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**Official Report  
of Debates  
(Hansard)**

**Wednesday 1 December 2004**

**Journal  
des débats  
(Hansard)**

**Mercredi 1<sup>er</sup> décembre 2004**

**Standing committee on  
general government**

Liquor Licence  
Amendment Act, 2004

**Comité permanent des  
affaires gouvernementales**

Loi de 2004 modifiant la loi  
sur les permis d'alcool

Chair: Jean-Marc Lalonde  
Clerk: Tonia Grannum

Président : Jean-Marc Lalonde  
Greffière : Tonia Grannum

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENTCOMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Wednesday 1 December 2004

Mercredi 1<sup>er</sup> décembre 2004

*The committee met at 1537 in room 151.*

**The Chair (Mr Jean-Marc Lalonde):** I would call this meeting to order. First of all, good afternoon and welcome to our first day of a two-day public hearing on Bill 96, An Act to amend the Liquor Licence Act.

## SUBCOMMITTEE REPORT

**The Chair:** The first item on the agenda is the subcommittee report. I would ask Mr Rinaldi for his report.

**Mr Lou Rinaldi (Northumberland):** Mr Chair, your subcommittee met on Monday, November 22, 2004, to consider the method of proceeding with Bill 96, An Act to amend the Liquor Licence Act, 2004, and recommended the following:

(1) That the committee meet at Queen's Park from 3:30 to 6 pm on Wednesday, December 1, and Monday, December 6, 2004, for the purpose of public hearings on Bill 96.

(2) That the committee invite the Minister of Consumer and Business Services to make a 20-minute presentation before the committee on Wednesday, December 1, 2004; that opening statements by each opposition party be scheduled for up to five minutes per party; and that ministry staff be scheduled to provide the committee with a 10-minute technical briefing.

(3) That the committee meet for the purpose of clause-by-clause consideration of Bill 96 on Wednesday, December 8, 2004.

(4) That amendments to Bill 96 be received by the clerk of the committee by 4 pm on Tuesday, December 7, 2004.

(5) That an advertisement be placed in all English-language daily newspapers, the French-language daily newspaper and the Durham region weekly, This Week, as well as on the ONT PARL channel, the Legislative Assembly Web site; and further, that public notice be provided via the Canada NewsWire Service.

(6) That the deadline for those who wish to make an oral presentation on Bill 96 be 5 pm on Monday, November 29, 2004.

(7) That the clerk provide each caucus with a list of those who have responded to the advertising by 10 am on Tuesday, November 30, 2004.

(8) That the clerk be authorized to schedule groups and individuals in consultation with the Chair; and

further, that if there are more witnesses wishing to appear than the time available, the clerk consult with the Chair who will make decisions regarding scheduling.

(9) That the deadline for receipt of written submissions be 5 pm on Monday, December 6, 2004.

(10) That individuals be offered 10 minutes in which to make their presentations and organizations be offered 15 minutes in which to make their presentations.

(11) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

That's your report, Mr Chair.

**The Chair:** Thank you, Mr Rinaldi. I presume that you will move the adoption of the report.

**Mr Rinaldi:** I will so move.

**The Chair:** As stated, this hearing will take place for two days, today and December 6, from 3:30 till 6 o'clock and clause-by-clause will be on December 8.

We have had 17 individuals or groups who have applied to make a presentation. The presentation can be made in the language of their choice since we have the instant translation in place.

LIQUOR LICENCE  
AMENDMENT ACT, 2004LOI DE 2004 MODIFIANT LA LOI  
SUR LES PERMIS D'ALCOOL

Consideration of Bill 96, An Act to amend the Liquor Licence Act / Projet de loi 96, Loi modifiant la Loi sur les permis d'alcool.

**The Chair:** We'll move immediately to our guest, the Minister of Consumer and Business Services, the Honourable Jim Watson. You can proceed.

STATEMENT BY THE MINISTER  
AND RESPONSES

**Hon Jim Watson (Minister of Consumer and Business Services):** Thank you, Mr Chairman. Merci beaucoup, monsieur le président. C'est ma première fois ici en comité. It's my first time appearing before a committee and I look forward to the opportunity to dialogue with you.

It's my pleasure to be here with a number of colleagues from the Ministry of Consumer and Business Services. I want to thank them. They'll be more formally introduced a little later for the great work that they continue to do in my ministry.

I'm pleased to be able to speak today in favour of Bill 96, the Liquor Licence Amendment Act, 2004. The purpose of this legislation is to balance consumer choice and liquor service with stronger enforcement measures to increase public safety. The Liquor Licence Act, as you may know, sets out rules for the sale and service of beverage alcohol in the province of Ontario.

Over the years, the act has become increasingly outdated. It is out of step with the ever-evolving, changing market. By modernizing the Liquor Licence Act, we are taking the first steps toward bringing Ontario's liquor laws into the 21st century. We're proposing changes that will make our communities safer, more vibrant and more prosperous.

Let me remind you again of what this legislation entails. The first component would lay the groundwork for bring your own wine, also known as BYOW. BYOW has been a huge success for over 18 years in the province of Quebec and is now in place and available to restaurateurs and customers in dozens of locations, including Alberta, New Brunswick, Australia, Oregon, New York, France, Italy, New Jersey, New Zealand, just to name a few.

Since this initiative was first announced, correspondence to my office is over 80% in support of this consumer choice. Groups like the Association of Municipalities of Ontario and hotel associations in Toronto and Ottawa have all endorsed it, as has the mayor of Toronto and various tourism leaders throughout Ontario, including one of the great tourism destinations, Tourism Niagara.

I and my office have met with a number of social responsibility groups, public safety organizations, industry associations and individual restaurateurs and I've personally met with over 30 different individuals to talk about Bill 96.

Some restaurateurs don't support the idea. To them, I say "no problem." This is very much a permissive piece of legislation. If you don't want to offer it to your customers, you don't have to.

Many restaurants I've spoken to indicate they wish to offer the service on a particularly slow night, perhaps Mondays, as a way of attracting customers to a traditional slow night in the restaurant business. That is perfectly permitted under this legislation.

Others want to strike arrangements with wineries in southwestern Ontario, such as the Pelee region area, and the Niagara region, where a customer could perhaps go on a wine tour of one for the great wineries in Ontario and then, through a partnership and marketing opportunity with a restaurant, purchase a bottle of wine at one of those wineries and then bring the wine to one of the restaurants they have advertised as being a BYOW restaurant.

This bill proposes a definition of the term "supply" to make it clear that the term does not only refer to cases where a patron purchased liquor from a licensee; if passed, the term "supply" would also include situations where patrons bring wine into a licensed premises. This definition would apply wherever the term "supply" is used in the act. As a result, it would be an offence for a licensee to supply wine to a minor or to a person who is intoxicated even when the patron brings wine into the restaurant.

While the change itself appears relatively minor, it would lay the important social responsibility groundwork for future changes, including bring your own wine or BYOW. It also means that the same liability that licensees face today would be in place if they opt for BYOW if Bill 96 were to pass.

According to the Alberta Restaurant and Food Services Association, the industry-led organization representing over 8,000 of Alberta's restaurants, they have received no reports of decreased business or negative effects on wait staff, given the implementation of BYOW last year. Additionally, this Alberta restaurant association has discovered no negative impact on liability for their membership. These are the same findings of every single jurisdiction in the world that has adopted BYOW—absolutely no evidence of a negative impact on a licence from a liability point of view.

If Bill 96 is passed, the government will proceed with regulatory changes to introduce bring your own wine to Ontario. This service, as I indicated, would allow patrons to bring bottled wine into a licensed restaurant and consume it there. Although not part of this bill, the government also hopes to bring another consumer choice to Ontario: the option of take home the rest. This initiative would allow patrons to remove an unfinished bottle of wine from licensed establishments as long as the licensee had properly resealed the bottle.

This option would mean a certain coming of age for Ontario. It would be civilized to bring a bottle of your favourite vintage to your favourite licensed restaurant. It would also be civilized to have a courteous server open your bottle and pour your wine. It would be civilized to be able to take home what you don't drink, instead of having to face the dilemma that many people face of having to empty the bottle to the last drop. If customers were able to bring their own wine and take home what they didn't drink, they might be more inclined to dine out in the first place, increasing restaurant revenue. Moreover, they wouldn't feel compelled to finish the whole bottle on site, encouraging responsible drinking.

Bring your own wine and take home the rest are based on the same principle, that being choice. Participation in either option would be entirely voluntary on the part of licensed establishments. No business would be forced to offer this option. If a restaurant doesn't want to offer this service to customers, it simply wouldn't.

If passed, this bill would maintain current responsibility requirements if these options come into effect. Careful safeguards would be put in place for these initiatives to ensure safe communities.

The legislation addresses the issue of responsibility. Licensees would still be responsible for making certain that liquor is not supplied to an intoxicated person or to someone under the age of 19, whether that person purchased the wine from a licensee or brought the wine with them to the restaurant. As we all know, modernization of our liquor laws is about more than choice; it's about balancing the choice with stronger enforcement.

The fact is, since the Liquor Licence Act has had no significant amendments in 14 years, enforcement tools in this sector have fallen behind. Consider gaming, for instance, which is also overseen by the Alcohol and Gaming Commission. Under the Gaming Control Act, the registrar of alcohol and gaming has the power to immediately suspend an operation when it is in the public interest to do so. Comparable powers, in my view, are needed on the alcohol side of the commission's mandate to keep our communities safe.

That is why we're proposing an amendment to allow the registrar to immediately suspend a liquor licence, if necessary, in the public interest; that is, where there is danger to public safety. Currently, under the act, two board members can order an interim suspension of a liquor licence, if necessary, in the public interest. If an interim suspension is ordered, a full hearing by the board must take place within 15 days. The problem with the current system is, the procedure has a built-in delay, as two board members, many of whom live outside the city of Toronto, must be reached before anything can be done. In the meantime, dangerous or disruptive situations may continue and may cause stress and grief to surrounding neighbourhoods and communities.

This government shares all of our concerns about violence. The amendment we propose would enable the registrar of the AGCO to immediately suspend a liquor licence, if necessary, in the public interest, as in situations where public safety is threatened. It would enable the commission to respond quickly to dangerous situations as they come up, and to ensure fairness for the individual licensee. An immediate suspension by the registrar would be followed within 15 days by a full hearing to review the suspension. In other words, the process could not go on and on. It would have to be done within 15 days. This reform would be a step toward equipping the AGCO with the modern tools it needs to enforce the liquor laws effectively and protect the public.

But we need to do more to deal with dangerous and disruptive situations at licensed establishments. Police currently have the power to clear premises where the act or regulations have been contravened or public safety is at risk. However, the law does not make it an offence for people to fail to leave the premises or for them to return later after being asked to leave. This loophole can undermine police efforts to vacate premises where disruptive and dangerous behaviour is taking place. We intend to fix this problem by making it an offence to fail to leave the premises, if ordered to do so by a police officer, or to return the same day. If people don't obey, charges could be laid. The Toronto Police Service has asked for this

change as far back as 1997, and with your concurrence we intend to deliver.

I want to thank the Police Association of Ontario for their valuable input and support of these measures as well as the BYOW. You will be hearing from this organization during these hearings.

#### 1550

Finally, the issue of underage drinking is of primary importance. The act contains a number of offences pertaining to liquor and underage persons. For instance, it prohibits the sale or supply of liquor to anyone under 19, knowingly permitting a person under 19 to have or consume liquor on licensed premises and knowingly permitting a person under 19 to use a brew-on-premise facility to make beer or wine. The act provides for maximum and minimum fines for violation of these provisions.

In 1997, the maximum fines were increased, but the minimum fine of \$500 for a licensee and \$100 for a non-licensee remained the same. The courts have tended to levy fines at the lower end of the range, so this change had little impact. We propose to double the minimum fines for these offences to \$1,000 for a licensee and \$200 for a non-licensee. The aim, to be perfectly blunt, is deterrence. We want to make it expensive to commit these violations, and we want to reinforce our standards of social responsibility where beverage alcohol is concerned.

In modernizing the liquor licence system, our government is trying to strike a balance. We're determined to improve consumer choice and customer service on one hand, and we're committed to providing stronger and more effective enforcement tools on the other. This, in my opinion, is a progressive, forward-looking measure that would help bring Ontario's liquor laws into the 21st century.

When I had the honour and privilege of serving as president and CEO of the Canadian Tourism Commission, I saw first-hand some of the challenges and opportunities facing the tourism industry in this province and throughout Canada. The challenges have compounded in recent months with the SARS outbreak, heightened security concerns at our borders, and the rising Canadian dollar. But I remain firmly convinced that if you want to build your business, you simply can't go wrong by offering consumers more choices. Today's marketplace is based on choice. We want to give businesses new opportunities to serve their customers and make our quality of life that much better.

The majority of restaurateurs who support this bill and have contacted me are the entrepreneurs who in many instances have previously experienced BYOW, in New York or perhaps in Europe. They've seen it work in those jurisdictions, and they want to be a part of this exciting new option and offer this new option to their customers. At the same time, we want to protect the public from the harm that the misuse of liquor can cause. This is an issue that has brought on lively debate. But when a new issue appears on the scene, a certain amount

of misinformation can easily slip into that debate. In closing, I'd like to take a few moments to dispel a series of myths that continue to crop up.

