

NWT Liquor Legislation Review

Discussion Guide

March 2021



Contents

Purpose of this Document	1
The NWT Liquor System	3
Topics for Discussion	5
1.0 Overall Approach	5
1.1 Objectives	5
2.0 Community Control	6
2.1 Community Control.....	6
3.0 General Provisions	8
3.1 Bootlegging	8
3.2 Advertising.....	8
3.3 Liquor Delivery.....	9
3.4 Public Place	9
4.0 Retail Sales	10
4.1 Retail Model.....	10
4.2 Restricted Days and Hours.....	10
4.3 Added Services	11
4.4 Minimum Prices	11
5.0 Licences and Permits	12
5.1 Types of Premises Licences	12
5.2 Minimum Prices	12
5.3 Ferment on Premises	13
5.4 Restricted Days and Hours.....	13
5.5 Minors in “Class A” premises	13
6.0 Education and Enforcement	15
6.1 Server Training.....	15
6.2 Security Training	15

Appendix

Purpose of this Document

Liquor Legislation Review

Northwest Territories (NWT) liquor legislation was established in 2008 and includes the NWT *Liquor Act (Act)* and its regulations. During 2021, the Government of the Northwest Territories (GNWT) is undertaking a Liquor Legislation Review (Review) to make the liquor legislation more modern, responsive to residents' needs, and streamlined.

Scope of the Review

The Review aims to improve the NWT's liquor legislation specifically as it relates to the possession, consumption, sale, purchase, manufacture, importation and distribution of liquor in the NWT. It is not the purpose of this Review to look for solutions to issues that fall outside the authority of the NWT *Liquor Act* and regulations. The GNWT is considering how to address issues that arise from the misuse of liquor as part of its Territorial Alcohol Strategy¹, which is a separate project.

In Scope:

- Defining the legal possession, consumption, sale, service, purchase, manufacture, importation and distribution of liquor

Out of Scope:

- Addictions and mental health
- Binge-drinking and misuse of liquor
- Cannabis, gambling, tobacco
- Domestic violence
- Homelessness
- Impaired driving
- RCMP and police work
- Wellness programs and therapeutic care

The Review does not include an assessment of the performance of the NWT Liquor Licensing Board, the NWT Liquor and Cannabis Commission, or the GNWT Department of Finance (Department).

Purpose of this Discussion Guide

There are hundreds of topics about liquor legislation, from detailed technicalities to large philosophical ideas. This Discussion Guide provides a small selection of topics for discussion, which emerged from the Department's background research. The Department welcomes feedback about the topics in this Discussion Guide or any topic related to liquor legislation.

¹ Contact Alcohol.Strategy@gov.nt.ca for information about the Territorial Alcohol Strategy

How to Participate

You can share your comments about NWT liquor legislation:

- by email: liquorreview@gov.nt.ca;
- by fax: 867-920-7342; or
- by attending an online engagement session.

More information about online engagement sessions will be shared through the Department of Finance website at: www.fin.gov.nt.ca/services/liquor-legislation-review.

The NWT Liquor System

Legislation

The *Liquor Act* is the law regarding the possession, consumption, purchase, sale, distribution, importation, and manufacture of liquor in the Northwest Territories.

In addition to the *Liquor Act*, there are two types of regulations – general regulations and community-specific regulations. General regulations provide details about how the *Liquor Act* must be applied. Community-specific regulations are made when a community votes in a plebiscite to have an unrestricted, restricted, committee or prohibited liquor system. Regulations are also law.

Administration

NWT liquor legislation is the responsibility of the Minister of Finance. Under her authority, the legislation is administered by three distinct entities:

NWT Liquor and Cannabis Commission (NTLCC): The NTLCC ensures that NWT residents have safe and legal access to liquor and cannabis by controlling the distribution and sale of these products in retail stores.

NWT Liquor Licencing Board: The NWT Liquor Licensing Board is an independent body that issues liquor licences and permits, and holds hearings if a licence or permit-holder has allegedly violated the legislation or any conditions placed on them by the Board.

