohibited community. Minors and adults are treated the same way regarding public intoxication.

Some jurisdictions allow peace officers to use discretion about whether intoxicated people, especially youth, should be charged. There is, however, concern that increased enforcement powers over public intoxication might put people with addictions and those who are homeless at risk. Others see no problem with public intoxication as long as no crime is committed and the person is not in danger of injury.

Question: Under what circumstances should people be charged for being intoxicated in public?

Liquor Sales and Distribution

19. Bootlegging

It has long been argued that stronger mechanisms are required to eliminate bootlegging. Bootleggers illegally sell liquor, often to youth. There is no control on pricing or the quality of their products. Their illegal sales take revenues from the GNWT which are used to supplement many social programs. The *Liquor Act* allows police to seize liquor where there are reasonable grounds to believe that it is being kept for unlawful purposes. Current bootlegging penalties include fines from \$5000 to \$10,000 and/or jail time up to two years. Vehicles and other items related to the bootlegging may also be forfeited.

Suggestions to further address bootlegging include requiring anyone who purchases or transports large quantities of liquor to obtain a permit; higher penalties; forfeiture of all proceeds of bootlegging, including property; and severe penalties for sale in prohibited communities or to minors.

Question: How can the *Liquor Act* be strengthened to deal with bootlegging?

20. Private Sales

In the NWT, liquor must be sold by a liquor store or liquor warehouse. In some jurisdictions, liquor is sold in other places such as grocery stores and specialty stores. There are mixed feelings about whether this is appropriate for the NWT. Advocates say increased access to controlled liquor sales decreases bootlegging. Increased convenience is another advantage. Others argue that because private outlets are small and profit-oriented, they may be less motivated to restrict sales to minors and those who are intoxicated.

Question: Should the *Liquor Act* allow for liquor sales in other types of stores?

21. U-Brew and U-Vins

Some jurisdictions allow U-Brews and U-Vins. These are businesses that help customers make beer or wine by providing the supplies, the storage, and some instruction. This practice is prohibited in the NWT. Jurisdictions that allow U-Brews and U-Vins report that regulating these operations is very difficult. There is potential for the customer to do little or no work toward making the liquor and the product is essentially being sold illegally. It is difficult to control the product quality, pricing, or sales to minors. Some people, however, have a strong interest in learning how to make wine and beer and would welcome these type of businesses.

Question: Should U-Brews and U-Vins be allowed in the NWT?

22. Liquor Advertising

The Liquor Licensing Board has the authority to regulate liquor advertising in the NWT. This mandate is broad and includes such things as magazines, billboards, television, and signage. It could be argued that the authority for restricting advertising should rest with the Liquor Commission or at least be split between the LLB and the Liquor Commission for their respective areas. Authorities aside, the practicalities of being able to restrict messages from media originating outside the NWT is questionable. Some jurisdictions' regulations simply state that advertising must follow national guidelines, such as those from the Canadian Radio-television and Telecommunications Commission (CRTC) or from Advertising Standards Canada.

Question: How should liquor advertising in the NWT be regulated?

Licensed Premises

23. Intoxication in Licensed Premises

License holders are required to remove intoxicated persons from their premises, yet they may be liable should these people become injured or die after they leave. Extreme winter temperatures and limited taxi service in some communities put both the intoxicated person and the license holder at risk. A few jurisdictions allow intoxicated people to remain in a licensed premise as long as they are not consuming or purchasing liquor. Some licensed premises in these jurisdictions have designated areas where an intoxicated person may sit to sober up or wait for friends to take them home. No liquor is served to the individual and the designated area is closely supervised by staff.

Some people believe that allowing intoxicated people to remain in licensed premises removes personal responsibility and actually encourages drunkenness. They believe if an intoxicated patron is found in a licensed premise, both the license holder and the intoxicated person should be penalized. Others feel that allowing intoxicated people to remain safely indoors is necessary in our northern climate. They believe that until this is permitted, the degree of liability held by license holders should be lessened.

Question: Should intoxicated people be allowed to remain in licensed premises, and if so, under what conditions?

24. Penalties

The LLB may penalize a licensee who has violated the *Liquor Act* by cancelling or suspending the license, imposing a fine, or imposing other restrictions. These penalties are similar to those in other jurisdictions, with the exception of fines. In the NWT, fines may not exceed \$5000. Other jurisdictions have maximum fines ranging from \$50,000 to \$100,000. Increasing maximum amounts would provide the LLB with flexibility should circumstances require it. Large maximum penalties, however, may not be appropriate in an industry comprised mostly of small businesses. An alternative may be to establish a minimum fine to signify that all infractions are serious. Some might argue that the current penalties are already sufficient.

Question: What are appropriate fines for licensees who violate the *Liquor Act*?