One myth is that these changes would just loosen the controls that prevent excessive drinking. As I mentioned earlier, responsible liquor service remains a top priority. I would not be interested in sponsoring a piece of legislation that is going to add to drinking and driving in our province. Several years ago, I was nearly killed by a drunk driver, so I have personal experience of the terrible situations that occur when people are drinking and driving. But I don't believe this piece of legislation would go down that road.

In this regard, the dining environment would not change. The licensee would continue to be accountable to comply with the liquor laws, even if patrons bring their own wine. It would be up to the licensee to ensure that overconsumption or consumption by minors does not happen, and special features of the BYOW initiative would support responsible conduct.

Each bottle would have to be opened by the licensee or by a server, who would keep track of how much is being consumed, and only unopened, commercially-made wine would qualify. In other words, you could not bring homemade wine to a restaurant. The reason for that is that the restaurateur or the licensee would not know the alcohol content of homemade wine. The point to stress is that licensed restaurants would remain responsible for keeping people from consuming too much. They would remain accountable to responsible service, just as they are responsible now.

Another myth is that allowing customers to have open wine bottles in the car would just encourage more people to drink and drive. The fact is, establishments offering the take-home-the-rest option would be required to reseal the bottle in such a way that it could not be readily reopened and consumed while in transit.

Some people have asked, "How do you do this?" For about \$15 to \$20, you can purchase a recorking machine at a brew-your-own operation. It's quite easily available and very inexpensive. What that would do is allow the licensee to put the cork back in, flush with the bottle, so you couldn't pry it open with your fingers. Some say that resealing the bottle won't stop patrons from drinking on the street or behind the wheel. In reality, existing controls on transporting open liquor and the ban on consuming it in public areas would, of course, still apply.

For example, it's the law that open bottles of liquor must not be readily accessible to people in a vehicle. So a take-home-the-rest bottle would likely have to be carried in the trunk. It would be the same if you were bringing an open bottle home from a party at a friend's home. You would have to transport it in a way that makes it hard to get at.

Another refrain is that this package doesn't go far enough; there is more to be done with the Liquor Licence Act. I completely agree with that. The process of modernizing the regulatory system for beverage alcohol can't be completed overnight. The bill before us today

represents the first stage of the reform. Our government is committed to further stages of Liquor Licence Act reform in consultation with stakeholders and the public.

In the new year, I'm going to be working with my parliamentary assistant, Mr McMeekin, to hold a series of round tables across the province to seek input from communities that are affected by rowdy establishments, to licensees who feel that the process is too long, drawn-out and bureaucratic, to police organizations, to municipal leaders. I very much look forward to receiving that kind of input on how we can improve and modernize the rest of the Liquor Licence Act.

This first stage is the foundation on which we must build, and we're confident that the outcome of this stage will be a change that will make our economy stronger from the hospitality and tourism industry, the public safer and our communities more dynamic and prosperous. This legislation, in my opinion, will help make all this possible.

I thank members of the committee for hearing my remarks. I look forward to hearing from my opposition colleagues. I know you will receive a technical briefing very shortly, as well as depositions from individuals.

**The Chair:** Thank you, Mr Minister. You can stay with us until we hear the statements from our opposition party members. Each party has five minutes to come up with a statement. Mr Martiniuk or Mr Yakabuski, do you have any comments or statements?

**Mr Gerry Martiniuk (Cambridge):** Are we permitted to ask questions of the minister?

**Hon Mr Watson:** Sure.

**Mr Martiniuk:** It's probably technical. I could ask the technical person, but I'm sure you'd have the answer.

**The Chair:** If the minister is willing to answer the question—

**Hon Mr Watson:** Certainly, and if I don't have the answer, I'll refer it to our staff.

**Mr Martiniuk:** Just a point of clarification: It's not clear to me whether or not, if you purchase wine at a licensed establishment, you can take that wine home after being resealed.

**Hon Mr Watson:** Yes, you can.

**Mr Martiniuk:** The regulations will provide for that?

**Hon Mr Watson:** That's correct.

**The Chair:** Any more questions from the opposition?

**Mr John Yakabuski (Renfrew-Nipissing-Pembroke):** I have no questions.

**The Chair:** You will have some later.

**Mr Yakabuski:** OK.

**The Chair:** You still have five minutes, though.

**Mr Yakabuski:** Do we have some speaking time too?

**The Chair:** Yes. Each party has five minutes.

**Mr Michael Prue (Beaches-East York):** I couldn't imagine you giving up your five minutes.

**Mr Yakabuski:** Yes. When he said "questions"—

*Interjection.*

**Mr Yakabuski:** I would never want to be out of order; you know that.

I don't think many of us have a great deal of serious problems with this bill, other than some concerns about the consultation process that may or may not have taken place with some people; I know Minister Watson has talked about some of that.

In general, I think they have struck a pretty good balance. Number one, making sure there's not an encouragement to have alcohol become a greater problem than it is in some cases—that's certainly incumbent on all of us as legislators. Presenters may feel differently, and we're certainly interested in listening to what they have to say.

I have looked at some of the details, and we have talked about it with different people. In general, the bill is probably not necessary, because it's not going to change a great deal of things. I don't think there will be a lot of establishments taking advantage of it or people served by it, because I think establishments, given the choice, if they do allow people to bring their own wine, I suspect the corkage fees will remove any of the financial benefits to the consumer.

#### 1600

However, it is an issue of choice, and by giving that choice, we'd leave it in the hands of responsible people. I'm not concerned about it encouraging drinking and driving because, quite frankly, I'm more concerned about a person who goes into a restaurant and pays the price of a bottle of wine and feels, "I've paid for that. I'm intending to make sure I get my money's worth." I would be more concerned about that as a problem, and I think that sometimes is a problem. So from that point of view I don't see this as exacerbating that problem. In fact, the option that someone can actually take it home might not be a bad thing at all because if it's not consumed, it certainly isn't adding to their blood alcohol level.

We have to make sure that we are absolutely responsible in everything we do to ensure that we don't do anything to contribute to drinking and driving in the province of Ontario. I honestly don't believe this bill does anything negative in that respect, but I am interested in hearing from the submitters.

**Mr Martiniuk:** Thanks, John. If I may have a few words.

**The Chair:** You've still got a minute and a half.

**Mr Martiniuk:** There are three areas of concern that I have that I would like to explore during the hearings.

The first is the state of the restaurant industry. We know there has been a problem with SARS with tourism, which has caused hardship to many of our dining establishments. We know that on the horizon we have inclinations of bars on smoking, or further restrictions with our restaurants which would impact on them to some extent. Here we have this scheme, which superficially may look harmless; however, I think we, as a committee, have the absolute necessity of hearing from individuals who are concerned with the economic viability of our dining establishments.

Second, I have a very great aversion to having bureaucrats or administrators making quasi-judicial decisions.

At the present time, the rights of suspension are vested with appointed board members who act in a quasi-judicial manner, and we are replacing them in effect with an administrator or bureaucrat who will make these decisions. I would like to explore that during this committee.

Last, the liability of the innkeeper or dining room owner is of some concern. There's a qualitative difference between the taking away of a bottle if, in the last resort, you have sold it to the individual and may still have some rights in the taking away of a bottle which is owned by the individual who comes into your shop. To me, there's a qualitative difference. I can see it as a potential problem, and I'd like to explore that.

**Mr Prue:** A most interesting bill, to see the whole range of people and their attitudes. I've just read all of the submissions, from those who think this is a wonderful idea to those who say it is condemned from the time of Lot.

We in the NDP were insisting that this come to committee. I think this is the appropriate place that these many opinions on the consumption of alcohol be heard because we need to know those who will be directly affected. So far, we've only heard from politicians and what politicians think. I've just looked through the list, and the list is quite exhaustive. We have people here representing MADD and the impaired driving committees. We have hoteliers, bartenders and their unions, police, municipal politicians, ordinary citizens, everybody who has an opinion on the consumption of alcohol and how this is going to change Ontario's somewhat antiquated laws.

I listened with some interest, as always, to the minister. He talked about the corkage machine. I would very much like to know where he can find a corkage machine for \$15 to \$20. As an amateur winemaker myself, I have priced them into the hundreds of dollars, and those are the cheap manual ones. If you get the electric ones, they are into the thousands of dollars. I don't know whether many hoteliers are going to want to invest in that kind of machinery, but even a used one, which I once thought I might like to have just as a conversation piece, was about \$175.

I don't know where you're getting the \$15 to \$20. If you can tell me where you can find one, I would be most interested in purchasing it.

**Hon Mr Watson:** Right here.

**Mr Prue:** I don't know what the hell that is, but I wouldn't use that.

**Hon Mr Watson:** It's \$14.99.

**Mr Prue:** That one on the left side is more like the ones the homemade winemakers use.

**Hon Mr Watson:** Fifty.

**Mr Prue:** Fifty. That's cheap still; I wouldn't trust it to work for very long.

Anyway, the second problem I have with the bill, and what I would like to hear is, I don't see any definition—I have heard what the minister says about bringing your own homemade wine. I make my own wine. I don't

know of anyone who makes their own wine who doctors it. I don't know anybody who adds alcohol to it. I don't know anybody who produces wine that doesn't run the normal range from about 9% for some of the Germanic wines to 15% for some of the stronger wines you might get out of Portugal or Spain. I just don't know of any range that goes beyond that, and I don't know people who add alcohol to it.

I am not naive enough to think that somebody might not, but this seems to be a fear that is not met, because ordinary table wine—and I haven't seen anything that would prohibit people from taking sherries, ports or Madeiras to their favourite restaurant. Those wines, commercially produced, run in the 20% to 30% range of alcohol. If you are going to allow those, I don't know what the prohibition would be on homemade wine, which, in the very best of cases, usually is around the 13% or 14% range in alcohol.

I'm curious to hear what staff has to say and what the minister has to say. The corkage machine—I'm glad you can show me one there that's \$50. I don't know what that other one is, but I definitely wouldn't use that. The one at \$50 is kind of interesting. I'll have to have a better look.

The table wines—it is somewhat problematic to me. There are many people in our society, upwards now of 15% and climbing, who make their own wines. There are some people who are very good at it. To deny them an opportunity to drink what they know to be a very safe product, a product that they do not add sulphites to, a product that they do not add chemicals to, a product that they are able to buy the grapes that they know might be organic or from the farm on which it was produced and feel very safe—to deny them in favour of commercially produced wine that can have alcohol contents, as I said in the case of Madeira, sherries or ports, that approach 30%, does not seem to me to have the strength of science behind it.

I'm anxious to hear what other people have to say about that as well.

#### MINISTRY BRIEFING

**The Chair:** I am going to call on the ministry staff, if they want to come up and give us a technical briefing on the bill.

I will first ask you to identify yourself whenever you address the committee.

**Ms Mary Shenstone:** I'm Mary Shenstone. I'm the director of the sector liaison branch in the Ministry of Consumer and Business Services. I have with me Paul Gordon, who's a senior policy analyst in my branch, and Rosemary Logan, who is counsel with the ministry.

I'm going to ask Paul Gordon to walk you through the technical briefing, and of course we would be happy to answer any technical questions, including the Madeira one.

**Mr Paul Gordon:** Just as background, Bill 96 was introduced on June 10 of this year and received second reading during October and was completed on November

1, and, as you know, the schedule of committee hearings is followed by clause-by-clause review on December 8.

#### 1610

The bill makes amendments to the Liquor Licence Act that would pave the way for bring your own wine and make several public safety reforms. The government, as the minister just indicated, is in the first phase of an initiative to work with the public and stakeholders on modernizing the act.

In terms of the first part, the public safety initiatives, the proposed amendments are:

A provision to allow the registrar of alcohol and gaming to suspend a liquor licence on an interim basis, if necessary, in the public interest. A hearing in front of the board of the AGCO would follow shortly. This would allow risks to public safety to be dealt with more quickly, and I think the minister has already given you some background on that amendment.

Second, the creation of a defence for failing to leave a premises when required by the police or returning the same day unless permitted to by the police. Again, this would allow the police to deal with public safety situations more effectively than they're able to at the moment.

Third, doubling the minimum fine for offences involving minors. The minimum fine on a licensee would increase to \$1,000. For a person who is not a licensee, it would increase to \$200.

The other major feature of the bill, of course, is it would pave the way for bring your own wine. The amendment that's in Bill 96 would introduce a definition of supply that would include wine brought on to a licensed premises by a patron. This would allow for regulatory changes, which I will talk about, introducing BYOW.

As the minister indicated, the government would propose changes to the regulations under the act introducing BYOW. Patrons would be able to bring commercially made wine into the restaurant. The licensee or server would be required to open the bottle and would continue to be responsible for ensuring against over-consumption. This would definitely be voluntary for the restaurant owner and optional for any licensed restaurant. The restaurant would need to apply to the AGCO, that is the Alcohol and Gaming Commission of Ontario, for what's called an endorsement on its licence. So we would introduce a BYOW endorsement. The restaurant would certainly be able to charge a corkage fee if it wished to.

Last, as the minister indicated, while it's not in the act, the government intends to introduce changes to the regulations under the Liquor Licence Act to allow for take home the rest. This would allow a licensed premises to offer patrons the service of removing a bottle of unfinished wine from the premises. This would be voluntary for the restaurant to offer this service. Wine must be recorked, and the intent is that it will be recorked with the cork flush to the top of the bottle before it can be removed. The licensee would not be able to permit a patron who is intoxicated to remove the bottle.