NWT Liquor Enforcement: NWT Liquor Enforcement educates people who legally sell and serve liquor; assists communities that wish to obtain Temporary Prohibition Orders or conduct plebiscites; and operates the liquor inspector program. This unit also works jointly with the NTLCC to undertake education activities related to social responsibility.

Authorized Activities

Retail Sales

Retail sales are authorized by legislation and managed by contracts. Vendor contracts contain details about how liquor stores must be operated and managed. Liquor store vendors are required to comply with liquor legislation, their contracts, and any orders of the Minister of Finance.

Licences and Permits

Licences and permits relate to the legal sale and/or service of liquor at a place where it will also be consumed. There are also manufacturing licences. Licenses are issued to eligible persons to sell and serve or manufacture liquor on a regular basis. Permits are issued to individuals or groups to sell and/or serve liquor on a single occasion. Although the requirements to obtain a licence and to obtain a permit are different, many of the rules about protecting youth, protecting intoxicated people and overall public safety are the same.

Liquor Revolving Fund

Revenue from the sale of liquor in the NWT is deposited into the Liquor Revolving Fund. This fund provides working capital to finance the Liquor Licensing Board, the NTLCC and to enforce the liquor legislation. The remaining balance of funds is transferred to the GNWT's Consolidated Revenue Fund and is an important revenue source for GNWT programs and services.

Topics for Discussion

1.0 Overall Approach

1.1 Objectives

Q1.1 *What are the most important objectives of liquor legislation in the NWT?*

Liquor legislation aims to balance many, sometimes different, objectives. For example (in alphabetical order) liquor legislation should:

- Be flexible to incorporate change over time
- Be manageable for the GNWT to administer
- Be reasonable for the liquor industry² to navigate
- Be supported by education programs for the industry
- Be supported by social responsibility messages for the public
- Enable different approaches in different communities
- Foster public safety
- Generate revenue for the GNWT
- Promote moderate consumption
- Protect vulnerable people
- Protect youth
- Support a safe and successful liquor industry
- Support economic growth
- Support tourism

² In this document “liquor industry” includes NWT liquor store vendors, manufacturers and licence holders.

2.0 Community Control

2.1 Community Control

Q2.1 *Should anything be added, changed or removed in the way communities control liquor?*

Because NWT communities vary widely, it is essential that each community be able to make decisions about how liquor is controlled within its borders. The existing liquor legislation provides many options.

LIQUOR SYSTEM

Communities may vote in a plebiscite for an unrestricted, restricted, committee or prohibited liquor system. If a community has a prohibited or restricted system, no liquor store or licence may be established there. If a community already has a liquor store or a licenced premises, the community may not vote for any type of system that would impede these businesses. Of all the options, the committee system is least popular and no communities have this system.

TEMPORARY PROHIBITION

A community may request a period of temporary prohibition up to 10 days because of special circumstances. Temporary prohibition orders (TPOs) are not permitted if a liquor store or licensed premise is in the community. Sometimes communities are approved for sequential TPOs, meaning 10 days of prohibition followed by another 10 days. This raises questions about what is “temporary” and how many times a TPO can be requested before a plebiscite is more appropriate.

LICENSED PREMISES

Liquor licences are ranked as A, B, C or D – with A being the highest rank. Communities must vote to allow the first licence of any class. After this, no voting is necessary for additional licences in that class or a class of a lower rank. As well, residents must vote before the first manufacturing licence in the community. Communities may also vote to close an entire class of licensed premises with some restrictions. After this, all licences in that class and in higher ranks are closed.

NEW LICENCE APPLICATIONS

Each time an applicant seeks a liquor licence for an entirely new location, the applicant must advertise this in the local media so residents can express their views to the Liquor Licensing Board. The Board will consider all views and make a decision.

LIQUOR STORE QUANTITY RESTRICTIONS

A community may request the Minister of Finance to add, modify or remove limits on the amount of liquor sold at an existing liquor store. The Minister often requires a plebiscite for this, but the law does not require her to do so. Of the three choices, adding restrictions to a previously un-restricted liquor store is problematic. The liquor store operator would have entered into the contract assuming no restrictions. If restrictions are added after the fact, this changes the contract. In fact, this is the reason that TPOs and other plebiscites are not allowed if a liquor store exists in the community.

