

Creating A More Reasonable Business Environment For The Sale of Alcohol in Yellowknife

The Yellowknife Chamber of Commerce has heard from our membership that the *NWT Liquor Act* and *NWT Liquor Regulations* create unnecessary burdens and restrict revenue generating opportunities for local businesses and organizations. We have identified five key alcohol-related issues, along with potential solutions, that will create a more reasonable business environment for the sale of alcohol in Yellowknife.

The Issues:

1. Minors are not permitted in Class A (liquor-primary) establishments for the purpose of family dining;
2. Businesses and organizations struggle to obtain liquor licenses, and have cited experiences with subjective interpretation and a lack of clarity as to whether a liquor license will even be issued;
3. Serving staff are required to have server training, but information on course availability is very limited;
4. The uptown liquor shop, where businesses are required to purchase their product, is often unable to fill orders and cannot guarantee product availability for businesses; and,
5. There is no formal appeal process for those who disagree with the NWT Liquor Licensing Board's decisions.

Understanding the Key Players:

NWT Liquor Licensing Board: Independent from the GNWT, they administer many parts of the *NWT Liquor Act*ⁱ and the *NWT Liquor Regulations*^{ii, iii}.

NWT Liquor and Cannabis Commission: Administered through the Department of Finance, they are responsible for the purchase, sale, classification and distribution of liquor and cannabis.^{iv} They also manage the contracts with the liquor store^v.

Issue #1 - Minors & Class A Establishments:

In the NWT, minors are not permitted to enter Class A (liquor primary) establishments for the purposes of family dining. Many of these establishments offer brunch and supper services, but the *NWT Liquor Regulations* restrict businesses from serving families.

Section 6 of the *NWT Liquor Regulations* states that a "Class A (liquor-primary) licence authorizes the license holder to purchase, sell, possess, transport and use liquor for patrons in licensed premises where the license holder operates a bar or similar business to generate revenue primarily from the sale and service of liquor, where the bar or similar business is located".

This differs from a Class B (food-primary) license, where eligible businesses are operating restaurants and "most of the business revenue will be generated from the sale of food"^{vi}.

Section 66 of the *NWT Liquor Regulations* describes the circumstances where minors can be permitted in Class A (liquor primary) establishments, which include: providing entertainment, delivering goods other than liquor, performing repairs, working in the kitchen, attending a liquor free event or in situations where authorization has been given by the Board.

The *NWT Liquor Regulations* do not include a provision that would allow minors to enter Class A (liquor primary) establishments for the purpose of family dining.

In British Columbia, minors are permitted to enter liquor-primary establishments, when accompanied by a parent or guardian until 10:00pm for the purposes of family dining.^{vii}

In Saskatchewan, tavern permits are issued to establishments where the businesses' primary purpose is the sale of alcoholic beverages. Minors are typically prohibited; however, businesses are eligible to apply for a "Minors Endorsement" which allows minors to access tavern establishments in limited circumstances as non-drinking patrons or employees.

Furthermore, in rural communities where there is no restaurant – taverns are permitted to authorize minors for the sole purpose of family dining through a "Daily Family Dining" or "Sunday Family Dining" endorsement.^{viii}

Recommendation:

- That the GNWT amend the *NWT Liquor Regulations* to allow minors to enter Class A (liquor primary) establishments, when accompanied by a parent or guardian, until 8:00pm for the purposes of family dining.

Issue #2 – Challenges Obtaining Liquor Licenses:

Many local businesses struggle to obtain or renew their liquor license, citing a lack of clarity around the application process and required documentation, and inconsistent interpretation of the *Act* and *Regulations* that results in what feels like subjective or discretionary decisions by the NWT Liquor Licensing Board.

For example, the NWT Liquor Licensing Board's Application Requirements^{ix} checklist says that applicants must provide "a criminal record check for the applicant(s)". A local business hired a well-established, local security company to perform the criminal record check, but after submitting it to the NWT Liquor Licensing Board they were told that the criminal record check must be done by the RCMP.

Another business has been hosting a family friendly event that includes children's entertainment, while parents have dinner and a drink. During the third year of this event, their application for a liquor license was denied, despite there being no differences from their previous liquor license applications.

Two other businesses have reported that simple changes like building renovations have made getting a liquor license complex and difficult.

Recommendation:

- That the GNWT review all informational documents, such as the Handbooks and Application Requirement checklists, to ensure information is specific and detailed;
- That the GNWT conduct a review of the NWT Liquor Licensing Board to determine the most common reasons that liquor license applications are denied and to propose legislative, regulatory, and/or administrative solutions.

Issue #3 – Server Training:

There is a significant lack of information available to businesses regarding the Certificate Alcohol Server course, including whether the course is mandatory and if there's a cost to participate, and when the course is being offered. This places an unfair burden on businesses who are trying to ensure their business is staffed and servers have proper training.

