

ONTARIO REGULATION 747/21

made under the

LIQUOR LICENCE AND CONTROL ACT, 2019

Made: November 4, 2021

Filed: November 8, 2021

Published on e-Laws: November 8, 2021

Printed in *The Ontario Gazette*: November 27, 2021

PERMITS

Table of contents

INTERPRETATION

Definitions and interpretation

1. (1) In this Regulation,

“auction” means an auction described in paragraph 1 of section 3; (“vente aux enchères”)

“charity event” means a public event that is conducted by a charitable organization registered under the *Income Tax Act* (Canada) or by a non-profit association or organization for the advancement of charitable, educational, religious or community objects; (“événement caritatif”)

“industry promotional event” means a public event,

- (a) at which a manufacturer, a licensed representative of a manufacturer or the event organizer acting on behalf of either may provide and sell samples of liquor at cost or less and take orders for liquor purchases, and
- (b) that is conducted for the purpose of promoting a manufacturer’s products; (“événement promotionnel de l’industrie”)

“tailgate event” means a public event that is held at an outdoor premises that is at ground level, where the event is held in connection with and in proximity to a professional, semi-professional or post-secondary sporting event. (“fête d’avant-partie”)

(2) A reference in this Regulation to a class of licence or endorsement is a reference to that class of licence or endorsement as provided for in Ontario Regulation 746/21 (Licensing) made under the Act.

PRESCRIBED SPECIAL OCCASIONS, EVENTS AND ACTIVITIES

Prescribed special occasions

2. The following events are prescribed as special occasions for the purposes of clause 16 (1) (a) of the Act:

1. A private event, for invited guests only, that is conducted without the intention of gain or profit from the sale of liquor.
2. A charity event.
3. A tailgate event.
4. An industry promotional event.
5. A public event that is,
 - i. of provincial, national or international significance, or
 - ii. designated by a municipal council or its delegate as an event of municipal significance.

Prescribed events and activities

3. The following events and activities are prescribed for the purposes of clause 16 (1) (b) of the Act:

1. An auction that is conducted by any of the following persons or entities, including an auction that is conducted wholly or partly online:
 - i. A charitable organization registered under the *Income Tax Act* (Canada).
 - ii. An administrator or executor of an estate acting within the scope of their duties.
 - iii. A law enforcement officer acting within the scope of their duties.

CLASSES OF PERMIT

Classes of permit

4. The following classes of permit are established:

1. A sale permit.
2. A no-sale permit.
3. A sale tailgate permit.
4. A no-sale tailgate permit.
5. An auction permit.

Authorized actions for sale permit

5. A sale permit authorizes the holder to perform the following actions in accordance with the conditions that apply to the permit:

1. Keep for sale, offer for sale and sell liquor at a special occasion other than a tailgate event.
2. Serve and offer to serve liquor at a special occasion other than a tailgate event.
3. Permit individuals to possess or consume open liquor at the permitted premises.
4. Take and solicit orders for the sale of liquor at an industry promotional event.

Authorized actions for no-sale permit

6. A no-sale permit authorizes the holder to perform the following actions in accordance with the conditions that apply to the permit:

1. Serve and offer to serve liquor at a special occasion other than a tailgate event.
2. Permit individuals to possess or consume open liquor at the permitted premises.
3. Take and solicit orders for the sale of liquor at an industry promotional event.

Authorized actions for sale tailgate permit

7. A sale tailgate permit authorizes the holder to perform the following actions in accordance with the conditions that apply to the permit:

1. Keep for sale, offer for sale and sell liquor purchased under the permit at a tailgate event.
2. Serve and offer to serve liquor purchased under the permit at a tailgate event.
3. Permit individuals to possess and consume liquor sold or served under the permit or brought to the permitted premises of the tailgate event by attendees.

Authorized actions for no-sale tailgate permit

8. A no-sale tailgate permit authorizes the holder to perform the following actions in accordance with the conditions that apply to the permit:

1. Permit individuals to possess and consume liquor brought to the permitted premises of the tailgate event by attendees.

Authorized actions for auction permit

9. An auction permit authorizes the holder to perform the following actions in accordance with the conditions that apply to the permit:

1. Keep for sale, offer for sale and sell liquor through an auction.
2. Deliver, for a fee, liquor sold through an auction.