As the minister indicated, existing laws in the act would still apply. Any open liquor would have to be inaccessible to occupants in a vehicle, and public consumption of liquor would not be allowed.

**The Chair:** Thank you. Any questions and comments from members?

**Mr Prue:** I have questions. There is a whole movement afoot in worldwide wine-producing countries, and Australia is taking the lead, that they are no longer corking wine. They are starting to use screw-top fasteners because it is actually better hermetically sealed and there's less chance of corkage and waste. How would you propose corking a screw-top bottle? Because I've tried that, as an amateur winemaker. You invariably break the bottle.

**Mr Gordon:** We've looked at several screw-top bottles that are commercially available, and the cork does fit inside the bottle, and seals the bottle.

**Mr Prue:** It'll fit, yes. And how many times have you broken the bottle?

**Mr Gordon:** Or the other alternative is that the restaurant owner simply would not be able to allow the patron to remove the bottle if they're unable to sufficiently seal the bottle and ensure public safety when the bottle is removed.

**Mr Prue:** OK. Could you tell me the definition of "table wine"? Does that include wines that have brandy content, such as sherries, ports or Madeiras? Could people take those to the restaurant?

**Mr Gordon:** Those are considered fortified wines, and that is a commonly used term, and those types of wines would not be allowed to be offered in this service.

**Mr Prue:** Is there a maximum alcohol content that you will allow to be taken to the restaurant?

**Mr Gordon:** Table wines typically have an alcohol content that does not exceed 14% to 15%.

**Mr Prue:** The wine that Ontario has just chosen as its wine, starting tomorrow, is 15.4%—the red.

**Mr Gordon:** But as you indicated, fortified wines such as sherries and Madeiras are in the order of 30% to 40%.

**Mr Prue:** They're higher. But it is not uncommon to see some of the better Garrafeira and wines from Spain approaching 16% or even 17%. Will they be allowed?

**Mr Gordon:** Again, table wines will be allowed and it is the judgment of the licensee, responsible as a licence holder, to ensure the patron does not become intoxicated and that it's table wine that is being used.

**Mr Prue:** So the licensee has the discretion as to what kind of wine and how strong that wine can be?

**Mr Gordon:** They have the responsibility to abide by the regulations of the Liquor Licence Act and the responsibilities under the act.

**Mr Prue:** But what if I walked in with a good bottle of Garrafeira and it's at 16.5% or 17%; the restaurateur could say, "No, I won't allow you to have that because I think that wine is too strong"?

**Mr Gordon:** In the judgment of the restaurant owner, that is their choice.

**Mr Prue:** All right. I can see that there are going to be some conflicts already.

The question of people who make their own wine: Why are you disallowing or not allowing people—because I know many people who make wine, some of it excellent. Why would they not allow it? Are you afraid they're going to doctor the wine?

**Mr Gordon:** The licence holder, with homemade wine, wouldn't be able to confirm the contents of the bottle. In Alberta, the Alberta Restaurant and Food-services Association raised that as a concern with the government when they were considering BYOW. I think that is a legitimate concern for restaurant owners to assist them in offering the service.

**Mr Prue:** But surely if a restaurant owner can refuse a wine he thinks is too strong, like a Garrafeira, which is quite naturally produced—there's nothing added to it—on that strength, surely the restaurateur on the same strength could know me or you or one member here who was bringing in a bottle that he or she made, and it's not going to be something that is going to be poison or doctored or contain excessive amounts of alcohol, surely the same discretion must be given to the restaurateur.

**Mr Gordon:** But again, a label on a commercially made bottle of wine typically indicates the alcohol content that is in that bottle, so it does make it easier for the licence holder to confirm the alcohol content.

**Mr Prue:** But for a person who makes their own wine, it's quite easy; you can tell the alcohol content almost immediately. It's a very simple process. I could put that on my own label. I don't, but I could. Wouldn't that be sufficient?

**Mr Gordon:** In our view, it wouldn't be.

**Mr Prue:** Why?

**Mr Gordon:** Again, to allow the licence holder to ensure that there's no level of intoxication—

**Mr Prue:** OK.

**The Chair:** Sorry. Our time is up.

**Mr Prue:** OK. Thank you.

**The Chair:** Members of the ministry staff, I would like to thank you very much for taking the time—

**Mr Martiniuk:** I have some questions—

**The Chair:** Our time is up with them at the present time. The subcommittee has said 10 minutes for the staff. You could ask further questions if the whole committee will accept having a question.

**Mr Martiniuk:** I just have some points of clarification.

**The Chair:** Would the committee accept a question from the official opposition?

*Interjections.*

**The Chair:** Thank you.

**Mr Martiniuk:** Could you just give us the laws through the carriage of an open bottle of liquor?

**Mr Gordon:** Maybe I'll ask Rosemary Logan to speak to that.

**Ms Rosemary Logan:** Currently, the Liquor Licence Act prohibits carrying open liquor that's accessible to passengers in a vehicle. So if you have it, you're sup-

posed to have it in the trunk or somewhere else where you can't reach it, and that would remain in place.

**Mr Martiniuk:** Second, the change of suspension of licence by the registrar rather than the board is for a matter of convenience, I take it?

**Mr Gordon:** It's also an issue of public safety. As the minister indicated, there can be an issue of convening the two board members to consider the interim suspension. This would allow a more rapid response, especially in an issue of violence or immediate risk to public safety. There can be a faster response to that kind of situation.

**Mr Martiniuk:** Thank you, Mr Chair.

**The Chair:** Thank you very much to the staff for being here.

**Ms Shenstone:** Mr Chair, may I clarify one element with respect to Mr Prue? Your point about your 16% alcohol, whether it's in the estimation of that licensee whether the service of that alcohol level would lead to overconsumption: It's not a question of that particular bottle; it's whether the licensee feels that serving that alcohol would encourage overconsumption by that patron.

With respect to homemade wine, it's a matter of the integrity of the bottle. It's a matter of the integrity of the label on a commercially produced wine that shows the alcohol content by federal regulation.

**The Chair:** Thanks again for taking the time.

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#### GREATER TORONTO HOTEL ASSOCIATION

**The Chair:** I would now call on our first presenter, who is going to be Rod Seiling. He is the president of the Greater Toronto Hotel Association.

Good afternoon, Mr Seiling, and welcome to the standing committee on Bill 96, bring your own wine, or An Act to amend the Liquor Licence Act. You have 15 minutes. You can take the whole 15 minutes or leave some time for questions and answers at the end.

**Mr Rod Seiling:** Thank you. As you've indicated, I'm president of the Greater Toronto Hotel Association, otherwise known as the GTHA. I want to thank you for the opportunity to appear here before you today.

The GTHA is the voice of Toronto's hotel industry. We represent 154 hotels, with approximately 35,000 guest rooms and with over 32,000 full-time jobs. We are an integral part of the region's tourism industry, the second-largest industry in the city.

The GTHA supports Bill 96, an Act to amend the Liquor Licence Act, 2004. We are supportive because the principle behind the legislation is to offer the customer more choice. We are an industry that is built on customer service. We pride ourselves that we have demonstrated that, given a fair and equitable chance, we can and do compete very well in what has become an ever more competitive global marketplace.

Inasmuch as our long-term success will be based on our collective ability to grow our international and

United States business, it becomes all the more important that we provide our customers with as much choice as we possibly can. Bill 96 is what we would hope is the first step into a thorough review of Ontario's liquor licence laws and regulations.

We are not, I should add, advocating for a total opening of these laws. However, on the other hand, if we want to be recognized as a truly cosmopolitan destination, then the ability to offer bring your own wine is another tool to offer, especially to our customers who have had the opportunity to utilize it in their own country or while travelling in some other competing destination.

Our support for Bill 96 is based on the principles as outlined by Minister Watson. They are as follows: The BYOW provision is optional, with no impact on existing licences. Only the licensee or server would be permitted to open the bottle and would continue to have control re overconsumption and consumption by minors. The licensee will have the right to set the corkage fee. BYOW applies to only commercially bought wine. Licensees will have the right to set minimum food purchases.

We recognize that this option is not a panacea for an instant influx of new international visitors, but it will help to contribute to the perception that this destination can and does offer a unique experience.

We do see a benefit to this provision from an operational perspective as it relates to functions within the hotel. Many times the organizer of a function, be it a wedding or even a political fundraiser, for that matter, asks about wanting to bring in their own wine. The only way this can now happen is for that organizer to go apply for a special occasion permit. This extra red tape and time discourages many and also raises the question as to why the operator is being so difficult, as if it is their fault.

Under Bill 96, once it is enacted, a hotel could apply for BYOW status and offer customers this option. Of course, the same aforementioned conditions would apply.

We also see merit in the proposal to allow a customer to take home a partially opened bottle of wine. In the case of a rare and expensive bottle of wine, from a responsible consumption policy, we believe this is good public policy.

The tourism industry is in the midst of a turnaround in our business. As all of you will be well aware, we have weathered some very extraordinary and trying times these past few years, but I can say that we're well on our way to our economic renewal, and Bill 96 will continue to assist us in this economic renewal.

Thank you very much. I'd be pleased to answer any questions.

**The Chair:** Thank you. We still have 11 minutes. I will now go to the official opposition for questions or comments.

**Mr Martiniuk:** No questions, Mr Chair.

**The Chair:** Then I'll move on to the NDP.

**Mr Prue:** The question I have for the hotel association relates to people who serve at weddings, political functions in restaurants. When you go into the restaurant—and say the bill comes to \$100, just to round it off,

and usually you give 15%—if you bring your own wine and pay the corkage fee, then the amount would maybe come to \$60, and if you paid 15%, that would be \$9 as opposed to \$15. The people who work in the hotel, the chefs, the waiters, as a result of this—the food would cost the same. That would be the same, but the people who are doing the service likely can anticipate reduced tips. Do you see that as well?

**Mr Seiling:** As an individual who has close ties with people in organized labour, I don't want to put words in anyone's mouth here, but I believe that they have already had discussions about making other arrangements because it's no different from a function where gratuities are added on to the bill and those are distributed among the wait staff. So I don't see any difference in that procedure but, again, as to what the individual preference is for the employees, that could vary from location to location.

**Mr Prue:** What you're anticipating, then, is that some would choose not only a corkage fee but an automatic tip, an automatic gratuity?

**Mr Seiling:** I think there'll be some working out of ways and means for a share of the income.

**Mr Prue:** Because there is no doubt that if one just uses a percentage, and I think most people do—10%, 15%, 20% or whatever people feel comfortable with—certainly the actual cost on the bill will be lower. I'm not saying it isn't offset by how much you spent in the LCBO for that expensive bottle of wine, but the cost on the actual bill that you tip on will be lower in virtually every case.

**Mr Seiling:** It will be, but it's lower revenue to the operator as well because they haven't bought the wine. Again, I don't want to get into what the relationship will be, but certainly the corkage fee will appear on the bill, so there will be a sharing in that respect and in what the individual restaurant operator will be sharing. You can't share in something that you don't receive.

**Mr Prue:** I don't expect you to speak on behalf of the workers' associations, but have the hotel associations sat down with any of the unions that might represent wait staff or bartenders? I know that not all of them are unionized, but have you sat down with any of the unionized ones to see their position?

**Mr Seiling:** I haven't personally, but that comes up through a matter of contract negotiation, which each individual hotel does. But I certainly don't believe that anyone would be doing anything until this bill receives final reading. You're not going to do something on something that might happen.

**Mr Prue:** I have gone to restaurants, and once even to a hotel, I believe, that served wine made in a winemaking establishment with the hotel or restaurant label on it. Have you experienced that?

**Mr Seiling:** I'm not aware of it. I don't know of any licensee that serves—I'm not sure what you're referring to.

**Mr Prue:** I'm talking about stuff where one can go into any of these wine shops and make wine. In the city of Toronto there are probably 100 of them, maybe more.

**Mr Seiling:** I can't comment on that, Mr Prue. All I can tell you is that my members don't serve illegal product, and I think that's what you're talking about.

**Mr Prue:** I'm not saying it's an illegal product; anyone can buy it.

**Mr Seiling:** It is for a licensee.

**Mr Prue:** But you've never run into a restaurant or a hotel doing this?

**Mr Seiling:** Never.

**Mr Prue:** All right. Thank you.

**The Chair:** I would go on to the government side.

**Mr Rinaldi:** Mr Seiling, thank you for your presentation. We certainly appreciate the support from your association, because you're obviously the folks on the ground.

I just have a question for you; I didn't see it in your presentation. To help us as we move through this process, do you see any potential amendments that your association would like to see?

**Mr Seiling:** No. We're fine with what the bill has proposed.

**Mr Brad Duguid (Scarborough Centre):** Just quickly, I want to, on behalf of probably all members of the committee, thank you personally for the leadership you've shown in this particular industry and for coming forward today. I think your voice is very credible here at Queen's Park. Your industry has been through a tough time: 9/11, SARS, the blackout. I think we share your optimism that we're in for a bit of an economic renewal when it comes to tourism. This is not going to be the panacea, as you said, but every little bit helps, and we're hoping this will help contribute in some small way to working with you and your industry in this renewal. So I thank you for being here.