BYLAWS

Communities may pass bylaws that restrict (or loosen) rules in the liquor legislation when it comes to licensed premises. Examples include hours, operation on Sundays and holidays; off-sales and entertainment. In other jurisdictions, bylaws also govern things like liquor delivery and location.

IMPROVEMENTS

The existing liquor legislation supports community control, and yet there is room for improvement. The goal is to create a liquor system that is fair, balanced and safe for all communities, and then to provide options for individual communities to tighten or loosen certain matters.

3.0 General Provisions

3.1 Bootlegging

Q3.1 *What are some ways the liquor system can attempt to curb bootlegging?*

Although bootlegging is illegal and can potentially result in high fines and jail time, bootleggers have customers. Often customers are people who cannot access liquor legally – because liquor is restricted or prohibited in their community; because they are under 19 years of age; because they are intoxicated; or because legal sales outlets are closed. Bootlegging will never be eliminated, but measures can be taken to mitigate it. The legislation could make it more difficult for bootleggers to access liquor in the ways they normally purchase it (e.g. restricting sales of 375 ml bottles of spirits), or make it easier for bootleggers’ customers to purchase liquor legally (e.g. extending hours or days of legal trade). While adjustments can be good, adding or loosening restrictions can create other problems such as inconveniencing law-abiding citizens or forcing bootleggers to take bigger risks.

3.2 Advertising

Q3.2 *What should the NWT allow or prohibit for advertising liquor?*

The Canadian Radio-television and Telecommunications Commission (CRTC) has a “Code for Broadcast Advertising of Alcoholic Beverages”. These rules restrict anyone from advertising liquor in a way that makes it attractive to youth or to vulnerable people or that suggests illegal activity. As well, the NWT prohibits anyone from advertising free or discounted liquor, and there are strict rules about how manufacturers can be sponsors. Some people may think the advertising rules are too tight to allow businesses to promote themselves. Others might think the rules do not go far enough. In at least one Canadian province, the liquor industry must include a social responsibility message with all advertising. In another province, the liquor industry must have any advertising pre-approved by the government.

3.3 Liquor Delivery

Q3.3 *What are your opinions about local liquor delivery?*

In many parts of Canada, residents may order liquor for local delivery for a fee. There are many models: liquor stores fulfilling the order and using their own delivery person or a delivery service; a liquor delivery business becoming licensed to purchase, sell and deliver liquor for their customers; and licensed premises fulfilling the order and using their own delivery person or an authorized delivery service. Whatever the case, no order may be delivered to a person who cannot prove they are at least 19 years' old, nor to a person who is intoxicated. There are also rules such as limits on delivery hours, quantities and mandatory training for delivery people.

In the NWT, holders of a Class A licence (bar) or Class B licence (restaurant) may deliver limited quantities of liquor using their own delivery person. No liquor delivery is permitted on a Sunday or after 10pm. Communities may create bylaws to restrict or prohibit this. Also, NWT liquor stores may fulfil mail orders to a community that does not have a liquor store and is not under a prohibited system. There are other rules.

Liquor delivery recognizes that not everyone can physically go to an outlet. Delivery is convenient for customers; supports small businesses; and has the same checks and balances as other types of legal liquor sales. On the other hand, some people worry that youth and intoxicated people are finding loopholes, and some people worry about the safety of delivery personnel.

3.4 Public Place

Q3.4 *Should adults be allowed to consume liquor responsibly in some public areas? If yes, which areas?*

People are not permitted to consume liquor in a public place unless specifically authorized. Residences and licensed premises are not public places. Remote locations used for outdoor recreational activities are not public places. Venues where liquor is sold under a Special Occasion Permit are not public places during the event. By “not” being a public place, liquor may be consumed there, but public intoxication is always prohibited.