APPLICATIONS AND ISSUANCE

Application for permit

10. (1) An application for a permit shall be submitted to the Registrar,

- (a) in the case of a private event referred to in paragraph 1 of section 2, at least 10 days before the date of the event; or
- (b) in the case of any other event or activity, at least 30 days before the date of the event or activity.

(2) In the case of an event or activity, other than an auction, that is to be held outdoors, the applicant shall, before the time specified in subsection (3), give written notice of the event or activity to,

- (a) the clerk of the municipality in which the event or activity is to take place;
- (b) the police force and the fire department that are responsible for providing services in the location where the event or activity is to take place;
- (c) the local boards of health or the health departments of the municipality in which the event or activity is to take place; and
- (d) if the event or activity is to take place in an area under the control of the National Capital Commission, to the Chairperson of the Commission.

(3) The time referred to in subsection (2) is,

- (a) 30 days before the date of the event or activity, if it is expected that fewer than 5,000 people will attend; or

(b) 60 days before the date of the event or activity, if it is expected that 5,000 people or more will attend.

(4) The applicant shall submit a copy of every notice given under subsection (2) to the Registrar.

(5) The Registrar may refuse to issue a permit if the requirements of this section are not met.

Single permit for multiple-day event or activity

11. (1) The Registrar may, on application, issue to a person a single permit authorizing the sale, service or consumption of liquor at a multiple-day event or activity if,

(a) the nature, purpose, location and target audience of the event or activity are the same for each day; and

(b) neither the applicant nor any person or entity conducting or sponsoring the event or activity, if different from the applicant, would be or appear to be operating an ongoing business.

(2) In the case of an auction that is conducted wholly or partly online, the Registrar shall not issue a single auction permit authorizing the sale of liquor through the auction for a period of more than 15 consecutive days.

Permits and local option systems

12. If, under a local option system set out or permitted by the regulations, the issuance of a licence to operate a liquor consumption premises is prohibited in a municipality or part of a municipality, the following permits shall not be issued with respect to a premises located in that municipality or part of a municipality:

1. Sale permits.
2. Sale tailgate permits.

Premises

13. (1) An applicant for a permit shall ensure that the premises at which an event or activity is to take place is not a disqualified premises under section 18 of the Act.

(2) The following standards apply with respect to the premises to which a permit is to apply:

1. A premises used as a dwelling, not including the common areas of a multiple unit residential building, shall not be used for the sale, service or consumption of liquor under a permit.

(3) In this section, a reference to the premises to which a permit is to apply includes reference to a part of the premises.

CONDITIONS

Application

14. (1) It is a condition of every permit that the holder comply with sections 15 to 25, as applicable.

(2) For greater certainty, conditions set out in sections 15 to 25 respecting a permitted premises do not apply with respect to any part of an auction that is conducted online.

Purchase of liquor to be sold, served

15. (1) Except as otherwise provided in this section, the permit holder shall not sell or serve liquor under a permit unless the liquor was purchased from,

- (a) the LCBO;
- (b) Brewers Retail Inc.;
- (c) a retail store operated under an offsite winery retail store licence; or
- (d) a retail store operated under a brewery retail store endorsement, winery retail store endorsement or distillery retail store endorsement.

(2) The holder of a no-sale permit may serve wine or beer that has not been purchased from a source referred to in subsection (1), in the following circumstances:

- 1. The wine or beer has been made by a member of the family hosting a wedding, anniversary or other family occasion, if the holder acquires and serves the wine or beer free of charge.
- 2. The wine or beer is made by members of an organization or other entity the objects of which are the testing, exhibition and judging of wine or beer made by its members, and is served only to its members at an event that is open to the public.

(3) Subsection (1) does not apply to liquor that is,

- (a) served at an industry promotional event at which market research will be conducted;

- (b) donated by a manufacturer at a charity event; or
 - (c) sold or served at an event held by a representative of a foreign government.
- (4) The holder of an auction permit may sell liquor that has not been purchased from a source referred to in subsection (1), other than,
- (a) liquor donated by a manufacturer, unless the auction is held in conjunction with a charity event; or
 - (b) liquor donated by the holder of a liquor sales licence.

No inducements

- 16.** (1) The permit holder shall not directly or indirectly request, demand or receive any material financial or other benefit from a manufacturer of liquor or a representative or employee of the manufacturer, unless the permit is for an industry promotional event.
- (2) Despite subsection (1), a permit holder may request or receive liquor from a manufacturer who is donating it for a charity event, including a charity event that is held in conjunction with an auction through which the liquor is to be sold.