**Mr Seiling:** Thanks, Mr Duguid, and I want to thank the government for their help in our renewal because you've played a large part in it, and we hope you will continue to.

**Mr Duguid:** You bet.

**The Chair:** The official opposition would like to have a question or comment. You still have three minutes to go.

**Mr Yakabuski:** Thank you for joining us today, Mr Seiling. I didn't have any chance to ask questions at first because I came in late.

In other jurisdictions there's not a very high percentage of restaurants that participate in this program, if you want to call it that. Have you surveyed your members or gotten any feedback from your members as to how many would plan or expect to participate and allow for the bring-your-own-wine provision?

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**Mr Seiling:** We haven't done a survey per se. We've talked to individual members. We have made them aware of what was going on and certainly garnered their support for it. Once the bill is enacted, and whatever shape and format it finally comes out in once it receives third reading, we will then take them through the whys and wherefores of what's going on.

I think, from a hotel perspective, as I said in my presentation, that there's more likely a bigger and better reason for them to take the uptake on the side, as it relates to functions, because it removes a potential barrier. A lot of people believe that, when the hotelier says to the person who's planning the function and wants to bring their own wine, they need to get a special-occasion permit, that it's the hotel just putting a road-block in front of them because they really don't want to co-operate, when in fact that's the law. A lot of people can't be bothered to take the time or to fill out the red tape to get a special-occasion permit. Now, if it's passed as it is, a hotel can file to be designated as a BYOW. They then will be able to allow that function organizer, as long as it's commercial table wine, to bring that product in. So I do believe there will be an uptake on that basis.

Again, we'll walk people through the whole bill and what it entails once we see its final format.

**Mr Yakabuski:** What do you see as the likelihood of corkage fees minimizing the advantage, from a financial perspective, to the consumer? Do you expect corkage fees to—

**Mr Seiling:** There will be a corkage fee. The economics of running an establishment today—if you look at the margins, you simply can't afford to give up that revenue source or you won't have a business.

**Mr Yakabuski:** What I'm saying is, let's just say, for example, that a restaurant charges \$25 for a \$12 bottle of wine. Could we expect the corkage fees to be \$13 on that bottle?

**Mr Seiling:** I wouldn't comment. I think the marketplace will set it.

**The Chair:** Thank you very much, Mr Seiling. Just before you leave, I know you played for the Maple Leafs before—you've put your hand on the Stanley Cup—but I have two guys here who played for the Stanley Cup the other night. On Monday night, Mr Duguid and Mr Yakabuski didn't win the Stanley Cup.

**Mr Seiling:** They didn't? Oh, well, more practice.

#### CENTRE FOR ADDICTION AND MENTAL HEALTH

**The Chair:** Our next presenter is Dr Norman Giesbrecht, senior scientist with the Centre for Addiction and Mental Health. Once again, welcome to the committee. We appreciate the time you're taking to come and make a presentation to the committee. You have 15 minutes. You can take the whole 15 minutes or leave some time at the end for questions.

**Dr Norman Giesbrecht:** I'm going to read a brief statement and then I would welcome some questions.

Thank you for the opportunity to speak to you this afternoon. I'm a senior scientist at the Centre for Addiction and Mental Health and do social and epidemiological research on a number of topics, including alcohol policies and public opinion on alcohol issues. I am a co-chair of the alcohol policy and research group at our organization. This group develops position papers,

such as the one that was released in January with regard to retail alcohol monopolies.

I would like, first of all, to say a few words about the context, then speak to the specific proposal that is under consideration, and conclude with a few recommendations.

Alcohol is our most popular and widely used drug. Unlike tobacco, it provides some health benefits for some consumers, if used in moderation. It provides personal and social pleasure for many. It is currently considered an integral, if not essential, feature of many cultural and social occasions. The alcohol trade generates substantial revenues, employment and business opportunities.

It is currently widely available in Ontario, with about 1,400 outlets for package—that is, take-home purchases such as LCBO stores, agency stores, Beer Stores and Ontario winery outlets. There are also over 18,000 licensed premises in Ontario and 65,000 special-occasion permits per year. Hours of sale are no longer as limited as some years ago, and there are countless promotions and marketing techniques and extensive sponsorship of sports and cultural events. Given these developments, it is not surprising that our surveys show that 50% of Ontarians say they can get to their nearest beer or liquor store in five minutes or less, and 93% in 15 minutes or less.

While we know that drinking alcohol is also associated with both acute and chronic conditions, we may not know fully the extent of the damage. Alcohol is associated with intentional injuries such as assaults and unintentional injuries such as automobile accidents, and organic conditions such as fetal alcohol effects, cancer, neuropsychiatric disease, diabetes, chronic disease and gastrointestinal disease.

A 2002 study sponsored by the World Health Organization indicated that alcohol is one of the leading risk factors for cumulative damage, disease and death. In developed countries such as Canada, it is just below tobacco and blood pressure, and higher than cholesterol, body mass index, low fruit and vegetable intake, physical inactivity and illicit drugs, in terms of its contribution to the burden of disease.

It is expected that damage from alcohol is likely to increase in Ontario if the recent trend in rising consumption continues and if high-risk drinking does not decline. There is a well-established association between easy access to alcohol and overall rates of consumption and damage from alcohol.

Recent research focusing on Canada has shown that changes in overall rates of consumption are associated with changes in total mortality, traffic fatalities, alcohol-related mortality and liver cirrhosis deaths. As we drink more as a province or nation, and drink in ways where more of our occasions involve heavy or high-risk drinking, our societal rates of damage are likely to increase.

Also, we should be concerned with drinking patterns in light of the high proportion that still drink in risky ways and because of the link between drinking patterns and both traumatic and chronic damage from alcohol.

A national study, released just last week, included preliminary results from people surveyed in Ontario. It

indicated that about 20% of adult Ontarians drank heavily once a month in the past year, 23% exceeded the low-risk drinking guidelines and 17% were considered to drink in more hazardous ways in the past year, rising to 30% for those under age 25. In addition, the authors noted that 32% of respondents reported that in the past year they had experienced some harm due to drinking by others.

Examples of easy access or high availability of alcohol are the following: low price relative to the cost of living, high density of outlets, long hours of sale, low legal drinking age compared to our neighbours, inadequate server training programs, no challenge or refusal initiatives, and inadequate enforcement of liquor laws, to mention a few.

Ontario has done well in some areas in controlling access, and can do much better in others. The government alcohol retailing system can be an important tool in effective harm reduction when it comes to drinking problems—a tool that is not fully utilized.

Therefore, a key question with regard to Bill 96 is the following: Will it substantially increase access to alcohol, promote more drinking, promote high-risk drinking and therefore increase the risks and damage associated with alcohol use? As with many policy initiatives, it depends, in part, on the details.

A hypothetical scenario is one where it would be implemented without checks and balances; for example, with no limit on the number of bottles a patron might bring to the restaurant, no corkage fee, no efforts to seal a partly empty bottle before it's taken from the venue and if it was provided in places where staff are not trained to intervene if the patron is at risk of drinking and driving. Under such circumstances one would expect that access to alcohol, and hence the risks associated with its use, would increase.

However, the proposal under consideration signals awareness of some of the risks, and the framers of it should be congratulated for the checks and balances included in the draft legislation.

Our recommendations are framed with two principles in mind: One is the precautionary principle that one should not take unnecessary risks with public health and safety. The second principle is informed by our experience that there is a tendency to weaken alcohol regulation over time as new contexts for sale, distribution and access become more familiar and normalized. It is important to ensure that the research evidence about the link between access, consumption and social harm is not neglected because of our social experience with alcohol as a normalized drug.

For this reason, we recommend that the current checks and balances contained in the proposed legislation be considered the minimum interventions and standards required to protect public health and safety and that they be strengthened as needed, based on monitoring and evaluation of the impact of these changes.

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We recommend some areas in which the legislation should be strengthened before it is passed:

(1) That the proposed arrangements pertain to table wines and not be extended to include fortified wines, beer or distilled spirits;

(2) That a corkage fee be charged when patrons bring their table wine to the restaurant;

(3) That restaurant staff seal partially empty bottles before patrons take them from the premises;

(4) That all restaurant staff who are serving tables undertake training with regard to responsible service of alcohol and appropriate handling of patrons who have consumed to excess;

(5) That the arrangements for patrons to bring their own wine to restaurants only be allowed in connection with food service;

(6) That the program, based on this bill, be established through regulation indicating that it is being introduced for a two-year period and that the program only continue if evaluation of this trial period does not reveal substantial harm.

Thank you very much for your attention.

**The Chair:** Thank you, Doctor. We have seven minutes left.

**Ms Marilyn Churley (Toronto-Danforth):** Thank you very much for your presentation—most interesting. I lived in Montreal for a number of years a long time ago, and of course you could bring your own bottle of wine to restaurants there at the time. I must admit I was known to do that from time to time. As you said, it was very normalized there. Have you done any research specifically in those areas where they've had this in practice for some time to see if they're doing all of the things you're suggesting, and some of the problems, what works, what doesn't work there?

**Dr Giesbrecht:** There has been very little research on the Quebec experience. This is one of the reasons why we're recommending that this program be evaluated. The recommendations are based on research. There is a particular link between high-risk drinking and drinking without food. In other words, the more occasions where alcohol is consumed where there's no food, the more likely they're going to have high-risk drinking. That's why we're proposing food, for example.

**Ms Churley:** I believe in Quebec you do have to connect it with food. I'm pretty sure of that. I only did it when we went to dinner. OK. Thank you.

**Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot):** I want to thank you, Doctor, for your very balanced presentation. You spoke a couple of times about balance, and I think your brief reflects the thoughtfulness you've put into that. So thank you for that.

I would just note in passing that most of the caveats you have added there have already been responded to by the government. I think Mr Seiling made the point about a minimum food service order being a likely requirement.

That having been said, you talk about responsible drinking and pose the question if this will tend to increase it. I'm inclined personally—having a daughter who goes to McGill, having had the experience of having some options where it has actually decreased our own

drinking. The temptation to finish the bottle is something that I think we want to engender in folks. I'm wondering, has your association had any time to consult with your counterparts in Alberta or Quebec about their impact? I'm told by our ministry people that when we've had those contacts, they've indicated that there have not been the negative impacts that you suggest might be problematic.

**Dr Giesbrecht:** I'm suggesting that if it was made available according to the hypothetical scenario that I laid out earlier on, there would be problems, but I think there are some checks and balances already in place, and the presentation applauds the government for introducing it in that way.

There really has not been any research. There may be anecdotal information with regard to what's gone on in Alberta, Quebec or New Brunswick, for example, but there really hasn't been any research. It's a topic that hasn't been researched, and of course one cannot do the research on 24 hours' notice. It's difficult to say what the impact has been in concrete terms.

**Mr McMeekin:** A quick supplemental question: What are your views on the public safety reforms that are included in the bill? Do you like those? Do you feel they go far enough?

**Dr Giesbrecht:** I think the public safety things are good steps. It would be important to ensure that the best possible server training be given to all staff so they really know how to handle this unique situation. As we heard from previous presentations, patrons who have purchased the wine themselves and brought it to the restaurant may be very reluctant to give it up even though they may be intoxicated or approaching intoxication. So the staff need to be very skilled to handle that.

**Mr Yakabuski:** Thank you, Dr Giesbrecht, for your very balanced presentation. I want to commend you for the excellent work your organization does. You have pointed out how dangerous and damaging alcohol can be when it is abused, but you've also clearly accepted that, under the right circumstances and if handled properly, it in itself is not the problem. I think the minister addressed quite a few of the concerns you've indicated.

I commend you on the work you're doing. I think it is very important for all of us to ensure that we're not irresponsibly promoting alcohol, because we're very aware of the damage it has done in many situations, including families and employment and everything else. So thank you very much.

**The Chair:** Thank you very much for taking the time to come and address your concerns to our committee.

**Dr Giesbrecht:** Thank you for the opportunity.

#### POLICE ASSOCIATION OF ONTARIO

**The Chair:** Next is Bruce Miller, chief administrative officer for the Police Association of Ontario. Welcome to the public hearings on Bill 96, An Act to amend the Liquor Licence Act. You have 15 minutes. You can take

the whole 15 minutes or leave some time at the end for questions or comments.

**Mr Bruce Miller:** Thank you, Mr Chair. As you stated, my name is Bruce Miller and I am the chief administrative officer for the Police Association of Ontario. I was also a front-line police officer for over 20 years with the London Police Service.

The Police Association of Ontario, or PAO, is a professional organization representing over 21,000 front-line police and civilian members from 63 police associations across the province. We've included further information on our organization in our brief.

We appreciate the invitation to address the standing committee on general government on Bill 96 and would like to thank all the members for their continuing efforts for safe communities.

We have reviewed the proposed legislation in conjunction with our members and would like to make several comments. Our remarks will focus solely on any possible impact on community safety. As you know, the legislation would make a number of changes and we'd like to take the opportunity to address each of the proposals.

(1) Giving the registrar the power to issue immediate interim suspensions: We understand that this change would allow the registrar of alcohol and gaming to immediately suspend a liquor licence in the public interest where there is a threat to public safety. We appreciate that this provision would rarely be needed; however, we do see it as a common-sense provision and a necessary tool to ensure public safety.