In some parts of Canada, many places have been exempted from being a public place so that responsible personal consumption can occur there. Examples include local parks, common areas in campgrounds, offices within public buildings, and seating areas at a baseball field. In one Canadian jurisdiction, communities decide which places are public or not.

4.0 Retail Sales

4.1 Retail Model

Q4.1 *Which retail model(s) would you support? Why?*

Types of retail operations include fully government-run, consignment, private, licensed (e.g. owner must obtain a licence instead of – or before signing – a contract). There are also different store set-ups including stand-alone buildings; stores in an outdoor plaza or indoor shopping centre; stores-within-a-store (e.g. enclosed store within a larger retail store); and product-within-store model (e.g. beer or wine available on the shelves of a grocery store). The same safety rules apply under each configuration, but the balance between risk and convenience is different with each. Also, typically price is higher under a private operational model.

NWT liquor stores currently operate on a consignment model. The liquor is owned by the GNWT and sold by the stores on the GNWT's behalf. Prices – set by the GNWT, not the vendor – are based on cost-recovery plus a mark-up. The mark-up is higher on products that have higher alcohol content. The mark up is meant as a deterrent for over-consumption, to cover the cost of administering the liquor system, and to provide needed revenue for the GNWT.

4.2 Restricted Days and Hours

Q4.2 *What should be the days and hours of operation for liquor stores? Why?*

In the NWT, the days and hours of liquor store operation are in each vendor's contract, not in legislation. Currently, operating times vary but liquor stores with the most operating hours may operate from 11am until 10pm, Monday to Saturday. These liquor stores are closed on Sundays and statutory holidays. Historically, Sunday closures occurred across many retail environments to reflect the Christian "day of rest", but this is no longer common. Most retail businesses are allowed (but not required) to open on Sundays and holidays, finding that customers appreciate the convenience of shopping on these days.

Restrictions on days and hours of retail liquor sales are a point of disagreement for people. On the one hand, restrictions can help consumers pace themselves. On the other hand, restrictions to access are an inconvenience, at best, and could drive people to bootleggers, at worst.

Options to address restricted days and hours include allowing sales every day, adjusting hours, or allowing communities with liquor stores to decide whether to loosen the restrictions.

4.3 Added Services

Q4.3 *Should added services in a liquor store be up to the vendor or mandatory? Why or why not?*

In addition to in-person sales, NWT liquor stores provide mail order services with some exceptions. Liquor stores cannot send mail orders to prohibited communities or within their local community. Liquor stores must also respect quantity limits when mailing to restricted communities.

Elsewhere in Canada, liquor stores provide a range of additional services. Examples include online ordering for pick-up; wine clubs; special orders of products from outside the NWT; gift baskets; food pairing advice; and supervised sampling of feature products. Most of these services fall outside legislation and are more prevalent where there is competition and/or a private retail model, but not always. An advantage of adding retail services is to bring a positive perspective to the safe consumption of liquor. A disadvantage is that changes to vendor contracts would be required if these services became mandatory. Also, some people who have suffered from the misuse of liquor may feel uncomfortable with this approach.

4.4 Minimum Prices

Q4.4 *Should there be minimum prices for retail sales as a safeguard, regardless of the retail model? Why or why not?*

Retail liquor prices in the NWT are some of the highest in the country. The GNWT sets the prices according to cost-recovery plus a mark-up. The GNWT is currently reviewing the pricing methods for liquor sales, both to retail customers and to licence holders. The results of that review are not yet available.

At least one jurisdiction has established minimum prices for retail sales. Minimum prices are the lowest price that a vendor may sell a product type. The purpose of minimum prices is to prevent vendors from setting prices so low that price becomes an incentive to purchase more liquor than a person might otherwise do. In the NWT, minimum prices are not necessary because, under the current consignment system, prices are set by the NWT Liquor and Cannabis Commission and are set intentionally high as a deterrent. However, if the retail model changed, the NWT might wish to have minimum retail prices set out in regulations as a safeguard.