Liquor on the premises

- 17.** (1) Except as otherwise provided in this section or in accordance with section 47 of Ontario Regulation 746/21 (Licensing) made under the Act, the permit holder shall ensure that the only liquor on the permitted premises is liquor purchased under the authority of the permit or otherwise authorized to be sold or served under the permit.
- (2) The permit holder may permit an attendee to possess liquor on the permitted premises that is not liquor referred to in subsection (1), if the liquor,
- (a) is in a sealed, unopened container;
 - (b) was purchased from a retail store, the holder of a liquor sales licence or the holder of a by-the-glass endorsement; and
 - (c) is intended for personal use elsewhere than on or adjacent to the premises.
- (3) The permit holder shall permit an attendee to possess liquor on the permitted premises for an industry promotional event, if the liquor is provided for the purpose of sampling under a temporary extension endorsement.
- (4) Subject to subsection 23 (3), the holder of a sale tailgate permit or no-sale tailgate permit shall permit attendees to possess and consume liquor that is not liquor referred

to in subsection (1) at the permitted premises.

Removal of liquor from premises by attendee

18. (1) Except as otherwise provided in this section or in accordance with section 47 of Ontario Regulation 746/21 (Licensing) made under the Act, the permit holder shall ensure that no liquor is removed from the permitted premises by an attendee.

(2) If an attendee has brought liquor purchased from a retail store, the holder of a liquor sales licence or the holder of a by-the-glass endorsement onto the permitted premises in a sealed, unopened container as provided for under subsection 17 (2) and the liquor is not opened, the permit holder shall allow an attendee to remove the liquor from the premises when the attendee departs.

(3) The holder of a sale tailgate permit or no-sale tailgate permit shall not allow an attendee who has brought liquor to the permitted premises as provided for under subsection 17 (4) to remove any of the liquor from the premises when the attendee departs unless,

(a) in the case of an attendee who departs in a motor vehicle other than a form of public transportation, the liquor is,

(i) in a sealed and unopened container, or

(ii) packed in baggage that is fastened closed or not otherwise readily available to any person in the motor vehicle; or

(b) in any other case, the liquor is in a securely closed container.

(4) The permit holder shall permit liquor to be removed from the permitted premises for an industry promotional event, if the liquor is sold at the premises under a temporary extension endorsement.

(5) The holder of an auction permit shall permit the successful bidder for liquor at the auction to remove the liquor from the permitted premises when the bidder departs.

(6) Subsection (1) does not apply to liquor donated by a manufacturer for a charity event.

Hours of sale, etc. under permit

19. The permit holder shall ensure that liquor is sold or served under the permit at a permitted premises only between the following hours, which shall be specified by the Registrar in the permit:

1. 9 a.m. on any day except for December 31 and 2 a.m. on the following day.

2. 9 a.m. on December 31 and 3 a.m. on January 1.

3. Despite paragraphs 1 and 2, in the case of a public event described in paragraph 5 of section 2, the hours specified by the Registrar.

Attendance by permit holder or designate

20. (1) The permit holder shall attend the event or activity to which the permit applies or, subject to subsection (2), designate a person to attend in the holder's place.

(2) The permit holder may not designate a person who, less than two years before the application for the holder's permit is made, was refused a permit under the Act or a special occasion permit under the *Liquor Licence Act* before its repeal.

(3) The requirements of this Regulation that apply to the permit holder in respect of the permit also apply to the person designated by the holder.

(4) The permit holder or, if applicable, designate shall make the permit available for inspection by a police officer, inspector or investigator on that person's request.

(5) Subsection (4) does not apply with respect to any part of an auction that is conducted online, as long as the permit holder complies with any standards or requirements respecting the posting or display of any information in relation to the permit.

Unlawful behaviour

21. (1) The permit holder shall not permit intoxication, unlawful gambling or disorderly conduct to occur on the permitted premises or any adjacent premises under the holder's exclusive control.

(2) The permit holder shall not allow a person to hold, offer for sale, sell, supply or consume a controlled substance as defined in the *Controlled Drugs and Substances Act* (Canada) on the permitted premises or any adjacent premises under the holder's exclusive control.

(3) The permit holder shall ensure that police officers acting in the course of their duties are given access to the permitted premises and to any adjacent washrooms and liquor and food preparation areas under the permit holder's exclusive control.