(2) Amending the act to prohibit persons who have been required to leave a licensed premises by a police officer from remaining on the premises and from returning to the premises until the day after they left, unless authorized to do so by a police officer: This amendment clarifies what had been a grey area for police personnel. A police officer had the power under the act to order persons to vacate a premises in certain situations, but did not have the power under the act to enforce that order. Certainly, we see this as a positive amendment.

(3) Increasing minimum fines related to underage drinking: We support this change but would caution that increased fines and penalties are not always the answer. We'd certainly welcome the opportunity for further discussion with representatives of the hospitality industry and government to look at ways of jointly addressing this problem.

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(4) Changing the definition of "supply" to allow a patron to bring his or her wine to a licensed premises where permitted: We do not believe that the so-called bring-your-own-wine proposal will have any negative impact on community safety, as long as it is adequately regulated. We were concerned that bring your own wine should be limited to sealed LCBO products and that bottles should only be opened by the staff of a licensed premises. Finally, we felt that partial bottles should be properly resealed on a consistent province-wide basis by restaurant staff to prevent them from being easily opened.

We are pleased to say that we have been contacted by the minister's office to advise us that there will be consultations on the accompanying regulations and that these concerns will be addressed. The PAO believes that adequate regulations are the key to preventing any problems. I can advise the committee members that we have checked with other jurisdictions across Canada, and police associations have told us that they haven't seen any negative impact on community safety as long as proper regulations are in place.

In conclusion, in our view, Bill 96 would implement several changes that would have a positive impact on community safety. We believe that any concerns over the bring-your-own-wine proposal can be addressed through consultation and adequate regulations. The unified voice of the Police Association of Ontario has always been a key resource to government on all matters relating to policing. Building on our shared goal of making Ontario communities safer, we have worked with successive governments on a number of important policy files, sharing our experience and expertise.

Our members have worked closely with representatives of the restaurant, hotel, motel and hospitality industries over the years to ensure public safety. We look forward to working with their representatives and government to ensure that adequate regulations are put in place to accompany Bill 96. We would also be pleased to participate in any discussion on the future reform of the Liquor Licence Act.

In closing, we would like to thank the members of the committee for the opportunity to appear here today. We greatly appreciate your interest in community safety. We'd be pleased to answer any questions you may have.

**The Chair:** Thank you. We have five minutes left, and we'll proceed with the government side.

**Mr Duguid:** Let me begin by thanking you for coming here on behalf of your members. We recognize that if we mess up on the laws that we make here, your members end up being the people who have to clean up our messes. So we thank you for being here and we thank you for endorsing and supporting pretty much what's before us.

You may be aware that we are in the process now of getting ready to consult with the public and stakeholders on our efforts to modernize the Liquor Licence Act and further enhance public safety. You've indicated a willingness to be part of that. I'd like to welcome you to that consultation and hope that you'll be part and parcel of our discussions in that area and, as well, ask you, in the seconds remaining, if you'd like to expand a little bit on your comments on the minimum fines, if there are more things we can do with regard to underage drinking. I think we'd be most interested in hearing your view on that as well.

**Mr Miller:** I think one of the problems with increasing fines is that police officers obviously have discretion whether or not to charge a person. You'll get me off on a tangent here, obviously, but the reality is that some of the fines for traffic offences and liquor offences really

exceed some of the sentences that we see handed out for serious criminal matters, such as break and enter. So we like to put things in perspective. If the fines are too high, police are somewhat reluctant to enforce them.

We have had some unofficial discussions with the hotel, restaurant and motel industries and we realize some of the concerns that those members have in terms of identification and what types of identification should be used. We have great confidence in those industries in Ontario. We have very responsible owners of those establishments. We think that together we can look at ways of controlling underage drinking, some sort of standard identification or numbers of identification necessary. As I say, the vast majority of restaurant, hotel and motel owners of licensed premises are very responsible, and they share our concerns.

**Mr Duguid:** We look forward to hearing your views further in the future. Thank you.

**The Chair:** Now I will go to the official opposition side.

**Mr Martiniuk:** Mr Miller, I'd like to thank you for providing your expertise and that of your association in the deliberations of this committee. I know you served the community of London for 20 years with distinction. I congratulate you for taking the time to help this committee.

**Mr Yakabuski:** Thank you for coming, Mr Miller.

In a nutshell, would I be correct in saying that you have no real concerns about the bill—maybe a desire to have some discussions on cleaning up some of the small print or the nuances, that you want to make sure public safety is of paramount importance in enacting them?

**Mr Miller:** First of all, I'd just like to thank Mr Martiniuk for his comments. We certainly enjoyed our time when we worked with him, when he was on the crime commission. He worked with our organization very closely.

In answer to your question, in terms of the bill, we certainly endorse all of the community safety initiatives—the fines, the interim suspension and the changes to the act. In terms of bringing your own wine, we don't see any negative impact, and that's from checking with associations across Canada. As long as there are proper regulations in place—and I know Mr Duguid was speaking earlier and said that sometimes when regulations are written they can cause some damage because people don't appreciate the outcome of some of those regulations. But we think that if we sit down with representatives from the hotel and motel industry, we can ensure that there are proper controls in place. It certainly has to be standardized across the province too, we believe.

**Ms Churley:** Thank you very much for your presentation. Just a quick question. Because this isn't, as you outlined, just about bringing your own wine but some other changes, is there anything that you'd like to see in this bill that isn't here, just in terms of some of the issues and problems that we hear about in our constituencies?

**Mr Miller:** I think that was one of the issues that I mentioned earlier, that we could work together to look at

controlling underage drinking. That's certainly a step that we can take. The important thing, again, is just to say that the regulations are so vitally important to ensuring community safety, to make sure that bottles can't be easily opened when people leave premises, that they are properly secured.

**Ms Churley:** I guess I was thinking more about, because it's covering some other areas that you mentioned as well: Is there anything glaring that's been left out in terms of—you think this pretty well covers some of the things that we need to be changing and improving?

**Mr Miller:** Not that we saw, or through any feedback from our members.

**The Chair:** Thank you very much, Mr Miller, for taking the time once again. As Mr Duguid said, you might be getting a call later.

**Ms Churley:** You might?

**The Chair:** It's not up to me to decide.

### TAXIGUY

**The Chair:** Our next presenter, la prochaine personne à faire une présentation, c'est Justin Raymond. He's the president and founder of Taxiguy.

Welcome, Mr Raymond. You have 15 minutes to make your presentation. You could take the whole 15 minutes or leave some time at the end for questions.

**Mr Justin Raymond:** OK. Although I'm flattered by the francophone pronunciation, it's actually Justin Raymond. And believe it or not, my middle name is actually Maurice.

Each of you has a package in front of you and I'll ask you to draw from that package as I go through the presentation, just so we can keep things in line. This is going to be relatively new to most of you and possibly all of you.

Why I'm here today is to address the needs for a safe transportation plan in all licensed establishments in Ontario.

First, before we get into the facts as to why that should be instituted, I'll introduce my operation, the business that I founded seven years ago here in Ontario, and have moved across the country to bring the benefits of safe transportation facilitation to governments, corporations, not-for-profit groups etc.

**1700**

Taxiguy is a nationwide network of cab companies all linked together through one easy-to-remember, toll-free phone number: 1-888-TAXIGUY. Our research indicated that 88% of people did not know a correct phone number for taxicab service in their hometown, let alone every single town in Canada that they would be travelling to and potentially drinking in. We wanted to solve that problem, and therefore we harnessed the power of telecommunication technology to create what has become one of the most unique and powerful drinking-and-driving solutions in the world today.

We have over 700 cities and towns across the country that are covered under our toll-free phone number. We

have over 425 network partner cab companies that participate and service the calls on a 24-hour basis. We have facilitated over one million rides to date. On September 24 in Kingston, Ontario, that ride was facilitated from a pub, taking a person from a pub to their home. There is no quarter required at a pay phone, which obviously creates a more convenient route for people, and a more cost-effective route in some cases. No phone book is required any more, and we use very reliable telecommunication technology to support the infrastructure.

Our mission as an organization is to complement and expand the social responsibility initiatives by corporations, government departments, not-for-profit groups and charitable organizations around drinking-and-driving prevention. Our stakeholder support comes in many forms. Just to rhyme off some of the more significant ones: the Ontario Community Council on Impaired Driving, on whose board I sit; the Canada Safety Council has recently endorsed our services and programs. Might I add that we are a for-profit business but our values and mission are in the right direction, and it does not complicate any endorsements from these types of organizations whatsoever.

We have countless stakeholder relationships in the police forces across the country. We have great relationships in the business community. Prime Restaurants of Canada, which is East Side Mario's, Casey's, Prime Pubs; great movers of alcohol and food, by volume some of the most significant licensed establishments in the country, and the decision-makers behind those operate excellent return-on-business operations. Shoeless Joe's is our provincial partner, which has 35 licensed establishments across Ontario. Gabby's Restaurant Group is the municipal partner, the local operation. They have approximately 11 locations in Toronto. In total, we have over 250 licensed establishments that have supported our program, which is called the Smart Call program, which is a turnkey safe transportation plan for licensed establishments across Canada.

We also have a relationship with the ORHMA, the Ontario Restaurant Hotel and Motel Association, which supports what we do, and we have letters of support, which you will find in the package that I handed to you, on the right-hand side. Marilyn's letter is actually on top; thank you for that, Marilyn. I will ask you, perhaps after I'm done, to maybe sift through these and take a look at some of the people who have written letters for their areas, be they local ridings or provinces or the entire country.

I sit here in support of Bill 96, and I will explain why at the end of my time. But there is one glaring improvement required in the Liquor Licence Act of Ontario: A safe transportation plan, as described in the AGCO house alcohol policy guidelines sheets handed out to licensed establishments, should not be optional any more or a simple business decision. This should be a condition of licensing and be enforced by the licence inspectors across the province.



Why would we want to enforce a safe transportation plan? Perhaps before I advance any further, this is what I'm talking about. These are the house alcohol policy guidelines that are distributed to the licensed establishments that receive licences to serve alcohol. Number 6 in the expected guidelines clearly states that they need to "adopt a safe transportation plan," including identifying and ranking transportation options, confirming necessary arrangements with outside companies and advertising the program to their patrons.

The obligations of the licensees under the Liquor Licence Act of Ontario are: section 29, not to overserve patrons, which is obviously paramount to the entire reasoning behind this; and section 39, the civil liability, and all of the precedent-setting cases that we've seen under that. The court obligations now, be they provincial or federal, have defined that there is a special relationship that exists between licensees and patrons. The special relationship exists because an economic benefit is derived, meaning that when they sell alcohol they're making money and probably the highest profit margin inside of anything they're selling at that location; therefore, a special relationship has been clarified.

There is not only a duty-of-care expectation, there is an enhanced duty of care, as claimed by the courts in Canada and in the provinces, and reasonable steps must be taken—"reasonable steps," as in putting a safe transportation plan into the licensed establishment.

Why enforce a safe transportation plan? For the servers, it's extremely difficult to keep an eye on and babysit every single patron in a licensed establishment, especially if they have multiple service bars in the establishment—for example, some of the clubs. There's a direct conflict of interest between the server's ability to make money and to potentially have to cut off patrons when they reach a point of intoxication. Servers are caught between a rock and a hard place, and so are restaurant owners who are supposed to be the people who oversee this and back up their servers. But the problem there is that licensed establishments make most of their money off alcohol sales, and they need that money in order to pay the rent and keep the lights on.

The observation-based tactics of the Smart Serve training program are somewhat effective; however, being observation-based, they are reactionary by nature and not proactive enough. It clearly states in the Smart Serve Training Workbook that for the invisibly intoxicated, or people with a tolerance to alcohol, "It is entirely possible for a guest to be too drunk to legally drive, and still show no signs of visible intoxication. This creates a problem for servers." It certainly does create a problem for servers.

Moderate drinkers consume alcohol at a rate that potentially impacts ability to operate a motorized vehicle. Moderate drinkers will push the boundaries of risky BAC—blood alcohol content—levels. The largest percentage of patrons who visit licensed establishments are moderate drinkers. We have knowledge that the "approach a licensed establishment decides to take when

handling an intoxicated guest who may drive could be the most important decision regarding responsible beverage service"—the Smart Serve Training Workbook.

We have knowledge that it is impossible for servers to know which patrons plan on driving. We have knowledge that overservice of alcohol may and does occur. All we have to do is look at the AGCO inspections. We have knowledge that drinking and driving may occur and does occur—over eight million trips every year in Canada, according to the Traffic Injury Research Foundation. We have knowledge that a safe transportation program could save lives, reduce injuries, and avoid the negative trickle-down effect on society, which affects all of us—families, businesses and governments.

We have knowledge that the AGCO expects their licensees to participate in programs aimed at drinking and driving and explicitly state that a safe transportation plan is a key component to any house alcohol policy, in this document right here. Finally, we have knowledge that, of the over 1,000 licensed establishments in Ontario contacted by our organization, none had a safe transportation plan in place.

Why am I here today? Because I want to get this on the record. I want to let you know that it is needed by servers, by patrons, by all communities across Ontario, by police groups across Ontario, by the hospitality industry and by government.