25. Minors in Licensed Premises

The *Liquor Act* allows minors in licensed premises under certain circumstances. Minors may provide entertainment in licensed premises. They may also be employed in licensed premises if they are at least 16 and do not serve liquor. Minors may attend a special occasion held in a licensed premise where special authorization has been granted to the license holder by the LLB. Finally, minors who are at least 16 may have a meal in a licensed dining room, unaccompanied, as long as they do not consume liquor. Minors younger than 16 may also enter a licensed dining room, but must be accompanied by a responsible adult.

Some would argue that minors should not be allowed in licensed establishments at all, regardless of the circumstances. Others might argue that while the restrictions on minors in bars make sense, there should be absolutely no restriction on minors in licensed dining rooms, as long as they are not consuming liquor.

Questions: Under what circumstances should minors be allowed in licensed premises?

26. Authority of Inspectors

When a liquor inspector sees a violation in a licensed premise, he/she reports the offence, and the Department of Justice presents the case to the LLB during a show-cause hearing. An inspector is not authorized to make disciplinary decisions, lay charges or apply fines, detain anyone or make arrests.

In some jurisdictions, inspectors have more authority. They can make orders and apply fines for small or straight-forward violations. This might involve writing a ticket, similar to a parking ticket, for certain offences. If the licensee admits to the infraction, he/she simply pays the fine. If not, the matter proceeds to a show-cause hearing. Some inspectors also have the authority to fine minors found in a licensed establishment. Expanded powers for NWT inspectors would save time and money since fewer show-cause hearings may be required. Some might argue, however, that all infractions should be addressed through a show-cause hearing, allowing the full circumstances of the infraction to be heard.

Question: What authorities should liquor inspectors have?

27. License Classifications

There are currently 12 classes of licenses. Many are very similar, but each has different rules. To level the playing field, the number of licenses should likely be reduced. One suggestion is to create three classes of license: liquor-primary (e.g. bars), food-primary (e.g. dining rooms), and non-commercial (private clubs, sports facilities, etc). Special licenses for caterers or others with mobile operations may also be appropriate. Some licensees would like to be able to switch from one type of license to another, such as food-primary during the day, and a liquor-primary in the evening.

Question: How many and what type of license classifications should exist?

28. Off-Premise Sales

The *Liquor Act* and regulations allow licensees who provide accommodations to apply for an off-premise license. This allows the establishment to sell, until 10 pm, a minimum of 6 and a maximum of 12 bottles of beer for consumption off premises. There is likely room for improvement to these restrictions.

Questions: What restrictions should be placed on off-premise sales?

29. Sunday and Holiday Openings

The rules about opening licensed premises on Sundays and other holidays are changing across the country. Many jurisdictions have lifted all restrictions on Sunday and holiday openings unless a municipal bylaw specifically prohibits it. In the NWT, there is no consistent approach to whether licensed premises may open on Sundays. Licensed dining rooms, licensed recreational facilities, guest rooms, and canteens have the freedom to operate on Sundays. Other licensed premises such as cocktail lounges and service clubs may only choose 6 Sundays each year to be open. As well, cocktail lounges are not permitted to open on Good Friday or Christmas Day, but these restrictions are not placed on other licensed premises.

Question: Should licensed premises be allowed to open on Sundays and other holidays?

30. Hours/Transition Times

Licensed premises may serve liquor until 1:59am and patrons must be off of the premises by 2:15am. These hours are currently under review by the LLB. Experience from other jurisdictions suggests that a longer transition time between “last call” and closure is required. The current scenario risks the safe disbursement of patrons, is difficult for RCMP to monitor, and creates heavy demand for services like taxis. The relatively short transition times are also a concern for bar owners who must, by regulation, ensure people are out of their establishments quickly, yet are held legally liable should those individuals become injured, die, or cause injury to others once they leave.

Question: What are appropriate “last call” and closure times for licensed premises?

31. Bring Your Own Wine/Re-Corking

In some jurisdictions, customers may bring an unopened bottle of wine to a licensed premise. They are charged a small fee to have the cork removed. As well, customers may take home an unfinished bottle of wine by having it “re-corked”. Re-corking means the licensee replaces the cork, flush in the bottle, so it is not easily opened during transportation. These practices are not allowed under the NWT *Liquor Act*.

In jurisdictions where these practices are allowed, response has been positive. Customers like the flexibility. Licensees are able to stock fewer types of wine and they make money on the corking fees. Arguments against this approach include the potential loss of revenue for licensed establishments, and the risk of customers drinking and driving.

Question: Should the *Liquor Act* allow customers to bring their own wine and take unfinished wine home?

32. Server Training

Many jurisdictions require servers and bar-owners to be trained and certified, or at least to have a certified person on the premises at all times. The GNWT Licensing and Enforcement office currently provides server training when it visits a community. The course is not mandatory, unless the LLB requires it as a disciplinary measure. Having servers, or at least managers of licensed premises trained and certified provides public assurance that safety precautions are being undertaken. That said, identifying a server training course that is appropriate for the NWT, making that course accessible, and keeping track of who is certified is a large administrative undertaking and cost.

