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## Preliminary Assessment of Alcohol Regulations Proposed in the 2019 Ontario Budget

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### Overview

This preliminary assessment was prepared to assist local public health units and municipalities to better understand the policy context and public health perspective related to the alcohol policy changes proposed in the [2019 Ontario Budget](#). Given the limited information in the Budget, additional analysis will be necessary as more information becomes available.

### Assessment of Specific Policy Changes

#### (1) Creating a new tailgating permit for sporting events, including professional, semi-professional and postsecondary sporting events.

Tailgating-style events were permitted under previous provincial regulation; for example, the Toronto Argonauts hosted a number of [pregame tailgating](#) events as recently as their 2016 season. The AGCO's new [guidelines for tailgate events](#) allow patrons to bring and consume their own alcohol and exempt commonly accepted practices that protect patron health, wellbeing, and safety. For example, event staff are not required to have SmartServe training, local communities do not have input into tailgate events hosted in their neighbourhoods, and patron access is not controlled (e.g. with fencing). Overall, these types of events have the potential to place an undue burden on certain neighbourhoods as well as increased use of municipal resources such as police and paramedic services.

The inclusion of post-secondary sporting events is particularly concerning. Many first year post-secondary students are under the legal drinking age and other students may be inexperienced alcohol drinkers. The brains of young people are [still developing](#) during the late teens and early 20's and drinking heavily can negatively impact areas of the brain related to executive functioning. A tailgating event, with its open and free-roaming environment, has the strong potential to normalise harmful alcohol use behaviour among students, including those who are underage. In fact, some Ontario municipalities are already struggling with [unsanctioned street parties](#) involving the over consumption of alcohol by post-secondary students and have taken [extraordinary measures](#) to address the issue.

#### (2) Permitting municipalities to designate public areas for the consumption of alcohol.

Under the [Liquor License Act](#), alcohol may not be consumed in public and individuals may not be intoxicated in public. The proposed change allows municipalities to

designate public areas, such as parks, for the consumption of alcohol. It should be noted that there were no proposals to alter the requirement that individuals cannot be intoxicated in public.

Controlling access to alcohol (e.g. requiring sales by SmartServe trained personnel, fencing off the alcohol consumption area), is an important tool to protect the health and safety of patrons and the public and to manage risk and liability for the event operator and property owner (the municipality, in this case). In fact, many municipalities [require conditions](#) for events that are hosted on municipal property and serve alcohol; these conditions often exceed those required by the Alcohol and Gaming Commission of Ontario. Permitting alcohol consumption in public areas will further normalise alcohol use and may hinder the public's enjoyment of these areas, particularly, in family- or child-oriented areas and natural spaces such as conservation areas.

In the absence of any access controls, the risk increases significantly for underage drinking, harmful alcohol consumption behaviour including intoxication, and alcohol-related harms. Without the ability to cite an individual or group for public drinking, the management of public nuisance issues such as noise and other crowd-related disturbances will be more difficult. For example, authorities may have to wait until a situation escalates to a dangerous level before they can intervene (essentially having to wait until intoxication has set in).

The designation of public areas for the consumption of alcohol will significantly increase the risk of serious injury and death (e.g. waterways, parks with open water or dangerous geological features, remote or inaccessible trails, or areas close to major roadways) and consequently the liability for municipalities.

### **3. Eliminating prescribed serving sizes for “by the glass” licences for wineries, cideries, breweries and distilleries serving alcohol at manufacturing sites.**

The ["by the glass" initiative](#) allows alcohol manufacturers to sell and serve their product onsite, primarily to promote and educate consumers about their product and to boost tourism. Given the intent and nature of the initiative, Manufacturer's Limited Liquor Sales Licence (or "by the glass" licence) holders have been restricted in the maximum serving size they are able to provide: 341ml (12 oz.) for beer, 142 ml (5oz.) for Ontario wine, 43 ml (1.5 oz.) for spirits.

The proposal to eliminate the prescribed serving size is contrary to the original promotional and educational intent of the "by the glass" licence. Other changes to the licence should be made to promote responsible drinking and prevent intoxication; for example, requiring licensees to have food, snacks, and free drinking water available to help delay intoxication.

### **4. Extending hours of alcohol service at licensed establishments, “by the glass” licences, and Special Occasion Permits to a 9:00 a.m. start, seven days/week.**

The proposed change is to allow the sale and service of alcohol starting at 9 a.m. (from 11 a.m.) and ending at 2 a.m., the next day (no change), on all days for Liquor Sales Licence holders, Special Occasion Permit (SOP) holders, and wineries, cideries, breweries and distilleries with “by the glass” licences. Temporary extensions are routinely granted in an application process, to allow the licensee and municipality to plan for and pre-emptively mitigate any potential issue (e.g. by arranging for [free public transportation](#) or increased R.I.D.E Checks).

The [evidence is clear](#) that longer hours during which alcohol is sold is associated with increased alcohol consumption and higher rates of alcohol-related harm. An earlier start time is expected to further normalise alcohol use, especially when the related promotional activity commences (e.g. advertising, lifestyle news coverage). In the long term, the increase in alcohol use may increase the risk of alcohol-related harm, including chronic disease. In addition, the government stated its intent to conduct further consultations on this issue (perhaps to extend the current closing time of 2 a.m., the next day).

