



ONTARIO RESTAURANT HOTEL & MOTEL ASSOCIATION

March 16, 2006

Hon. Dalton McGuinty  
Premier  
Legislative Building  
Queen's Park  
Toronto, ON M7A 1A1

Dear Premier,

On behalf of the Ontario Restaurant Hotel & Motel Association (ORHMA) and our members province-wide in both the accommodations and foodservices sectors I am writing today to share with you some serious concerns with Bill 53: *Stronger City of Toronto for a Stronger Ontario Act*. The ORHMA has several concerns with Bill 53, specifically related to taxation, accountability, bar hours, delegation of authority, and planning. Above all, Premier, the ORHMA opposes the government's decision to include in Bill 53 a provision permitting the City of Toronto to levy a direct retail sales tax on the purchase of liquor.

Ontario's hospitality industry is one of the most dynamic and competitive sectors of the provincial economy, generating \$18.32 billion in annual sales, and directly employing more than 415,000 Ontarians. In the City of Toronto alone there are more than 8,000 restaurants, of which more than 4,100 are licensed to sell and serve liquor, and more than 150 hotels with 35,000 guest rooms.

However, in recent years, profits in the industry have plummeted, and the restaurant and bar sectors are now experiencing average profit margins of only 3.6% and 2.2% respectively. Accommodation occupancy rates have shown improvement over the last three years but rates remain below 2001 levels.

Upon introduction of Bill 53 you were quoted as saying "Toronto would now have the ability to be as dynamic, as competitive and as successful as the people who have chosen to build their lives here." Premier, simply put, the revenue generating powers contained in this Bill will have the opposite impact, and will hurt business and jobs, while fostering the underground economy.

*Taxation*

The ORHMA opposes the proposed authority of the City of Toronto to levy a retail sales tax on liquor. Any municipal tax on liquor will result in a decrease in licensee sales, a decrease in provincial and federal revenues, an increase in the illegal economy and sale and trade of illegal liquor, and the additional cost of enforcing these illegal activities. Further, a municipal tax on liquor would place Toronto's licensees at a competitive disadvantage to establishments in neighbouring jurisdictions.

In terms of tax on beverage alcohol, Canada and Ontario are second only to Scandinavia in having the highest tax burden on beverage alcohol in the Western world, at 81% on distilled spirits, 60% on wine, and 52% on beer. Licensees already pay exorbitant amounts of money on licensing fees, provincial and federal levies, mark-ups and taxes, in addition to the millions of dollars remitted in provincial retail sales tax, all on top of commercial property tax rates. In principle, the City of Toronto should not expect to generate additional revenues on the backs of the restaurant and bar owners who already pay dearly into the system.

	Toronto Licensees	Ontario Licensees
No. of Licensees	> 4,100	> 17,000
Alcohol Purchased	\$ 278.5 M	\$ 844 M
AGCO Fees	\$ 1.68 M	\$ 6.9 M
Fees, Levies, Mark-ups to Federal and Provincial Governments	\$ 165.5 M	\$ 501.5 M
Retail Sales	\$435.6 M	\$ 1.32 B
Retail Sales Tax Remitted on Resale	\$ 43.6 M	\$ 132 M

In reality, an additional tax on liquor will actually result in a decrease in sales and subsequent losses for the industry and all levels of government. Liquor is an extremely price sensitive product in the foodservice industry. An increase in price of beverage alcohol in restaurant, pubs, bars and taverns results in lower sales which results in reduced licenses purchases from the LCBO and The Beer Store (TBS). In fact, although licensee sales made up 15.9% of LCBO sales in the mid-90's, in 2004/05 licensee sales accounted for only 10.6% of all LCBO sales. Moreover, it is estimated that Toronto's licensees' sales will decrease by \$2.95 million for every 1% municipal sales tax applied to liquor.

Reduced liquor sales in licensed establishments doesn't just mean decreased revenues for licensees and government. Reduced sales means fewer or shorter staff shifts and subsequently reduced wages, and lower eater-cheque averages mean lower gratuities for staff. This puts almost 90,000 staff at risk.

The financial losses that will be incurred by the licensee community and the federal and provincial governments far outweigh any benefit to the City of Toronto.

		Licensee Sales Loss	Provincial Revenue Loss	Federal Revenue Loss	Toronto Gains
City of Toronto	1% municipal liquor tax	\$2.95 million	\$1.26 million	\$0.28 million	\$4.36 million
	8% municipal liquor tax	\$23.52 million	\$22.75 million	\$2.26 million	\$34.85 million
All Municipalities	1% municipal liquor tax	\$8.94 million	\$3.84 million	\$0.86 million	n/a
	8% municipal liquor tax	\$71.52 million	\$30.72 million	\$6.88 million	n/a

Not only will legal sales decrease, but the sale and trade of illegal liquor will increase. You will recall that the 2004 Provincial Budget increased taxation levels on liquor. The LCBO reports that in 2004/05 untaxed illegal wine and spirits alone rose by an astounding 18.2% over 2003/04 levels to more than half a billion dollars. This is compounded by the provincial and municipal costs of enforcement related to the illegal liquor market.

Earlier this year you announced an additional \$51 million to address increasing levels of gang and gun violence, with the majority of the funding being directed to Toronto. It seems quite contrary to now propose granting new powers which, if used, would further stimulate illegal activity.

As a municipal retail sales tax on liquor will decrease licensee sales, and provincial and federal revenues, and increase illegal liquor and subsequent enforcement costs, the ORHMA strenuously opposes the provision of Bill 53 (s.262.2.5.ii) granting the City of Toronto the authority to levy a municipal retail sales tax on liquor.