My call to action is for a mandatory implementation of a safe transportation plan in all licensed establishments in Ontario, as described in the AGCO alcohol policy guidelines, and it must be supported by enforcement through liquor licence inspectors.

Our view on Bill 96: This is a public safety issue to our organization. As the president of a small business that embraces the opportunity to promote responsible use and as such supports legislation regulating the sale and service of liquor, I am quite pleased with the reform package proposed within Bill 96. Strengthening the consequences for and enforcement of underage drinking offences will help reduce harm caused to youth. Promoting a take-home-the-rest option for wine drinkers encourages customers to be moderate with their consumption. Enforcement is key as well.

**The Chair:** Thank you, Mr Raymond. We have enough time for one question from each of the opposition parties.

1710

**Mr Yakabuski:** I appreciate you joining us here today, Mr Raymond.

On the safe transportation plan, as a rural member I have a question with regard to the ease of implementation of that. Could a safe transportation plan simply be the willingness or the undertaking to call someone? In communities where I live, there is no public transit, no taxis, yet we do have establishments that serve alcohol. I'm just wondering what the expectation is in a safe transportation plan, because if it includes taxi service or a public transportation service, there are situations where it's simply not accessible.

**Mr Raymond:** There are many options to avoiding a drinking and driving incident, and all of those are actually inside of our programming message, which first of all is to call the number of a taxi, if it is available. I believe that the percentage of the population that would be serviced by a taxicab is in the neighbourhood of 92% in Ontario.

**Mr Yakabuski:** That's very high.

**Mr Raymond:** It's very high, so it's a good starting point. In other communities that don't have taxicab transportation readily available, there are other alternatives—designated driver programs. First of all, the people who arrive with you at the location interact with the components in the safe transportation plan and understand that if a decision is going to be made as to who's going to be drinking or if all the people are going to be drinking, they have to take into consideration the designated driver.

**Mr Yakabuski:** So that can constitute a safe transportation plan?

**Mr Raymond:** Not on its own, but yes—

**Mr Yakabuski:** But it doesn't have to have public transportation or a taxi service in order to be able to have one?

**Mr Raymond:** You need to utilize outside companies, as it explicitly states in the AGCO house policy guidelines. So by going by this definition, I would suggest that—

**Mr Yakabuski:** How would we do that in a rural community? Let's just say for Wilno, which has absolutely no opportunity and there will never be public transportation there.

**Mr Raymond:** If there is no public transportation and there's no taxicab service, where the responsibility falls is on the licensee. That licensee, if they detect somebody who is intoxicated, has two options: to take care of their patrons themselves—drive them home—or contact the police. So the other vehicle that can take people away is a provincially funded car.

**The Chair:** I will now move on to Ms Churley.

**Ms Churley:** I certainly don't have that problem in my riding. There are lots of taxicabs. I now know why I always check my letters for typos really well: You never know where they're going to show up. I thank you for including this. I was thrilled to hear about this program and I hope to see more of the establishments in my riding getting involved in your program. It's great.

I guess you used this as an opportunity today to tell more people about the program so more people are aware of it. You don't have a whole lot extra to say about the bill before us, I assume.

**Mr Raymond:** You are correct. For the record, I have met with several people at many different levels of the AGCO and I've had a difficult time getting the message across.

**Ms Churley:** At the what?

**Mr Raymond:** At the AGCO, the Alcohol and Gaming Commission of Ontario.

**Ms Churley:** Oh, of course. I used to be the head of that once. And what's the problem?

**Mr Raymond:** I just never really received responses or answers to my questions. I thought this would be a great opportunity to—inside of the Liquor Licence Act.

**Ms Churley:** Good idea. I hope so too. Thank you.

**The Chair:** Thank you very much, Mr Raymond. Again, the points you have raised are definitely well taken by the members of this committee.

#### WEBERS DOWNTOWNER RESTAURANTS

**The Chair:** The next group we have is Webers Downtowner restaurants; Mr John Weber, the owner.

Just a second. We have to see if there's a vote in the Legislature.

We have to apologize. Whenever the bell rings, we have to listen to whether there's a vote or not. The Speaker is back in his chair.

Once again, Mr Weber, thank you for taking the time, and welcome to the committee. You have 15 minutes to make a presentation, of which you can take the whole 15 or leave some time at the end for questions.

**Mr John Weber:** I just want to go through some of the highlights of my presentation. This isn't normally the forum I operate in, so I'm a little shaky.

**The Chair:** You can proceed.

**Mr Weber:** My name is John Weber. I operate two restaurants in Barrie and Orillia. They're both liquor-licensed restaurants. I want to thank you for the opportunity to discuss—mainly my focus and concern is the bring your own wine; it's not the whole reform. Just to be honest, there's so much information there, I can't really comment on it that well.

My first question is, where is the public outcry for this reform coming from? When did the people march in protest demanding BYOW? When did BYOW become a political top priority? To me, that's how I would think things would happen.

The minister claims that he is setting out to improve consumer choice. My question is, at what cost and at whose expense? To increase public safety—I'm very concerned about public safety. The gentleman who spoke previously has a lot of good ideas.

My question is an obvious one: Why are we about to enter into potentially dangerous reform without more study and more consultation? I would love to be a part of a committee or anything that steers this. I would volunteer for it right here and right now, because it is a big concern to me. Being a licence holder, it's a big responsibility.

The minister said he wanted to reduce burdens for small business. I think nothing could be further from the truth in this law when it comes to BYOW. It puts more burden on the operator—a lot more burden. There is already a huge burden on anybody who owns a liquor licence. It's a very valued piece of paper. The administrative burdens on small business are already crippling, and this reform, I think, would only add to that burden.

Alcohol and the serving of alcohol are a huge responsibility. It must remain in the control of a sober operator, not the drinking patron.

Many of the people I've spoken to play out a lot of scenarios, but they're always assuming the person you're dealing with is logical and sober. After three glasses of wine, nobody is logical; nobody is sober. But you have to deal with that person, and that is what I'm putting out as my question. It makes my job that much tougher.

How do I cut a person off after he or she has brought in their own wine and then deal with the abuse? When people bring in their own bottle of wine, there is a form of possession and ownership. It's a special moment; they might be celebrating a wedding anniversary, the birth of a child, whatever it might be. They're bringing in their bottle of wine. That's their property, and now you're saying, "I have to cut you off from your piece of property." Yes, I have the right to, and yes, I cut off patrons if I have to, whether it's their wine or not. But you add a new element to it when somebody brings in their own property. There is an embarrassment level, there is a conflict level that I don't want to go through in my restaurant.

Again, you could say to me, "Well, Mr Weber, this is a voluntary law; you don't have to participate." Agreed, but there are a lot of regionalities that go on, and I can see both sides of the coin.

Earlier, the minister himself—I was listening to him speak—said, "This would be a great idea down around Pelee Island or the Niagara area." I tend to agree with that in that regional area. In my area there are very few restaurants; there are probably 10 in the city of Orillia that are legitimate restaurants. It wouldn't be that voluntary. If four or five participate, the other four or five or six had better, or else. There's too much pressure; it's not like being in Toronto with all of the choices.

This reform empowers the customer to dangerous levels. That's one of my biggest concerns: the power the customer could misinterpret through this law by bringing in their own property. I am liable and responsible for this person and their actions. That's a big responsibility to carry.

My insurance has gone up by three times in the last four years. I don't know what the insurance industry would do with this. I think it would be a heyday the minute there's one incident or one case where there was a take-home bottle in the car. I think the insurance companies would go crazy about it, personally.

You're telling me that the laws, these reforms, are voluntary. My question is—and I'm not trying to be sarcastic—when was a smoking law, when was a seat belt law voluntary? I don't understand a voluntary law with this bring your own wine. I think there's a flaw to it when you say it's voluntary. That's my belief.

Who is going to determine what the patron is in fact bringing into the restaurant? Is it homemade wine? That was addressed earlier. Is it port, with a 20% alcohol content? There is a lot of grey area with this law, and I think there's a lot of room for misinterpretation, and then all of a sudden I become the BYOW police officer. I don't really want to do that. I want to run a restaurant, but I do want to have control over it, being the sober

proprietor, as opposed to getting into a conflict with somebody who has brought their personal property into my restaurant.

Actually, I could go on for a long time, but you've all got my submission and I'll end it at that. It is something I feel strongly about, and I think small business has enough challenges. Especially in the restaurant business, there are a lot of challenges we've dealt with, and you've heard them all before. I just think this takes some power away from the proprietor and I think it's dangerous when somebody who has been consuming alcohol is now buying into the direction that this is going.

1720

**The Chair:** Very good, thank you. Now we have nine minutes left; three minutes from each party. I will be starting with Ms Churley from the NDP.

**Ms Churley:** Thank you very much. You raise some, I think, really important points and something that perhaps, when you get to the government, you can have an exchange about. I think to a lot of people this is perhaps not a big deal either way, right?

**Mr Weber:** I agree.

**Ms Churley:** As far as I'm concerned, it doesn't much matter to me, which is why it's so important to hear from people it's going to impact, like you. Is your association part of the—

**Mr Weber:** No.

**Ms Churley:** So do you know if the association representing bars and establishments supports this with reservation, fully supports it or what?

**Mr Weber:** I spoke to the Ontario restaurant association and they said, "John, don't get too excited. It's not a big deal." I said, "Well, any law, to me, is a big deal, any reform is important, because I operate within that forum every day." They said, "Only 3% or 4% actually participate in this. It's nothing to get excited about." But again, my concern is, once you open the door and once it is open, and once the reforms are made—I do have concerns about it.

**Ms Churley:** If the government goes ahead with this, I assume you would like to make sure you or representatives from your industry who have the same concerns have an opportunity to be involved in the regulations.

Overall, what I'm hearing is you would prefer not to have this, since, overall in Ontario, it's probably not a huge, big deal. On the scheme of one to 10 of what we're most worried about, that's not up there. Why impose something new on you now when you're struggling to—I believe that's what I'm hearing you saying.

**Mr Weber:** There are enough challenges. Would I be against it if somebody said, "Regionally, this would really be a benefit to the wine region of Ontario"? I'm not against that if it's regional, local.

In my area, alcoholism is fairly high; it's fairly common. Earlier, the minister was speaking about—I forget his exact words—"finesse" wasn't the right word, but "civilized," I believe, was one of the words he used

earlier. He said, "It would be very civil to do this." Not all areas of Ontario are civil.

**Ms Churley:** Name names.

**Mr Weber:** There are some outlying areas where people think—people in my area might think wine is Jack Daniel's.

I don't really want to get involved in this. It puts me in a very uncomfortable position. As I said, I don't want to be the police officer at the door—

**Ms Churley:** Can I interrupt, because he's going to stop me soon, I know. You asked the question about it being voluntary. What I understand that means is, you can choose as a restaurant owner to allow it or not.

**Mr Weber:** Agreed.

**Ms Churley:** And so, to you, what would be the problem with that?

**Mr Weber:** The problem is, Ontario doesn't allow a happy hour any longer. We haven't had one for years. You could use this corkage fee very easily as a happy hour. Mondays, Tuesdays, Wednesdays: no corkage fee. Why not?

**Ms Churley:** So they could have an advantage over you, in that sense, those who choose to do it.

**Mr Weber:** Absolutely. It dangerously, to me, makes it very attractive to consume more alcohol. I've been taught by Smart Serve, the Liquor Licence Act and everybody else, "You are not supposed to be enticing customers to increase their alcoholic consumption."

I think this law, if passed, could be manipulated by a lot of people to really open up and have a heyday. My final line in this, with a little touch of humour, says, "Don't turn Ontario into Daytona Beach at spring break." And I mean it. I think this could really blow the cap off it.

**Ms Churley:** Blow the cap off it—there you go again.

**Mr Weber:** Literally.

**The Chair:** Thank you, Ms Churley; your time is up. Now it's the government side's turn.

**Ms Deborah Matthews (London North Centre):** First, let me genuinely say, thank you for coming. I think this is the process working the way it's supposed to work, where people can come and express their points.

**Mr Weber:** I agree; I think it's terrific.

**Ms Matthews:** You've raised some issues, some concerns. You know that other jurisdictions have done this. There are many in Canada and around the world that have done it. I just wonder if any of your fears have actually been found to be true in any of those jurisdictions, to your knowledge.

**Mr Weber:** I don't know, because this came around fairly fast. I apologize. Ideally, I would like to have had more time for study and for research. As I said, I would love to volunteer for any future work that you do on it. I'd drive to Toronto six days a week to work on it, because it is important to me; I'm a proud resident of this province. But I have concerns, and I haven't had enough time to research how it is applied and how it works in other areas.

The biggest thing for me, being an operator, is the liability and my responsibility for the safety of my patrons. It's tough when somebody's had too much to drink. People don't think reasonably, they don't act logically, they don't always keep safety in mind. I just think that when somebody has brought their own product in their own possession—one of my things is, what happens if one of my staff, God forbid, dropped the \$500 bottle of wine? It just breeds conflict for me in a working environment, and it could happen.