Question: Should the *Liquor Act* and regulations require servers to be trained and certified?

33. Gambling

The *Liquor Act* currently does not allow gambling in a licensed premise, with two exceptions. Raffle tickets sold under a lottery license may be sold in licensed premises. Also, service clubs that have obtained a lottery license may allow the sale of Nevada tickets on their premises. Some licensed premises that are not designated as service clubs would like to allow other forms of gambling on their premises. They feel

the current restrictions are unfair. It could be argued, however, that gambling and drinking should never mix because both require careful decision-making that may be compromised by one or the other.

Question: Should gambling be allowed in licensed premises? If so, what types of gambling, and in what types of licensed premises?

34. Special Occasion Permits

Special Occasion Permits allow for the temporary consumption and/or resale of liquor in a public venue under specific restrictions. Private individuals and non-commercial organizations may apply for permits to provide liquor to their guests, but only non-commercial organizations may apply to sell liquor at a special occasion. In some jurisdictions, resale permits are not limited to organizations. Any individual, organization, or business is eligible to apply.

Questions: Who should be eligible for a special occasion permit?

Other

35. Other Issues

There may be other issues related to liquor legislation in the NWT that are not described in this Discussion Guide. Public and stakeholder suggestions on how to improve the NWT *Liquor Act* are welcomed, regardless of the issue.

Question: In what other ways could the NWT *Liquor Act* be improved?

6. LIQUOR ACT REVIEW || Let's Talk

What do you think?

Let's talk about improving liquor legislation in the Northwest Territories. The questions posed throughout this Discussion Guide are reproduced below. Take a moment to review them again, and let us know what you think. Get involved by attending a public meeting, or submitting your written suggestions:

- online at: www.fin.gov.nt.ca/liquor_act_review
- by mail or fax at:

Liquor Act Review
GNWT Department of Finance
P.O. Box 1320
Yellowknife NT, X1A 2L9
Fax 867-873-0414

Comments and suggestions will be accepted until October 31, 2005.

Questions for Consideration

Answer as many or as few of the following questions as you like. Your ideas for improving the NWT *Liquor Act* will be greatly appreciated.

STRUCTURAL ISSUES

Community Control

1. How can communities be more involved in restricting liquor use and sales, and what options should be available to them? What percentage of community support should be required to change liquor restrictions in a community?
2. How can communities be more involved in setting restrictions for licensed premises?
3. How can the process of imposing special prohibition orders be more flexible?

Social Responsibility

4. Should a portion of net liquor revenues be designated for addiction prevention and treatment programs?
5. To what extent should the Liquor Commission be involved in public education?

Regulation of Liquor Sales and Distribution

6. How should liquor sales and distribution be administered in the NWT?

Regulation of Licensed Premises

7. Who should be responsible for approving liquor licenses in the NWT?
8. How should show-cause hearings and appeals be handled?
9. Who should have the authority to make regulations for licensed premises?
10. What types of partnerships are appropriate between the Liquor Licensing Board and licensees?

Clarifying the Role of the LLB

13. Should the Liquor Licensing Board be involved in informing the public about the *Liquor Act*?

OPERATIONAL ISSUES

General Terms and Conditions

14. What should be the NWT “drinking age”?
15. How can the *Liquor Act* deter minors from the unlawful use of liquor?
16. Should minors be allowed to use liquor at home under their parents’ supervision?
17. Should the *Liquor Act* allow certain individuals to be banned from using and purchasing liquor, and if so, how?
18. Under what circumstances should people be charged for being intoxicated in public?

Liquor Sales and Distribution

19. How can the *Liquor Act* be strengthened to deal with bootlegging?
20. Should the *Liquor Act* allow for liquor sales in other types of stores?
21. Should U-Brews and U-Vins be allowed in the NWT?
22. How should liquor advertising in the NWT be regulated?

Licensed Premises

23. Should intoxicated people be allowed to remain in licensed premises, and if so, under what conditions?
24. What are appropriate fines for licensees who violate the *Liquor Act*?
25. Under what circumstances should minors be allowed in licensed premises?
26. What authorities should liquor inspectors have?
27. How many and what type of license classifications should exist?
28. What restrictions should be placed on off-premise sales?
29. Should licensed premises be allowed to open on Sundays and other holidays?
30. What are appropriate “last call” and closure times for licensed premises?
31. Should the *Liquor Act* allow customers to bring their own wine and take unfinished wine home?
32. Should the *Liquor Act* require servers to be trained and certified?
33. Should gambling be allowed in licensed premises? If so, what types of gambling, and in what types of licensed premises?
34. Who should be eligible for a special occasion permit?

Other

35. In what other ways could the NWT *Liquor Act* be improved?