The Yukon's server training program^x, BARS (Be A Responsible Server), is a self-study program followed by an open book exam. While the test is not offered online, servers are able to email, fax or drop off a copy of their completed test for marking. A passing mark is 70% or higher. In Alberta^{xi}, ProServe, is available wholly online and employers have the option to purchase activation tickets, which allow their staff to take training and receive certification easily.

The NWT Liquor Enforcement website^{xii} does not contain any information about the course and directs businesses to contact Liquor Enforcement for information on course availability.

Several businesses have reported that their emails to the NWT Liquor Enforcement – to the only email address on their website: LiquorEnforcement@gov.nt.ca – go unanswered.

This matches our experience – on July 19th, we emailed NWT Liquor Enforcement with four questions – Is the course mandatory for businesses? Is there a cost to participate in training? Is the training offered online? How often is training offered? After following up by email and phone, numerous times to different representatives, no response has been received to date.

Recommendation:

- That the GNWT update their website to include information about the Certificate Alcohol Server program, including course availability and training options;
- That the GNWT implement a service standard, so businesses can expect a response to inquiries within 5 business days;
- That the GNWT implement a server training program similar to other jurisdictions, with self-study materials and an online test, by March 1st, 2020.

Issue #4 – Supply for Businesses:

Since the GNWT ended its contract with the liquor distribution warehouse, businesses have been subject to substantial price increases and product shortages. The uptown liquor shop, where businesses are required to purchase their product, is often unable to fill orders and cannot guarantee product availability for businesses.

For example, one local business that has been purchasing the same products for 3 years says that less than 15% of their orders have been completely filled since the new distribution process. Another local business shares the same concern – about 80% of their orders are incomplete. These businesses are often told that “the product will arrive later this week” or “it’s on a pallet in the back somewhere” and instructed to come back in a few days. This is simply unacceptable for established businesses who have service standards to meet.

Another local business who is required to provide specific alcohol products based on their service agreements, has consistently been unable to fill orders. While they've found a temporary, “band-aid solution” – their Edmonton office provides the required product – they have concerns that their inability to meet contractual obligations will have an impact on their ability to bid, and win, future contracts.

In an undated news release^{xiii}, the GNWT states that the change in distribution will result in lower prices overall but had an unintended consequence of increasing costs for liquor license holders. One business reported that on average, draft beer increased 18-19%, bottled beer increased 20%, and wine increased by 6%. Another business reported an 18.3% increase on domestic beer.

While the GNWT is providing a 10% discount to Yellowknife liquor license holders (via a refund), this is not enough to mitigate the remaining cost increases in the price of alcohol – a cost that several businesses have said is their biggest threat to continued success.

Recommendation:

- That the GNWT work with the liquor shop to implement a documented process that guarantees orders will be filled on time and in full by March 1st, 2020;
- That the savings from closing the liquor distribution warehouse (approx. \$300,000^{xiv}) be passed on to businesses and consumers through product price reductions;

Issue #5 – Appeal Process:

Businesses have expressed frustration with the NWT Liquor Licensing Board, claiming the Board's decisions seem subjective, explanations for their decisions are not provided and the Board seems unwilling to work with businesses on solutions.

Currently, decisions can only be appealed by the NWT Supreme Court, however, the Board is able to review its decisions. If the Board considers that any of the relevant circumstances have changed, or new evidence becomes available, the Board may review their decision.

Recommendation:

- That the GNWT establish an appeal process for businesses who disagree with the NWT Liquor Licensing Board's decisions.

Media Coverage:

Northern News Services. (July 25th, 2017). *Pubs Want To Serve Patrons... And Their Children*. Retrieved from: <https://nnsi.com/business/no-shirt-no-shoes-no-toddlers/>

- Twist, The Black Knight and NWT Brewing Co. want to be able to serve minors in their establishments for the purpose of family dining.

Northern News Services. (August 31, 2017). *Beer Fight Overflows With Support*. Retrieved from: <https://nnsi.com/yellowknifer/beer-fight-overflows-with-support/>

- The NWT Liquor Licensing Board did not allow NWT Brewing Co. to privately handle distribution of their product. NWT Brewing Co. says that distribution fees make their beer \$100 more per keg than southern breweries. NWT Brewing Co. says that they have the storage and infrastructure to handle distribution themselves.

CBC. (September 5th, 2017). *N.W.T. business owners call for appeal process for unreasonable, unaccountable liquor board*. Retrieved from: <https://www.cbc.ca/news/canada/north/nwt-liquor-board-businesses-1.4276053>

- For 30 years, the Racquet Club had a liquor licence for their hot tub and deck where alcohol is served and consumed. After renovations, the NWT Licensing Board insisted that the hot tub be separate from the area where alcohol is consumed and that railings around the deck be higher than the national building code, so customers couldn't pass alcohol over the railing. The Racquet Club's liquor license was delayed by 5 months and they were required to hire a lawyer.
- NWT Brewing Co. wants to sell their beer to local bars, but the Board insists that any beer they sell must be sold through the wholesaling system the government uses to sell alcohol in the NWT. The fees the government charges to do that would push the price of a keg above a competitive retail price.
- These businesses want an appeal process for people who disagree with the Board's decisions. Right now, the only option is to hire a lawyer and challenge the decision in the NWT Supreme Court.

