



Special Occasion Permit (SOP) Submission

2008

Ontario Restaurant Hotel & Motel Association's Special Occasion Permit Submission

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Section: Different types of events

There are eight different types of events which can qualify for the issuance of an SOP. Depending on the type of event, the SOP can be sale or no sale. The types of events are:

1. Reception (sale/no sale)
2. Fundraiser (sale)
3. Significant Event (sale)
4. Trade Show (sale/no sale)
5. Consumer Show (sale)
6. Market Research (no sale)
7. Community Festival (sale)
8. Auction (sale)

The proposed framework considered herein would maintain the distinction between sale and no sale classes of permits, but would collapse the eight permit types into the following:

- (i) **Private Events** – this would encompass all reception permits (sale and no sale). The events would be limited to invited guests and no profit would be permitted. A wedding, for example, would be considered a private event.
- (ii) **Public Events** – this would encompass the fundraiser, significant event, community festival and auction permits. Such events would be open to the general public and would allow the organizer to make a profit from the sale of liquor. Eligibility would be based on similar criteria as at present (i.e. applicant must be a charitable or non-profit organization raising funds for community needs, etc.). A Community festival or charity fundraiser, for example, would be considered a public event.
- (iii) **Industry Promotional Events** – this would encompass the trade show, consumer show and market research permits. These are all events that are organized to promote product to industry or the general public, and where the sale of liquor is not intended for profit. The International Food and Wine Fair in Toronto, for example, would be considered an industry promotional event.

Questions for Consideration:

- Does this proposal introduce a simplified, more efficient, user-friendly SOP program? Are there other options that should be considered?

We agree this is a much simplified system.

Reducing the categories to three would not be an issue, however there will be the creation of other issues without specifying the Sale/No Sale events, as will likely require less upfront reporting and understanding of what the true intent for the event is all about. If an event is not being conducted under a licensee permit, then an SOP should be required in all cases; This is valuable for the proper tracking and advisement of the event.

Although reforming SOPs has been studied more than once in the past, there is always the difficulty of trying to determine who exactly is the permit holder, who is responsible for the event, and having the proper authorities be notified well in advance for enforcement purposes. Many permit applicants falsify applications either to avoid paying the sales levy or to host an event for private profit. Support documentation must accompany several types of permits especially those for outdoors, in the form of notification letters and a sketch of the proposed permit area. How these would be incorporated into an electronic system of applying without compromising public safety is an open question.

Further, the use of SOPs is open to abuse. For example, different groups (sometimes athletic associations) with the same people apply under different names for a series of routine events at the same location for private profit that constitutes operating an ongoing business. A liquor sales licence should be demanded in such cases. One sees stag and doe events in local newspapers that breach SOP regulations as they are for private profit and advertised widely.

Section: Permit holders that operate a business which is not primarily focused

As it stands, the program places certain limitations on permit holders that operate a business which is not primarily focused on the sale and service of liquor and food. Under the current regulations, this means that art galleries or retailers that may want to take out a permit from time to time (e.g. for an opening or seasonal party) are restricted to a limited or designated area or cannot operate their business at the same time they are serving alcohol. Moreover, an SOP may be refused if the event is one in a series, as that appears to be an ongoing business. As a result, community groups and social clubs which hold events on a regular basis are required to apply for individual permits for each event. Some may view this as being overly bureaucratic, but at the same time there are enforcement concerns with the carrying over and storage of liquor between events.

Consideration could be given to developing new categories of SOPs to allow, for instance, wine clubs to host tasting and educational events for members. Alternatively, present categories can be extended or opened up. For example, homemade beer and wine, which may be served at wedding receptions and religious events, could be permitted at other types of events, such as anniversaries or birthday parties. Furthermore, given the growth of electronic commerce and online auction sites, consideration may be given to providing charities with another fundraising alternative by allowing them the ability to conduct online auctions.