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### **5. Allowing advertising for “happy hour”.**

Under the current [AGCO Liquor Advertising Guidelines](#), Liquor Sales Licence holders are permitted to advertise and post alcoholic beverage prices and promotions outside of the licensed establishment. However, this must be done in a responsible manner and cannot promote immoderate consumption—the current guidelines specifically prohibit the terms “Happy Hour” and “Cheap Drinks”.

Given that the proposal specifically cites “happy hour”, the likely implication is that terms such as “Happy Hour” and “Cheap Drinks” will now be permitted in advertising. As noted above, these terms were prohibited because of their tendency to promote immoderate consumption.

Advertising that overtly promotes irresponsible alcohol consumption is clearly incompatible with the promotion of responsible drinking behaviour, including [Canada's Low-Risk Alcohol Drinking Guidelines](#). Some populations may be particularly vulnerable, including post-secondary students and those struggling with alcohol use dependence.

### **6. Pausing the annual increases to the Wine Tax and reducing the price of alcohol at Royal Canadian Legion halls.**

The [evidence is clear](#) that reducing the price of alcohol will increase alcohol consumption and alcohol-related harms. Pausing the annual increase in the Wine Tax has the effect of lowering the price of wine (due to inflation) in addition to reducing general revenue for government.

Had the government chosen to continue its annual wine tax increase, the increased revenue generated from this tax could have been used to help offset the significant economic cost of alcohol use, including costs related to healthcare and criminal justice issues.

Reducing the price of alcohol at Royal Canadian Legion Halls is of particular concern. Veterans Affairs Canada [notes](#) that up to 10% of Canadian war zone Veterans will experience post-traumatic stress disorder (PTSD) and that many chronic PTSD sufferers turn to alcohol and drugs to cope which can impair their ability to function in daily life and create difficulties in relationships, work, and finances.

### **7. Allowing casinos to advertise complimentary alcohol.**

Under current [regulations](#), Liquor Sales Licence holders may provide complimentary drinks to patrons under [specific conditions](#); for example, complimentary drinks cannot be advertised. The proposed change allows casinos to advertise complimentary alcoholic drinks.

Alcohol consumption and gambling are linked; individuals with alcohol dependence are at greater risk of developing a gambling disorder with the severity related to the amount of alcohol consumed. Thus, the deliberate inducement of free alcohol may be problematic among those with alcohol use dependence.

Rather than allow such advertising, conditions should be placed on any such measures, for example, the advertisement should not state or imply that complimentary alcohol is conditional upon past, current, or future gambling behaviour or conditional upon patronage at the casino venue or other asset (e.g. restaurant).

## 8. Retail Expansion of Alcohol Sales

The 2019 Ontario Budget also reiterated plans to expand the retail availability of alcohol, specifically with sales in convenience and big box stores. OPHA and several provincial stakeholders previously participated in roundtable discussions, hosted by the Ministry of Finance, and expressed concerns related to the [evidence](#) on the potential health and social harms of increased access to alcohol.

Based on the information available to the public, OPHA is proposing the following harm mitigation measures, if the decision is made to proceed with further retail expansion:

- Expanding slowly, with careful attention to evaluating the impact, and addressing health and safety issues.
- Ensuring adequate funding for the Alcohol and Gaming Commission of Ontario such that it has sufficient capacity to enforce the *Liquor License Act* and regulations in the expanded private retail environment as well as new oversight responsibility inherent with other regulation changes.
- Requiring municipal government endorsement of a retail sales license, including the posting of a public notice of a licence application, to ensure that new access points are in the interest of the community.
- Requiring a site and community safety assessment.
- Requiring minimum site safety and security measures (e.g. interior and exterior lighting, video monitoring). The [Registrar's Standards for Cannabis Retail Stores](#) may be a starting point for convenience stores selling alcohol.
- Requiring the same [operating parameters](#) as grocery stores that are licensed to sell alcohol, including (a) minimum age of 18 years and SmartServe Training for staff involved in selling or sampling alcohol, (b) prescribed hours of sale, (c) rules for the display of product including securing product outside of prescribed sale hours, (d) restrictions on marketing and financial inducements including agreements with manufacturers and the exchange of loyalty points as payment for alcohol, (e) wholesale purchase from the LCBO, (f) price structure, (g) restrictions on product format and alcohol content (e.g. sales of spirits are not permitted), and (h) posting of signage related to [Sandy's Law](#).

## Overall Assessment

Taken together these new measures significantly increase the potential for alcohol related harms and appear inconsistent with the provincial government's stated goals of balancing the modernization of the sale and distribution of alcohol with public health and safety.

### About OPHA

*Created in 1949, the Ontario Public Health Association (OPHA) is a non-partisan, non-profit organization that brings together a broad spectrum of groups and individuals concerned about people's health. OPHA's members come from various backgrounds and sectors - from the various disciplines in public health, health care, academic, non-profit to the private sector. They are united by OPHA's mission of providing leadership on issues affecting the public's health and strengthening the impact of people, who are active in public and community health throughout Ontario. This mission is achieved through professional development, information and analysis on issues affecting community and public health, access to multidisciplinary networks, advocacy on health public policy and the provision of expertise and consultation. [www.opha.on.ca](http://www.opha.on.ca) @OPHA\_Ontario*