Northern News Services. (September 12th, 2017). *City Tapped To Support Allowing Children In Pubs To Eat With Parents*. Retrieved from: <https://nnsi.com/yellowknifer/city-tapped-to-support-youth-in-pubs/>

- Twist asks Council to consider supporting their request to allow minors into Class A establishments. There was no discussion following their presentation and no decisions made by Council. The GNWT Department of Finance said that they take "deliberate precautions" to limit alcohol exposure to youth and noted that changing the NWT Liquor Act or Regulations is a very lengthy process.

CBC. (September 14th, 2017). *Minister orders review of N.W.T liquor rules in response to business complaints*. Retrieved from: <https://www.cbc.ca/news/canada/north/liquor-regulation-review-business-concerns-1.4288892>

- The Finance Minister ordered a review of the NWT Liquor Licensing Board. The review was scheduled to be complete by March 31st, 2018.
- Businesspeople are complaining that the Board gives little or no explanation for its decisions, many of which seem arbitrary. The Board also seems unwilling to work with businesses to find solutions.

CBC. (April 4th, 2019). *Bar Owner Sees Steep Jump In Prices After N.W.T. Gov't Changes Liquor Distribution*. Retrieved from: <https://www.cbc.ca/news/canada/north/liquor-distribution-change-yellowknife-beer-prices-rise-1.5083662>

- The Kilt & Castle Pub presented invoices showing an 18.3% jump in the price of domestic beer, and expressed concerns that the uptown liquor store is not structured to manage bulk purchases. The GNWT says changing warehouse distribution will save taxpayers \$300,000/year.

CBC. (June 25th, 2019). *Yellowknife Councillors Reject Looking Into Restricting Liquor Sales, Changing Store Hours*. Retrieved from: <https://www.cbc.ca/news/canada/north/yellowknife-councillors-liquor-restrictions-1.5188533>

- Mayor Alty suggested a discussion about restricting liquor store hours and the amount of liquor that can be purchased at one time. Council was not supportive and instead expressed support for fewer restrictions regarding alcohol use.

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- ⁱ NWT Liquor Act: <https://www.justice.gov.nt.ca/en/files/legislation/liquor/liquor.a.pdf>
- ⁱⁱ NWT Liquor Regulations: <https://www.justice.gov.nt.ca/en/files/legislation/liquor/liquor.r5.pdf>
- ⁱⁱⁱ NWT Liquor Licensing Board: <https://www.fin.gov.nt.ca/en/services/nwt-liquor-licensing-board>
- ^{iv} NWT Liquor and Cannabis Commission: <https://www.fin.gov.nt.ca/en/nwt-liquor-and-cannabis-commission>
- ^v NWT Liquor Licensing Board. *Class A Handbook – A Guide To NWT Liquor Licenses*. Retrieved from: https://www.fin.gov.nt.ca/sites/fin/files/class_a_handbook_v2.pdf
- ^{vi} NWT Liquor Licensing Board. *Class B Handbook – A Guide To NWT Liquor Licenses*. Retrieved from: https://www.fin.gov.nt.ca/sites/fin/files/class_b_handbook_v2.pdf
- ^{vii} Government of British Columbia. *Liquor Primary*. Retrieved from: <https://www2.gov.bc.ca/gov/content/employment-business/business/liquor-regulation-licensing/liquor-licences-permits/applying-for-a-liquor-licence-or-permit/liquor-primary-liquor-licence>
- ^{viii} Saskatchewan Liquor and Gaming Authority. *Commercial Liquor Licensing*. Retrieved from: <https://www.slga.com/permits-and-licences/liquor-permits/commercial-liquor-permits/commercial-general-information?returnUrl=%2fsearch%3fquery%3dbrunch%2bendorsement#Restaurant>
- ^{ix} NWT Liquor Licensing Board Application Requirements: https://www.fin.gov.nt.ca/sites/fin/files/application_requirements_class_a_v2.pdf
- ^x Yukon Government. (2018). *Liquor Service Training Program*. Retrieved from: <http://www.ylc.yk.ca/barsprogram.html>
- ^{xi} The Alberta Gaming, Liquor and Cannabis Commission. (2019). *ProServe Liquor Staff Training*. Retrieved from: <https://proserve.aglc.ca/Index.aspx?tabid=13&sc=ASIPOL>
- ^{xii} NWT Liquor Enforcement: <https://www.fin.gov.nt.ca/en/services/liquor-enforcement>
- ^{xiii} Government of the Northwest Territories. (n.d). *Changes to NWT Liquor Distribution*. Retrieved from: <https://www.gov.nt.ca/en/newsroom/changes-nwt-liquor-distribution>
- ^{xiv} CBC. (2019). Bar Owners Sees Steep Jump in Prices after N.W.T. Gov't Changes Liquor Distribution. Retrieved from: <https://www.cbc.ca/news/canada/north/liquor-distribution-change-yellowknife-beer-prices-rise-1.5083662>