Questions for Consideration:

- **Is there support to allow private profit from SOPs under certain circumstances? Should this category be expanded? Or should we continue to limit who is eligible for fundraising SOPs? If it is expanded, what checks and balances could be placed on who would be considered eligible?**

Special Occasion Permits are to be used for occasional special events only, and not for private gain or profit. Limitations on fundraising eligibility need to continue. If it applies to groups there would need to be significant additional changes. Currently charity/volunteer groups are operating SOP's for worthy causes; however these groups are not held to the same standard criteria licenses are required. (Example: these SOP's are not required to have licensed security as licensees need to and in general they tend not to be held to the same inspection standards.) Our recommendation is to have these type of SOP's executed by a licensee operator, who knows the rules and regulations and has vested interest and responsibility to ensure the operations run appropriately as their credibility and practices will be on record under the AGCO.

- **Should businesses not specialized in food and liquor service be allowed to hold permits while they conduct their business (e.g. SOP event at an art gallery)? Should the exception be limited to certain types of businesses?**

Businesses not involved with F&B should not be allowed to hold permits when conducting their businesses during SOP times.

Yes, other groups should be allowed to do this, however they should be required to obtain a traditional license. i.e. for high end clothing stores that want to serve cocktails

- **Should continuous permits be allowed? Should the carry over of "unused/left over liquor" be allowed? If so, how would enforcement concerns be addressed? Should there be some limitation regarding who is eligible for continuous permits?**

Continuous permits should not be allowed. This will open the door to inappropriate uses of a license. The carry over of unused/left over liquor promotes and leads to a permanent license which if this is the goal then such a request should go through the permanent application process and should seek an operator with an endorsement ability.

Further, the use of SOPs is open to abuse. For example, different groups (sometimes athletic associations) with the same people apply under different names for a series of routine events at the same location for private profit that constitutes operating an ongoing business. A liquor sales licence should be demanded in such cases. One sees stag and doe events in local newspapers that breach SOP regulations as they are for private profit and advertised widely.

- **Should the availability of homemade wine be expanded to other SOP events? Should there be restrictions based on the type of event (e.g. public vs. private)?**

Homemade wine should not be expanded to other events.

Increasing the encouragement of “homemade” products will increase the potential of quality concerns and the abuse in specific circumstances.

- **Should educational or other special events be incorporated into the SOP program?**

Educational and other events are already using SOPs. The ORHMA would maintain that SOP events create more than their fair share of problems beyond their numbers such as intoxication, impaired driving, serving minors, overcrowding, etc.

- **Should online auctions by charities be allowed?**

We do not agree that online auctions by charities be allowed. Allowing online purchases will lead to changing other standards and open up other issues. i.e. ticket sellers (who are not in contact with alcoholic beverages) under current law need to be at the age of 18 or over and a similar law needs to be applied to on line employees.

- **Are there other options that should be considered?**

Section: Program Administration

As previously noted, the LCBO delivers the SOP program on behalf of the AGCO at over 430 of its retail locations. There has been some discussion regarding expanding the number of stores that issue permits or potentially considering delivering the program electronically (i.e. via the internet). At present, an applicant is required to apply for a permit at an LCBO store in the municipality where the event is being held. This enables local stores to become familiar with locations hosting events, which makes them better able to anticipate any problems and advise police and the AGCO. However, some view this requirement as inconvenient, particularly for those who may not live in the area in which the event is being held (which is not uncommon, for instance, in the case of wedding receptions).

Questions for Consideration:

- **At present, designated LCBO stores are the sole service window for SOP applicants, and approximately 75% of all LCBO stores issue SOPs. Should SOP-application issuance be expanded to all LCBO stores? Should the AGCO directly accept applications and issue SOPs? Are there other options for issuing SOPs?**

All SOP's should stay with issuing at the LCBO stores.

- **Should there be more education provided to applicants with respect to the laws that apply to their events?**

More education needs to be applied applicants. Event holders should be required to prove that they have the same knowledge as licensees in the operations of alcohol events and server training should be mandatory.