**Ms Matthews:** You certainly sound like you speak from experience on this. Thank you very much for coming.

**Mr Weber:** It's been my pleasure.

**Mr McMeekin:** Thanks, Mr Weber. Did you happen to be here when the police made their presentation?

**Mr Weber:** Yes, and I sort of feel like I'm out in left field on this when I hear everybody else. They're saying—

**Mr McMeekin:** Or the restaurant association here in Toronto?

**Mr Weber:** Yes.

**Ms Churley:** He's calling you a party-pooper.

**Mr Weber:** Yes, exactly.

**Mr McMeekin:** No, no, I'm not; believe me. I've got enough natural enemies without looking for them.

**Mr Yakubuski:** Not over here, Ted.

**Mr McMeekin:** No, no, of course not.

You asked the question, and I take it it was a rhetorical question, about where the pressure is coming from. I think the pressure has been coming from a tourism industry that's been hit hard—there was some reference to diversity: tourists, people from different countries—and certainly from the law enforcement sector, which has had some very legitimate concerns that I suspect you share about security and safety, and not encouraging over consumption, which is what the take home the rest is about.

**Mr Weber:** It's never been my experience that way.

**Mr McMeekin:** Do you see some advantages to the take-home-the-rest portion? Wouldn't that reduce—

**Mr Weber:** That's never been a concern, though. Normally, we do monitor our customers—

**Mr McMeekin:** You can't do it now.

**Mr Weber:** No, agreed. But I've never had that question posed to me in 15 years. I've never had someone say, "Can I take this home?" We do keep a close eye on our patrons: how they're behaving, their body language, the level of their voices. Are they getting a little bit aggressive, out of control that way?

**Mr McMeekin:** I'm not worried about you; you obviously do a good job.

**Mr Weber:** I try to do a good job, and it's a huge responsibility and liability. I am in charge of the safety of everybody who comes into my restaurant. That's the bottom-line concern.

**The Chair:** Our time is up. Sorry about that. Thank you very much for taking the time and passing on your concern.

The next presenter will be Adam Vassos.

**Mr Yakabuski:** Pardon me. Do we not have any questions?

*Interjections.*

**The Chair:** Sorry; you're right. I made a mistake. Sorry, Mr Weber. Would you mind taking your seat again? I didn't get the official opposition party to ask a question. They have three minutes too.

**Mr Yakabuski:** Thank you very much, Mr Chair. Sorry to put you back in the chair, Mr Weber.

**The Chair:** We have two people on the panel, but only one can ask them.

**Mr Yakabuski:** Your statement about this blowing the cap off it: I take it that, in your opinion, if this happens we'll need more than one of these machines to get it back in. Is that the case?

**Mr Weber:** That's one of many.

**Mr Yakabuski:** I read in the newspaper today too; you were quoted, and one of the things you had some concerns about was insurance liability.

1730

**Mr Weber:** Absolutely. My insurance has tripled in four years, without incident, without any occasions at all that have ever happened. It's just simply the nature of the insurance industry, which is very popular in the newspaper lately.

I have a huge concern. If there is any incident or accident in the next year or two where something is involved that they could tie to BYOW or take home the rest, I would think the insurance underwriters would be all over it and would say, "Boy, we have to add another 50% to your premiums to cover this potential damage. A family was killed."

**Mr McMeekin:** I bet your insurance will go down.

**Mr Weber:** I would love it if it did.

**Mr Yakabuski:** I must say that I did speak to an executive with the Insurance Bureau of Canada today. He indicated to me that they have no concerns about this bill affecting anybody's premiums or liabilities. They have no concerns with that whatsoever.

**Mr Weber:** That's welcome news; it really is, because the insurance is a huge factor.

**Mr Yakabuski:** They don't believe this will have any impact on your—

**Mr Weber:** I'm not saying that the bill will. I don't think the bill will have any effect. I think the minute there's one problem, one accident, or, God forbid, one death, then I think you've got—I don't think the bill will affect my insurance at all.

**Mr Yakabuski:** Do you think this bill will actually lead to more alcohol consumption?

**Mr Weber:** I do; and I think it's from the aspect of people manipulating it. I don't think it's in the spirit of the bill. I don't think that's what this bill is about. I'm not fighting the bill as much as the way it can be manipulated, the way people can say, "There's a corkage fee. Well, you know what? Monday, Tuesday, Wednesday and Thursday are my slowest nights—there's no corkage fee." It's no different than somebody with their half-price

chicken wings. Make it attractive, make it fun, get people to come in and drink more.

**Mr Yakabuski:** But would it not be counter-productive to a business to be eliminating a corkage fee on the very product that is—they need that income. Alcohol is one of their biggest profit-margin items. They're going to build in the corkage fee, I would think, to compensate for the loss of that income on the alcohol they would normally sell out of their businesses. By eliminating the corkage fee, would they—I'm curious as to what they would accomplish.

**Mr Weber:** I'm just saying, to increase business on slower nights of the week. If you're charging \$25 on a Friday night for a corkage fee and \$5 or nothing on a Monday night, to me, it's encouraging consumption.

One thing that we didn't get to touch on was, I was concerned from the government's point of view about the tax loss. I would think there's a loss of tax revenue here. If somebody is buying a bottle of wine from me at \$24 or from the liquor store at \$12, there's a difference on tax collected.

**Mr Yakabuski:** You're right about that.

**The Chair:** Now our time is up. I apologize for the mistake.

**Mr Yakabuski:** Oh, not at all.

**The Chair:** Thank you again, Mr Weber.

#### ADAM VASSOS

**The Chair:** Again, Mr Vassos, welcome to the committee. Thank you for taking the time to come and make your presentation.

**Mr Adam Vassos:** I'll start by introducing myself. My name is Adam Vassos. I'm a lawyer here in Toronto. I've been practising here for the past 15 years. My area of practice is business law, with a large concentration in the hospitality industry. I do a lot of work at the Alcohol and Gaming Commission of Ontario. I represent several licensed establishments in Ontario, from Windsor right through to Kingston, down to Niagara Falls, basically from the bottom of the province up to as far as Lake St Joseph. I represent stadiums, restaurants, universities, nightclubs and lounges. I also represent the Windsor restaurant and nightclub association. I represent the largest licensed establishments in Ontario, but I also represent some of the smallest licensed establishments in Ontario. I'm also a member of the Canadian restaurant association. But today I'm here on behalf of myself, as an interested party and as a lawyer who has appeared before the AGCO on several occasions over the past 15 years.

In particular, I'd like to speak to you about my concerns with respect to Bill 96, specifically with respect to the proposed amendment to subsection 15(6), which deals with interim suspensions.

Presently, the way 15(6) appears is exactly the same as it appears in the proposed amendment, except that the word "board" appears where the word "registrar" appears in the proposed legislation. The proposed change takes away the power and responsibility of the board of the

Alcohol and Gaming Commission and transfers it over to a bureaucrat: the registrar of the Alcohol and Gaming Commission.

I'd like to explain to you that an interim suspension is a very extraordinary remedy. It's a remedy that's only imposed in exceptional circumstances. I know; I've appeared before the board on several occasions when they've attempted to impose these types of extraordinary remedies. It's a remedy which is not only designed, but has the effect of essentially crippling the business. That's what it's there to do.

The legislation reads that it can be imposed when it's "necessary in the public interest." Many people feel that really means when it's a concern for public safety. But, in fact, if you look at the case law, "public interest" has been defined to mean a lot more than just public safety.

Let me tell you a little bit about how the process works from a licensee's point of view so you can understand and appreciate the system they're dealing with. And then I'll explain to you, from a licensee's point of view, what the economic and political implications are if this bill is passed.

Presently, under the existing legislation, if the registrar believes there are sufficient grounds to suspend a licence on an interim basis and wants to revoke that licence, what he does is issue a notice of proposal to revoke, as well as a motion for an interim suspension. The licensee is provided with the opportunity to attend on that motion with respect to the interim suspension. A board of two members is convened. This board is trained in hearing evidence, in making determinations of facts, and is capable of making decisions based on the evidence. The registrar has the onus of proving, on a balance of probabilities, to that board that this particular licence should be suspended immediately on an interim basis, pending the revocation hearing. The licensee is afforded the right to attend that motion, to cross-examine on the evidence, to present rebuttal evidence and to make submissions on his behalf with respect to that motion.

The registrar is not trained in hearing evidence, he's not capable of making determinations of fact and he's certainly not accountable for making decisions of this magnitude. You can't have the same person who makes a decision to discipline someone also determining what that discipline should be. Presently, he makes a determination that the matter should proceed to discipline; the board decides what the discipline should be.

This bill, in its present form, takes away a person's right to be presumed innocent until found guilty. This is a breach of the rules of natural justice and it's a complete disregard to due process. Due process is a right that's guaranteed under the Charter of Rights. That's the penultimate legislation in Canada. The right to due process is right at the core of this democratic society in which we live. This legislation I don't believe will withstand a constitutional challenge. I think we have to look quite importantly at what type of legislation we're passing here, if it's not going to be able to withstand a constitutional challenge.

The way the process will work—I've described to you how it works so far—if this legislation is passed, is as follows: If the registrar feels there's a problem with the licensed establishment that warrants an interim suspension, then he determines that that establishment is suspended immediately. That establishment, under the act, is afforded a right to a hearing within 14 days. But that hearing is not to hear the interim suspension; it's the hearing to deal with the revocation part.

There are two problems with that: (1) When you're moving for a revocation, sometimes 14 days isn't enough for a licensee to find a lawyer, get prepared and defend a huge hearing that the registrar could have taken six months to put together. (2) Just because you have a hearing in 14 days, during which your licence is suspended, doesn't mean that after the hearing you get your licence back. In the past 15 years, every time I've been involved in a hearing, 90% of the time the board has reserved its judgment. What that means is, they'll go away, saying, "Thank you very much. We'll take your case under consideration and we'll issue an order." I've been involved in cases that have taken two months, three months and sometimes longer than three months to get a judgment.

What that means in this situation is that you have an establishment that gets its licence suspended immediately on an interim basis because the registrar decided; it's suspended for 14 days; then you go to a hearing; and after that hearing is completed, you could still be suspended for another two or three months until that decision comes back from the board. When the decision comes back from the board and you've been closed now for two or three months plus the original 14 days, the board may say, "There's enough evidence here to revoke your licence." Well, no harm, no foul. But if the board comes back, as it does in many cases, and says, "There's not enough here to revoke your licence. We think that a two-week suspension is appropriate," how do you compensate a place that's been closed for three months? Most establishments require the income that's generated from the sale of alcohol, to stay open. If you've got a restaurant, a bar or a tavern and it can't sell alcohol and it's closed down for three months, it's not going to survive three months. So when the board comes back with its decision three months later and says, "Do you know what? Everything is OK. We're going to give you a two-week suspension," sorry, it's too late. That place is gone, it's closed; no more revenue, no more taxes, no more employees. Some of my clients employ hundreds of employees. They pay PST, they pay GST.

#### 1740

There are over 18,000 licensed establishments in Ontario. You cannot put the fate of 18,000 licensed establishments in the hands of one person: the same person who decides that he wants to investigate, the same person who decides that he wants to prosecute. That person should not be provided with the power to say, "Not only are we going to prosecute, not only are we going to proceed, but I've decided that I'm going to

suspend their licence.” That is a complete breach of the right of due process.

In a province that’s been ravaged by the effects of 9/11, SARS and the smoking ban, all the businesses we’re dealing with are treading on thin ice. Instead of trying to generate ways that will make the operations of these businesses easier, we’re making it more and more difficult. Taking away an establishment’s right to due process would be considered by many as draconian.

Most of these establishments cost millions of dollars to build. They provide millions of dollars to the economy in construction, architects, finishing, the sale of equipment and assets, and then, when they open, they employ people. As I’ve said, they pay PST, GST, income tax and corporate tax. We should be doing everything we can to encourage more establishments to open in Ontario, not scaring them away.

I respectfully request that this bill not take away the power that’s been afforded to a board, through the Legislature, to make these kinds of decisions and put it in the hands of a bureaucrat. I would respectfully request that you allow businesses the right to due process.

Those are my submissions with respect to subsection 15(6).

After hearing the last statements regarding the supply section, the bring your own alcohol, although I wasn’t prepared to make any submissions on that section, I think it’s important that I make some, only because I’ve spoken to several of my restaurant clients in this regard. Some of the concerns my clients have raised with respect to the supply section—bring your own bottle—deal with the requirements of the licensee to basically become a policeman. As you’re aware, the licensee, through the Liquor Licence Act and the Provincial Offences Act, has several requirements and laws it has to abide by in the service of alcohol. One of the most important is the situation with respect to the consumption of alcohol, dealing with persons who are going to be cut off, dealing with persons who show signs of intoxication and have to be cut off. How do you treat a situation where you’ve got a group of four people who have come in for dinner and they’ve brought two, three or four bottles of wine? What happens if one of those persons at the table shows signs of intoxication? How do you deal with that? Do you take away the entire party’s bottles or do you say you can’t serve this person? When you’ve got an establishment that has three or four waiters for 20 tables, how can you assure yourself that the person who has been cut off doesn’t have wine poured into their glass by one of the other persons?