5.0 Licences and Permits

5.1 Types of Premises Licences

Q5.1 *Should the NWT expand the types of businesses that can sell/serve liquor? Why or why not?*

In the NWT most premises licences³ are Class A (liquor-primary) and Class B (food-primary). The Class C licence (mobile) is for premises that move or change regularly. The Class D licence (liquor-incidental) was established for businesses and organizations that are not in the food or beverage industry, yet they sell liquor at their premises. Class C licences cover commercial caterers and ships. Class D licences cover situations like military canteens and bed and breakfast establishments.

Across Canada, types of liquor licenses are changing, particularly those that might fall under the NWT's Class C and Class D. Many businesses include liquor service as part of their business model, particularly when customers are receiving a service over an extended period. Examples of premises under this model include tourism businesses, funeral homes, and art galleries. Other businesses do not have premises at all, including chartered tour buses and fishing expeditions. In the NWT, some businesses that provide services like aurora-viewing and shore-lunch excursions are interested in becoming licensed – either to sell liquor or to allow patrons to bring legally purchased liquor with them. If the legislation were changed to include this, licence holders would be required to meet the same requirements already established under Classes C and D. The benefits are customer enjoyment, economic development and tourism development. There are risks, but the risks are generally low because these types of businesses cater only to paying or registered customers.

5.2 Minimum Prices

Q5.2 *Are you in favour of minimum prices for liquor sold under a liquor licence? Why or why not?*

Licence holders in the NWT are prohibited from advertising free or discounted liquor. The legislation gives examples but does not define “discounted”, leaving it open to interpretation. This creates uncertainty and leaves room for low prices. A number of provinces have set minimum liquor prices for licensed premises. These are minimum prices per drink based on alcohol content. The minimum prices change annually based on inflation. Minimum prices eliminate the worry about low prices enticing over-consumption, eliminate volume discounts (e.g. drinks are cheaper the more a person buys), and yet provide flexibility for licence holders to adjust their prices above the minimum limit. Minimum prices are a harm reduction measure for people whose consumption is influenced by price.

³ There are also manufacturing licences.

5.3 Ferment on Premises

Q5.3 *Are you in favour of licenced businesses where customers can make beer or wine? Why or why not?*

Across Canada it is common to see ferment-on-premises businesses – more commonly known as u-brew or u-vin stores. Operators of ferment-on-premises businesses must obtain a liquor licence and are authorized to provide the ingredients, equipment and facilities necessary for customers to make and bottle their own beer or wine. Rules vary across Canada but generally the customer must participate in the initial and final steps of making the liquor, including removing it from the premises when it is finished. The licence holder cannot sell pre-made liquor or store the liquor after it has been completed. NWT liquor legislation currently does not allow for ferment-on-premises businesses.

5.4 Restricted Days and Hours

Q5.4 *What should be the default days and hours for licenced premises? Why?*

There are restrictions on which days and hours licensed premises may sell/serve liquor. Generally, licensed liquor sales may occur between 10am on one day and 2am on the next day. Off-sales must end by 10pm. In terms of days, Class A (liquor-primary) licences and service clubs holding a Class D licence may only operate a maximum of 10 Sundays per year. Class A (liquor-primary) licences must be closed on Christmas Day and Good Friday. No licensed premises may be open until polls are closed during a plebiscite or election. Restricted days may be loosened, and hours may be tightened, by a community bylaw. For example, the City of Yellowknife removed restrictions on Sundays, Christmas Day and Good Friday for Class A premises. The Town of Inuvik allows operation of Class A premises on Sundays between April 1 and September 30 at certain hours.

5.2 Minors in “Class A” premises

Q5.5 *Should minors be allowed in bars under certain circumstances? Why or why not?*

In the NWT, minors are permitted in most licensed premises except Class A (liquor-primary) premises, with some exceptions. A minor may provide entertainment, perform repairs, or work in the kitchen. Minors are also permitted in Class A premises for a liquor-free event or for a special event conducted under a Special Occasion Permit with the Board’s permission. Class A premises that wish to have minors present to have a meal, may apply to become a Class B (food-primary) premises for specific days or hours.