The ORHMA would maintain that SOP events create more than their fair share of problems beyond their numbers such as intoxication, impaired driving, serving minors, overcrowding, etc. Legal liability risk is a larger issue for permit holders than for licensees. However, server training is mandatory for new licensees, transferees, stadiums, certain endorsement holders etc. while those holding an SOP who are inexperienced and have no knowledge of responsible sale and service of beverage alcohol escape training. Over 450,000 in Ontario's hospitality industry have been trained. The ORHMA recommends that, to address contravention of the LLA and its regulations and legal liability risks at SOP events, to provide a level playing field, and promote public safety, permit holders and serving staff at SOPs be required to be server-trained in Smart Serve.

- **Should application fees be increased for large capacity or higher risk events?**

Definitely applications fees must be increased. It is currently excessively easy to obtain an SOP. The current roll out of Risk Based Licensing needs to cover SOP's with focus on sizable and higher risk events.

- **Are there other areas of reform that should be considered with regard to how the program is currently administered?**

Reform the program as it is excessively easy to obtain SOP's .

Section: Enforcement

Concerns have been expressed by the enforcement community at the difficulty in policing large scale public SOP events, such as community festivals. Over the years, these events have grown considerably in both size and duration – some may last several days, for instance. Events of this nature may be run by volunteers or promoters and may not receive the same resource investment as a licensed establishment nor be subject to the same level of scrutiny that occurs as part of the licensing process. Furthermore, the inexperience of many permit holders and their staff in responsibly selling and serving alcohol to large crowds, ensuring that attendees are not drinking to intoxication or posing a threat to public safety, raises concerns in terms of social responsibility. In addition, a considerable amount of time and resources is expended by the AGCO and local police services after a permit has been issued, both prior to the event but in particular at the event itself (e.g. where police presence may need to be significant), to ensure the public's safety.

The AGCO is moving towards a risk-based approach to regulation in the area of liquor licensing and enforcement. The aim of a risk-based approach is to maximize compliance, expedite the processing of lower-risk applications and focus resources on those who represent a higher compliance and public safety risk. Consideration could be given to adopting a similar approach with respect to the SOP program, so that a greater focus is placed on compliance and on assessing risks and imposing

conditions on the front end of the process, prior to the permit being issued. The introduction of monetary penalties could be another important component aimed at improving SOP compliance.

Questions for Consideration:

- Should the SOP program move toward a more formal, comprehensive risk-based regime?

The compliance and enforcement need to be similar to permanent licensed establishments.

- Should a list of standard conditions be developed, to be placed on certain permits, such as large events?

Conditions should be similar as mentioned in the above point. There are more concerns with SOP events. Standards should be provided and need to be flexible to the level of event. Risk based licensing needs to be included.

- Should the AGCO policy related to outdoor events also include large inside events, and should that number be changed from 1000? Should there be a cap on the size of events eligible to receive an SOP?

Caps are not to be included as the risk based licensing should be involved to make comment/rulings.

- Are there opportunities for making large scale events, such as community events, more patron friendly while maintaining public safety?

Maintaining compliance and enforcement similar to licensed establishments will ensure the result asked in this question. Large scale events should only be operated by approved operators and we recommend not to follow the current practice where anyone of age can apply and obtain an SOP.

- Should the AGCO assess monetary penalties for permit holders? Should monetary penalties be used for lower risk compliance issues that do not impact on public safety, such as failing to post the permit? Should monetary penalties be used for large or repeat events for violating conditions of their permit and the law?

Once again similar licensee rules need to be applied. SOP holders need to be charged in similar fashion.

Section: Operations

There are a number of operational issues that could be considered as part of any reform to the SOP program.