- ***The ORHMA calls on you Premier to revoke the proposed new authority of the City of Toronto to levy a direct retail sales tax on the purchase of liquor, and to commit to not including a similar provision in a new Municipal Act.***

I must point out that the ORHMA supports the provision of the Bill prohibiting the City from levying a hotel room tax (s. 262.2.6). The ORHMA supports the industry-led voluntary implementation of destination marketing fees (DMFs) which have proven a successful tool in several markets throughout the province, including in the Greater Toronto Area.

- ***The ORHMA supports the government's decision to prohibit the City of Toronto from levying a hotel room tax and recommends that the same provision be included in a new Municipal Act.***

#### *Accountability*

The ORHMA is supportive of the added features of accountability contained in Bill 53, particularly the proposed new powers with which the City may appoint an Integrity Commissioner, an Auditor General, and an Ombudsman. The ORHMA is very concerned however that, upon passage of Bill 53, these individuals would have purview over only a limited number of local boards (using the restricted definition in the legislation). The ORHMA urges the government to reconsider these provisions and to include the Board of Health/Toronto Public Health as a board within the jurisdiction of the above-noted positions.

- ***The ORHMA recommends an amendment to Bill 53 to permit the Auditor General and Ombudsman the authority to review the activities of the Toronto Board of Health and Toronto Public Health.***

#### *Liquor License Act Amendment (Bar Hours)*

Bill 53 proposes to amend the *Liquor License Act* to transfer to the City of Toronto the authority to extend bar hours (*Schedule B, s.8*). While it is significant that the legislation limits these proposed powers to extending hours, and not setting or limiting hours, the ORHMA is concerned that this power will lead to unfair competition within the industry.

We understand also, through discussions with Ministry staff, that it is the government's intention to include a parallel provision in the Municipal Act. This will indeed lead not only to each municipality having different closing hours for licensed establishments, but in fact different hours in part or parts of each municipality.

The ORHMA opposes the City having the authority to extend bar hours, as this process is currently controlled without issue by the province.

- ***The ORHMA recommends that Bill 53 be amended to revoke the current provisions proposing to amend that Liquor Licence Act to grant the City of Toronto the authority to extend bar hours, and that such a provision not be included in the Municipal Act.***

#### *Delegation of Authority*

The ORHMA is concerned further with the proposed powers of City Council to delegate decision making authority, to council committees, members of council, or individuals (as proposed under section 20), as well as to neighbourhood committees and community councils (as proposed under section 142).

Proposed new powers contained in sections 20 and 21 would permit City Council to refer powers of a “minor nature” to subcommittees, Council members, or individuals. The ORHMA is concerned that section 21.5.2 defines powers of a minor nature to include the power to issue and impose conditions on a licence. As the foodservice industry is regulated in part by municipal licensing regimes, the power to issue and impose conditions on a licence is not considered of a minor nature.

- **The ORHMA recommends that section 21.5.2 be revoked, and that City Council not be given the authority to delegate decision making powers related to policy matters regarding the issuance and imposition of conditions on business licences.**

Proposed new powers found in section 142.2.2 would permit the City Council to delegate to a community council or board the authority to close premises considered to be a public nuisance. Community councils currently have the right to voice concerns about individual businesses and establishments, but the authority to close a premise must be retained by Council.

- **The ORHMA recommends the government revoke section 142.2.2, to ensure that the authority to make an application to the Superior Court of Justice to close a business premise is retained by City Council.**

#### *Planning*

The ORHMA is concerned that the current provisions of Bill 53 contained in section 114 which, if passed, would give the City of Toronto greater powers over site plan control. Already, Premier, the foodservice industry has been faced with municipal requirements that have unnecessarily altered the business cycle of some private sector companies and placed extraordinarily onerous costs on operators to meet ever increasing and changing requirements concerning site plan controls.

- **The ORHMA recommends that the current provisions of the Municipal Act limiting municipalities’ authority over planning and site plan controls remain in tact.**

Premier, the ORHMA has several outstanding concerns with Bill 53, as currently drafted, namely with provisions concerning taxation, accountability, amendments to the *Liquor Licence Act*, delegation of authority, and planning, along with some recommended legislative amendments that will resolve these issues. We call on the government to revoke the proposed authority for the City of Toronto to levy a direct retail sales tax on liquor, and to ensure that a similar provision is not contained in a new *Municipal Act*. I would respectfully request the earliest opportunity to meet with you to discuss these concerns.

Sincerely,



Terry Mundell  
President & CEO

cc: Hon. John Gerretsen, Minister of Municipal Affairs and Housing  
Hon. Jim Bradley, Minister of Tourism  
Mr. Brad Duguid, Parliamentary Assistant to the Minister of Municipal Affairs and Housing  
Hon. Michael Bryant, MPP, St. Paul's  
Hon. Laurel Broten, MPP, Etobicoke - Lakeshore  
Hon. Donna Cansfield, MPP, Etobicoke Centre  
Hon. David Caplan, MPP, Don Valley East  
Hon. Mary Anne Chambers, MPP, Scarborough East  
Hon. Mike Colle, MPP, Eglinton - Lawrence  
Hon. Joe Cordiano, MPP York South - Weston  
Hon. Gerard Kennedy, MPP, Parkdale - High Park  
Hon. Monte Kwinter, MPP, York Centre  
Hon. Gerry Phillips, MPP, Scarborough - Agincourt  
Hon. George Smitherman, MPP, Toronto Centre - Rosedale  
Mr. Lorenzo Berardinetti, MPP, Scarborough Southwest  
Dr. Shafiq Qadri, MPP, Etobicoke North  
Mr. Tony Ruprecht, MPP, Davenport  
Mr. Mario Sergio, MPP, York West  
Ms. Kathleen Wynne, MPP, Don Valley West  
Mr. David Zimmer, MPP, Willowdale