In a few provinces, Class A licence holders may allow minors without switching to a Class B operation under certain circumstances, like applying for a “minors endorsement”. This allows minors, who are accompanied by a parent or guardian, to be in the premises while having a meal during certain days or hours. Some provinces allow minors without an official endorsement during family-oriented food events such as Mother’s Day brunches or wedding receptions. The advantage to this is that Class A premises do not need to obtain a second type of licence to allow minors to accompany their parents. The disadvantage is that whatever rules are set in place would apply to all Class A premises equally, recognizing that Class A premises are mostly bars and lounges that focus on liquor sales.

6.0 Education and Enforcement

6.1 Server Training

Q6.1 *Should server training be mandatory for anyone who legally sells/serves liquor in the NWT? Why or why not?*

Server training is an important safety tool that teaches people in the liquor industry about serving responsibly. It covers how to protect minors and intoxicated people, and how to encourage low-risk, moderate consumption. In the NWT, server training is a mandatory condition on all liquor licences, and is required for some Special Occasion Permit holders. Liquor store vendors are encouraged, but not required, to take server training. The training program is provided by liquor inspectors via in-person sessions, and an online version of the program is being developed.

Making server training mandatory across the industry would provide a consistent approach to safety. Requiring people to recertify regularly is also a safeguard. The disadvantage is that employee turnover is high and tracking who does/does not have up-to-date training could be a challenge.

6.2 Security Training

Q6.1 *Should security training be mandatory for anyone who legally sells/serves liquor in the NWT? Why or why not?*

Server training, as described in the previous section, covers basic security issues. Security training, on the other hand, is entirely focused on how to de-escalate situations and how to safely deal with people who are intoxicated or unruly. In the NWT, licence holders and store vendors decide for themselves whether they require security personnel. They may or may not provide their own security training. The legislation requires Special Occasion Permit-holders to designate one or more people as event supervisors and may require them to take server training, but not security training.

At any time, permit holders, licence holders or liquor store vendors may request advice about security from the Liquor Enforcement program, although no formal security training program has been established. Canadian jurisdictions vary on this issue. In some places, security training is mandatory for anyone selling/serving liquor. In some places, security training is mandatory for a particular class of licence or certain sizes of premises. In other places, security training is mandatory only if a licence holder has violated the legislation.

Appendix

Liquor Legislation Questions

The questions listed below – along with background information – can be found in the *NWT Liquor Legislation Review: Discussion Guide*. Answers to these questions or any comments about liquor legislation can be submitted to the Department of Finance at liquorreview@gov.nt.ca

Overall Approach

Q1.1: What are the most important objectives of liquor legislation in the NWT?

Community Control

Q2.1: Should anything be added, changed or removed in the way communities control liquor?

General Provisions

Q3.1: What are some ways the liquor system can attempt to curb bootlegging?

Q3.2: What should the NWT allow or prohibit for advertising liquor?

Q3.3: What are your opinions about local liquor delivery?

Q3.4: Should adults be allowed to consume liquor responsibly in some public areas? If yes, which areas?

Retail Liquor Sales

Q4.1: Which retail model(s) would you support? Why?

Q4.2: What should be the days and hours of operation for liquor stores? Why?

Q4.3: Should added services in a liquor store be up to the vendor or mandatory? Why or why not?

Q4.4: Should there be minimum prices for retail sales as a safeguard, regardless of the retail model? Why or why not?

Licensed and Permitted Sales

Q5.1: Should the NWT expand the types of businesses that can sell/serve liquor? Why or why not?

Q5.2: Are you in favour of minimum prices for liquor sold under a liquor licence? Why or why not?

Q5.3: Are you in favour of licensed businesses where customers can make beer or wine? Why or why not?

Q5.4: What should be the default days and hours for licensed premises? Why?

Q5.5: Should minors be allowed in bars under certain circumstances? Why or why not?

Education and Enforcement

Q6.1: Should server training be mandatory for anyone who legally sells/serves liquor in the NWT? Why or why not?

Q6.2: Should security training be mandatory for anyone who legally sells/serves liquor in the NWT? Why or why not?