For instance, SOP holders currently must cease the sale and service of alcohol at 1 a.m. Closing hours for SOPs could be adjusted to make the final hour of service 2 a.m. instead, which would be consistent with licensed establishments. Consideration would have to be given as to whether this would create difficulties in terms of enforcement (the current staggered serving times better enables enforcement and patrolling by local police, as people are leaving establishments and events at different times) and whether the change would be socially responsible and fair to liquor sales licensees.

Mandatory server training is another topic frequently raised. At present, server training is not required of permit holders. Summer festivals and community events often draw a large number of tourists to smaller communities throughout the province as well as generate funds for these areas. Alcohol training and awareness for all volunteers and/or employees working at an SOP event would help to ensure public safety, and also promote a safe environment for tourists.

Finally, as a matter of policy, permit users are told that sufficient food must be provided for all persons attending an event, for example, a light meal would be acceptable. However, chips, peanuts and pretzels on their own are not acceptable. Given the various types of events that qualify for an SOP, ranging from a high end wedding reception to a much smaller gathering of a local club, it may be important to have some flexibility with the interpretation for food requirements.

Questions for Consideration:

- **Should the serving times for alcohol be changed to mirror the hours for licensed establishments under the LLA?**

Stay consistent with licensed establishment regulations. The ORHMA does not agree with this proposal as SOPs already represent unfair competition to licensees. Extending the hours of sale and service of SOPs would only increase this advantage.

- **Should alcohol server training be made mandatory for all applicants, employees and/or volunteers involved in the sale and service of alcohol at an SOP event? Or should training be limited in some manner?**

Yes it should be mandatory. Stay consistent with licensed establishment's regulations.

- **Would mandatory alcohol server training for large scale events assist with making the event safe and more patron friendly?**

Yes it will definitely accomplish this goal. Stay consistent with licensed establishment's regulations.

As stated above: The ORHMA would maintain that SOP events create more than their fair share of problems beyond their numbers such as intoxication, impaired driving, serving minors, overcrowding, etc. Legal liability risk for permit holders is more-so an issue than for licensees. However, server training is mandatory for new licensees, transferees, stadiums, certain endorsement holders etc. while those holding an SOP who are inexperienced and have no

knowledge of responsible sale and service of beverage alcohol escape training. Over 450,000 in Ontario's hospitality industry have been trained. The ORHMA recommends that, to address contravention of the LLA and its regulations and legal liability risks at SOP events, to provide a level playing field, and promote public safety, permit holders and serving staff at SOPs be required to be server-trained in Smart Serve.

- **Should the food requirements be expanded, to help with the responsible service of alcohol? Or should there be no such requirement at all?**

Food requirements need to be available as per the licensed establishment's regulations.

- **Are there other areas for reform of an operational nature that should be considered?**

General Feedback

This consultation document attempts to include a wide variety of issues related to the SOP system. Are there any other issues relating to the SOP system that have not been raised?

The ORHMA advises that caution be exercised in examining any reforms to SOPs. Many policy changes have needed to be introduced to toughen up the issuing of SOPs, not loosen them, because of past widespread abuses (e.g. those changes resulting from the 1995 Inter-Ministerial Committee on After Hours Violence). Although the LLA provides the Registrar, Board and the AGCO specified powers in refusing to issue or rescinding SOPs and disqualifying premises, the sometimes-transient nature of the groups and events - plus identifying who these people or groups are - makes proactive remedies difficult. Individuals and groups on the refuse-to-issue list simply have to get someone else to apply for a permit on their behalf.

Further, the use of SOPs is open to abuse. For example, different groups (sometimes athletic associations) with the same people apply under different names for a series of routine events at the same location for private profit that constitutes operating an ongoing business. A liquor sales licence should be demanded in such cases. One sees stag and doe events in local newspapers that breach SOP regulations as they are for private profit and advertised widely.

It would appear from the format of the questions and the positioning, that the AGCO has narrowed down the direction of regulations. An open format for discussion regarding SOPs would have lead to a better outcome of steering the future of SOP's.