How do you deal with situations where you cut people off—and I understand that machinery looks fantastic for resealing or recorking the bottles. But what happens if you’ve got an individual who has half a bottle of wine left and leaves? You reseal his bottle. He goes out and pops the cork himself with a corkscrew, drinks the rest of the wine in his car, drives off, gets into an accident and, heaven forbid, passes away. They do a blood check on him and his blood alcohol is through the roof. How does

the licensee prove that when that person left the establishment his blood alcohol was fine and he was OK? He’s not going to be able to do that. All they’re going to know is that he was at this particular person’s establishment and he drank alcohol—albeit he brought it himself, but he still drank alcohol there. The responsibility is then with the licensee. I can tell you—it’s not very difficult; you can find this for yourself—I’ve got a number of cases where, when that happens, the licensee loses their liquor licence. It essentially takes away their right to earn a living. At least when you are providing alcohol to a person, you have the right to cut them off very easily, and they can’t leave with that bottle, cork or no cork.

Those, Mr Chair, are my submissions. Thank you very much.

**The Chair:** Thank you. We only have three minutes left. If I go to two questions from the government side and the official opposition, they have to be short questions.

**Mr Rinaldi:** Very short, Mr Chair. Not to interfere with your personal business, but you’re representing the folks from the Greater Toronto Hotel Association?

**Mr Vassos:** I’m sorry, I can’t hear you.

**Mr Rinaldi:** Are you speaking on behalf of some of the Greater Toronto Hotel Association people?

**Mr Vassos:** No. As I said today, I’m here on behalf of myself.

**Mr Rinaldi:** I realize that. But do you represent any of those people in your—

**Mr Vassos:** I represent several people and I represent some hotels, not the actual association itself.

**Mr Rinaldi:** Because they put in a submission in support of it. So I guess I’m getting some conflict.

Another quick question, just to point out: You raised concerns about when you have multiple people and guests at the same table. What’s the difference between now and then?

**Mr Vassos:** What’s the difference between now and then? Now, you wouldn’t sell them four bottles of wine. That would be impossible.

**Mr McMeekin:** You wouldn’t open four bottles.

**Mr Vassos:** They could, absolutely. Under this legislation, if you brought in four bottles—

**Mr Rinaldi:** The server has to open the bottles of wine.

**Mr Vassos:** That’s right.

**Mr Rinaldi:** The server has still got all the control. I’m just a bit confused. What’s the difference, whether he buys it from that restaurant or brings himself what he bought at a liquor store? I don’t see it. The server still has the same control. We’re suggesting, in the bill, that the server has the same control.

**Mr Vassos:** You’re suggesting.

**Mr Rinaldi:** That’s what the bill says.

**Mr Vassos:** Right. But at the same time, my argument was, how do you stop a person who’s brought his own bottle? How do you stop that person from serving another person at the table?

**Mr Rinaldi:** Because the server does the serving, the same that he would now.

**Mr Vassos:** See, the difference would be this: Presently, the way the system works is, if you had two people and you were serving them alcohol and one of the persons started to exhibit signs of intoxication, you'd cut off the table. Under this legislation, if there are four people, and they've each brought in their own bottle of wine—which, theoretically, could happen under this legislation—you couldn't do that. You'd only be able to take away one person's bottle of wine, if you could at all. I'm not even sure, legally, you could take away their bottle of wine, because that belongs to them, not to you.

**Mr Rinaldi:** The server pours.

**The Chair:** Your time is up, sorry. I've got to go to the official opposition.

**Mr Martiniuk:** Mr Vassos, are there any statistics or anecdotal evidence in regard to the percentage of prosecutions brought to the two members of the Liquor Licence Board? In other words, how many do they refuse, or do they always grant them?

**Mr Vassos:** That evidence is not kept per se, in that sense. You'd have to actually do a search, which wouldn't be impossible. You'd have to do a search to determine how many cases of interim suspensions have been held and then determine how many have resulted in the suspension. I can tell you that I'm aware of two in recent history that have not resulted in an interim suspension.

So for this legislation to proceed, you'd have to assume that the registrar is always right. That's the only way this would work. If the registrar is always right and is never wrong, then you're fine. But the fact that there are cases where the board has not agreed with the registrar tells me that the registrar is not always right.

**The Chair:** Thank you very much for bringing to our attention your concerns.

**Mr Vassos:** Thank you, Mr Chair.

#### CITY OF TORONTO

**The Chair:** The next group is the city of Toronto, councillor Kyle Rae. Mr Rae, you have 15 minutes. You can take the whole 15 minutes or leave some time at the end for questions or comments. You can proceed.

**Mr Kyle Rae:** Thank you for giving me the time to speak. I was here this morning in support of the province's new legislation on heritage. I was here at 11:30 for that, so it's nice to be back again on another provincial issue that I support, and that is bringing in the new legislation of Bill 96.

I'm in support of bringing your own wine. It's a voluntary program, and I think it's a breath of fresh air. I remember lobbying in 1986, back when Steve Offer was the minister in charge of the amendments. It's taken that long for the government to get back to looking at significant amendments to the liquor act. So I'm thrilled that there's another opportunity to reassess the sobriety and the responsibility of Ontarians and taking a new,

fresh look at it. I think the two ideas, the bring-your-own-wine and take-home-the-rest, are innovative and they are a breath of fresh air to this jurisdiction of Ontario. As you are well aware, it occurs in other jurisdictions and it's about time we caught up with the rest of the world.

**1750**

My focus will be on the public safety issues. As MPP Duguid knows, having worked with him for years at city council, and as Marilyn knows from the work I've done with you over the years, my ward has probably about 1,500 liquor-licensed establishments. The 51 and 52 divisions are very busy in terms of liquor; lots of disorder created in the downtown, especially on hockey nights. So I know the problem with—probably it was you, councillor. What do they call you now? Brad.

**Mr Duguid:** Brad's fine.

**Mr Rae:** Yes, you were always a problem after those hockey nights. There's been a long history of problems—

**Ms Churley:** Do tell.

**Mr Rae:** His office was decked out like Maple Leaf Gardens. It probably still is; I'm not sure.

But we did have a problem with misuse of alcohol and we've had a hard time dealing with the issue of alcohol in some locations. Part of the problem has been that we haven't had a good turnaround in response from the police or from the AGCO in dealing with problem addresses.

The previous government did bring in legislation that helped us sterilize a site, but that was after having gone through a lengthy process and the police being able to convict.

I'm looking forward to your allowing for the immediate suspension of a licence to ensure public safety in the hands of the AGCO. That is a very important piece of your new legislation. I hope that will be able to be acted upon without a conviction. It can take a year to get a conviction on some instances of drug abuse, drug dealing, pimping, the problems we have in some of the bars downtown. It's very difficult for the police to get a handle on it or to get to court with it.

If you have a residential neighbourhood that witnesses the behaviour on a nightly basis, sees the public urination, sees the pimping outside the bar, sees the problems of drugs and illegal alcohol—sometimes it's illegal alcohol, sometimes it's over-serving of alcohol. The neighbourhood is very well aware of the problem but it's often very difficult to follow through. If we had a more open system with the AGCO being able to follow through with the complaints from our residents to the AGCO with this immediate suspension of licence, it would be very helpful.

The key for me is your bringing into compliance with the rest of the world the bring your own wine, take home the rest, but the public safety piece is so very important for me and the constituents of downtown Toronto.

I'd also like to add that there have been some other smaller issues which I understand will be dealt with in the next phase of your looking at the Liquor Licence Act, and that is the issue of the police charging some bars for



allowing people to take their liquor or the glass that had their liquor in it into the washroom. There has been an amazing change in public attitude about that. People are not prepared to leave their liquor at the bar or at their table because people are slipping GHB or other date rape—

**Ms Churley:** Date-rape drugs.

**Mr Rae:** Well, GHB is the date-rape drug, but that kind of incident is happening and people are very reluctant to leave their beer or their glass of wine at the table or at the bar. As long as you keep that on the books, that will continue to be used by the police as a way of enforcing—I'm not going to say harassment. In some cases, people feel their bars are being harassed, and that's what's been used by the police to harass them. But that has come up time and time again in the bars in my constituency.

There's also a problem in some parts of the city where you have old house-form properties—houses—that have been converted into bars, into restaurants, and the counting of people in each room is very strictly contained. In the summer months, if there are 25 people who leave a room and go to the upstairs room where there's a balcony and they go and stand, that becomes overcrowded, if they've left the ground floor. The police will charge them for being overcrowded upstairs while being undernumbered at the grade level. Have I lost you or do you understand what I mean?

**Mr McMeekin:** I understand you.

**Mr Rae:** It makes it very difficult—

**Mr McMeekin:** I'm an upstairs sort of guy.

**Mr Rae:** We have some very strict enforcement, which I understand and support because of fire regulations. I don't want to see people die in an overcrowded bar. But there needs to be some understanding and—I hate to use the term “discretion” because, often, discretion isn't properly used; it can be used to harass rather than to support. But there needs to be some latitude in the legislation, and that may be in your second phase.

Once again, I want to come and support you in dusting off the 1987 legislation that Steve Offer had done under the Peterson government. You're coming back to do it again and I congratulate you.

**The Chair:** We have six minutes left and it's the turn of the official opposition.

**Mr Martiniuk:** Mr Rae, you, being with the city of Toronto, have had some misfortunes with bureaucrats. I would tell you that in this particular bill—there has always been the immediate right to suspend. That right, however, was vested in two members of the commission. This bill would provide that the registrar, rather than two appointed members—the registrar being a bureaucrat—has the right to suspend. There has been some discussion as to whether that is the way go to. What is your opinion?

**Mr Rae:** It may well have been the case that under the existing legislation commissioners would be able to suspend a licence. In all my dealings with troubled properties where I've had customers murdered or doormen murdered, there has been no will on the part of the

commissioners to suspend. In fact, I've had to go around the back door and try and get the licensing commission to withdraw their licence to operate as a business, and that in itself is a difficult process. That can take a year.

If they're providing a new piece of legislation which provides another avenue, which is the registrar, to enact a suspension, then I'm all for it. The more people who are able to do that, the better. It's lodged in two hands, right now. Given the murders, given the assassination of the doormen at the front door at two locations—at 1 Isabella and 647 Yonge Street in my ward—I couldn't get them to move. The only way I got them to stop operating was by the police putting up the ribbons around the front door. They kept them up for a week and that shut down the business. That's the only way I could do it.

**Ms Churley:** Councillor Rae, are you a sports fan?

**Mr Rae:** No, not at all.

**Ms Churley:** The reason I raise it is because I think I should get some kudos as the former minister responsible for allowing, for the first time ever in the Dome and sports stadiums in Ontario, beer and wine to be served in the stands. That was so popular, I made it to the front cover of the Toronto Sun. That's framed in my office. That's what it took. Do you remember that? It was a very popular move.

**Mr Rae:** It was a good move.

**Ms Churley:** Thank you for acknowledging that.

On a serious note, overall—I lived in Montreal years ago, as I said earlier. My daughter was born there and she turned 30. We were bringing our own—

**Mr Rae:** She's 30 now?

**Ms Churley:** She's 30 now, Kyle.

We used to bring our wine then and it wasn't an issue. There is one area of concern. You weren't here for it, but we had one owner of an establishment today who came and expressed concern for himself and other small businesses in terms of all the problems and issues they've had in Toronto since SARS and a bunch of other things. This is one more thing they have to deal with. I'm just wondering if you're hearing any of that from establishments in your riding, waiters, the owners, and that kind of thing.

**Mr Rae:** Are you referring to the bring your own?

**Ms Churley:** Yes, bring your own.

**Mr Rae:** It's voluntary. I haven't heard any negative—I think Ontarians get used to being told how to manage their liquor, and it's been very tightly controlled in our jurisdiction for many generations. People are used to it, growing up with it being just the way it is. It's hard to change. Even when it's good change, people still find it difficult to adjust to change.

I'm looking forward to the time when people will be able, on Pride weekend, to walk up and down Church Street with liquor in their hand. They do it in Montreal; they do it in Europe.

Right now, in Frankfurt, there is a festival every Christmas—it's already started; it started on Monday—where all the office buildings empty and people come down to a Christmas fair where there are little shops where people can buy wooden ornaments and chocolate

and they're all drinking gluwain, which is hot wine, or hot cider. They're spending their evening with their workmates, drinking publicly. Imagine. And there are no barriers with police officers staffing them, raking in 45 bucks an hour. It is a civil society.

If we continue to coddle our culture into not being able to handle alcohol, then we'll continue to have problems with alcohol. But I don't see that problem in Europe. Did I get off topic?

**Ms Churley:** A little bit.

**Mr Duguid:** I'd be remiss, it being national AIDS day, if I didn't acknowledge the incredible work that Councillor Rae has done on that issue through the years, both in the city of Toronto and well beyond.

Councillor Rae has been the largest advocate in terms of—well, I don't mean largest in that way—the foremost advocate in the city of Toronto when it comes to trying to make the downtown a place of destination for entertainment, and I think that's incredibly important.

He's also been the foremost advocate on Toronto council for making sure those bad players that are operating out there are being met by justice. It's for good reason. He's the landlord of a ward that has probably the bulk of the problems in this city when it comes to bars. So I want to thank him for the good work he's done there.

I don't think there's time for him to share any more horror stories with us, but I've heard them time and time again in my previous life. I appreciate all the work he's done.

**The Chair:** Thank you very much, Councillor, for taking the time. It's good to hear the comments of our colleague Brad Duguid.

**Mr Rae:** Do you want to hear more?

**The Chair:** I call this meeting adjourned. Thank you.

*The committee adjourned at 1804.*

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