Sale, service and consumption of liquor

22. (1) The permit holder shall not engage in or allow practices that may tend to encourage the immoderate consumption of liquor by an attendee.

(2) The permit holder shall not adulterate liquor by adding any substance to it, except by adding a substance to an attendee's drink at the attendee's request, and shall not keep for sale or sell adulterated liquor.

Persons under 19 and permitted premises

23. (1) In this section,

"item of identification" means an item of identification as defined in subsection 9 (1) of Ontario Regulation 746/21 (Licensing) made under the Act.

(2) The permit holder shall ensure that an item of identification of a person who appears to be under 19 years of age is inspected before,

- (a) liquor is sold or served at the permitted premises to the person; or
- (b) if the permit is subject to a condition prohibiting the entry of persons under 19 years of age onto the permitted premises, the person is admitted to the premises.

(3) The holder of a sale tailgate permit or no-sale tailgate permit shall not allow persons under 19 years of age to possess or consume liquor at the tailgate event.

(4) If the holder of a sale tailgate permit or no-sale tailgate permit believes that a person apparently under 19 years of age is in possession of or consuming liquor at the tailgate event, the holder shall,

- (a) request that the person provide an item of identification for inspection by the holder; and
- (b) remove the person from the permitted premises if, on inspection of the item of identification, the holder is not satisfied that the person is at least 19 years of age.

Removal of liquor by permit holder

24. The permit holder shall ensure that evidence of liquor that has been served and consumed on the permitted premises is removed within 45 minutes after the end of the period during which liquor may be sold or served under the permit.

Delivery of liquor sold under auction permit

25. (1) In this section,

"carrier" has the same meaning as in section 11 of Ontario Regulation 745/21 (General) made under the Act; ("transporteur")

“private place” has the same meaning as in section 22 of Ontario Regulation 745/21 (General) made under the Act. (“lieu privé”)

(2) Liquor sold through an auction under an auction permit may be delivered by the permit holder or, with the permit holder’s authorization, by an employee of the permit holder, a carrier or a holder of a licence to deliver, in accordance with this section.

(3) The permit holder shall ensure that the following requirements are met when liquor sold through the auction is delivered, regardless of who delivers the liquor:

1. The liquor is in a sealed, unopened container.
2. The liquor is only delivered to a residence or private place.

(4) The permit holder shall additionally ensure that the following requirements are met when liquor sold through the auction is delivered by the holder or an employee of the holder:

1. The liquor is delivered to a person who,
 - i. is at least 19 years of age,
 - ii. is located at the address provided by the person who purchased the liquor, and
 - iii. does not appear to be intoxicated.
2. Despite paragraph 2 of subsection (3) and paragraph 1 of this subsection, the liquor is not delivered to a patient in a facility listed in the Table to section 26 of Ontario Regulation 745/21 (General) made under the Act, or to a patient in an institution for the treatment of alcohol addiction.
3. Before the delivery of liquor to a person who appears to be under 19 years of age, an item of identification, as defined in section 23, of the person is inspected.
4. The liquor is delivered only between 9 a.m. and 11 p.m. on any day.

(5) The permit holder shall additionally ensure that the requirements listed in subsection (4) and the following requirements are met when liquor sold through the auction is delivered by a carrier:

1. The liquor is delivered only by the carrier.
2. Subject to paragraph 3, the liquor is delivered on the same day that it is received by the carrier from the permit holder, or on the first regular delivery day that follows.

3. If the carrier is unable to deliver the liquor within three days following its initial attempt, the liquor is promptly returned to the permit holder.
4. The carrier does not store liquor pending delivery except to temporarily keep liquor in a secure area at its premises until the liquor is delivered or returned to the permit holder, during which time only the carrier's employees have access to the liquor.

AMENDMENT TO THIS REGULATION

Amendment to this Regulation

26. Clause 10 (2) (b) of this Regulation is amended by striking out "police force" and substituting "police service".

COMMENCEMENT

Commencement

27. (1) Subject to subsection (2), this Regulation comes into force on the later of the day section 3 of Schedule 26 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020* comes into force and the day this Regulation is filed.

(2) Section 26 comes into force on the later of the day subsection 2 (1) of Schedule 1 (*Community Safety and Policing Act, 2019*) to the *Comprehensive Ontario Police Services Act, 2019* comes into force and the day this Regulation is filed.