

Chapter 36

Saskatchewan Liquor and Gaming Authority – Regulating Commercial Permittees’ On-Table Sale of Liquor

1.0 MAIN POINTS

By February 2019, the Saskatchewan Liquor and Gaming Authority improved its processes to regulate commercial permittees’ on-table sale of liquor by:

- Updating its risk-based inspection plan
- Formalizing timelines for completing inspections and investigations
- Consistently documenting sanction decisions
- Notifying retail liquor stores about suspended special licences as required by legislation

However, further work remains. The Authority needs to complete planned inspections within established timeframes. In addition, it needs to monitor and report key trends of permittee non-compliance with requirements to help ensure it is focusing its inspection efforts in the right areas.

Effective regulation of commercial permittees’ on-table sale of liquor helps minimize public health and safety risks associated with the service and consumption of liquor, while maintaining a fair regulatory system for permittees.

2.0 INTRODUCTION

2.1 Background

The Authority is responsible for regulating and controlling the possession, sale, and delivery of beverage alcohol (liquor) in Saskatchewan by any person.¹ It regulates commercial permittees’ (e.g., restaurants, taverns) on-table sale of liquor to the public by issuing permits, inspecting permitted establishments, enforcing permit requirements, and educating permittees.²

The Authority’s Regulatory Services Division is responsible for permitting and monitoring commercial permittees. It works with various law enforcement agencies (e.g., Regina Police Service) to enforce its terms and conditions and the related laws. At February 2019, over 20 staff (including 9 inspectors) carried out the Division’s responsibilities.

¹ *The Alcohol and Gaming Regulation Act, 1997*, s. 12(c).

² On-table sale is liquor sold in open containers (e.g., glasses, open bottles) for consumption at permitted establishments.



At February 2019, the Authority had issued over 2,000 commercial permits related to the on-table sale of liquor. It had issued, on average, 45 liquor sanctions in each of the past five years.

2.2 Focus of Follow-Up Audit

This chapter describes our first follow-up audit of management's actions on the recommendations we made in 2017. In our *2017 Report – Volume 1*, Chapter 11, we concluded that the Authority had, other than matters reflected in our six recommendations, effective processes to regulate the on-table sale of liquor by commercial permittees to the public.

To conduct this audit engagement, we followed the standards for assurance engagements published in the CPA Canada Handbook – Assurance (CSAE 3001). To evaluate the Authority's progress toward meeting our recommendations, we used the relevant criteria from the original audit. The Authority's management agreed with the criteria in the original audit.

To carry out our audit examination, we interviewed the Authority's management. We examined documentation related to liquor inspections such as policies and procedures, inspection reports, sanction letters, risk assessments, and activity reports.

3.0 STATUS OF RECOMMENDATIONS

This section sets out each recommendation including the date on which the Standing Committee on Public Accounts agreed to the recommendation, the status of the recommendation at February 28, 2019, and the Authority's actions up to that date.

3.1 Inspection Plan Based on Risk, but Inspections Not Completed as Expected

We recommended that Saskatchewan Liquor and Gaming Authority implement an updated plan for inspecting commercial permittees who sell liquor for consumption at permitted establishments that incorporates all key risk factors related to non-compliance. (2017 Report – Volume 1, p. 152, Recommendation 1; Public Accounts Committee agreement June 13, 2018)

Status – Implemented

We recommended that Saskatchewan Liquor and Gaming Authority monitor that its staff complete, when planned, inspections of permitted establishments that sell liquor for on-premise consumption, and obtain reasons for delayed inspections. (2017 Report – Volume 1, p. 153, Recommendation 3; Public Accounts Committee agreement June 13, 2018)

Status – Partially Implemented

The Authority used key risk factors to determine when to inspect commercial permittees who sell liquor for consumption, but did not complete inspections as planned.

In 2018-19, the Authority assessed the risk of non-compliance for all commercial permittees who sell liquor for consumption. Its risk assessments considered factors such as permit type, location, facility capacity, sanction history, and amount of time since the last inspection.

The Authority planned to inspect permittees assessed as: high risk on a quarterly basis, medium risk on an annual basis, and low risk randomly over about a seven-year period. In general, it expected to do about 1,000 inspections each year.

At February 2019, the Authority had not inspected about one-half of the high and medium risk permittees as often as it planned. The Authority did not expect to complete almost half of its 2018-19 planned inspections of permittees assessed as high and medium risk.

During 2018-19, the Authority did not actively monitor whether staff completed inspections as planned. It did not periodically compare the number of planned to completed inspections (overall, or by assessed risk level).

Rather, managers reviewed, after each inspection, individual inspection reports prepared by inspectors. In addition, they received monthly reports from each inspector listing activities completed, including permittees inspected.

Managers submitted monthly summaries of the activities completed to the Director each month. These summaries included reasons for changes in month-to-month inspection levels (e.g., staff turnover, sick leave, vacation).

For each of the 14 monthly reports we tested, we found the information in each report was accurate.

However, neither the monthly reports from inspectors nor monthly summaries highlighted that the Authority had completed less inspections than planned, or explained why. Management advised us delays resulted from changes in its operations (such as starting to inspect liquor retail stores and manufacturers), implementation of its new risk process for planning inspections, and turnover of staff. It also noted it planned to use lessons learned from 2018-19 inspections to refine its risk assessment process so that it better focuses its inspection resources.

Inspections serve multiple purposes. They can serve as a deterrent, and an enforcement tool. They can also provide an opportunity for education and reinforcement of good practices.

Not actively monitoring that inspections occur when planned increases the risk of not detecting significant violations. It can also reduce opportunities to educate high-risk permittees about complying with liquor laws and permit terms and conditions. Unidentified violations could lead to increased risk to public safety (e.g., establishments serving alcohol to minors or overserving individuals).



3.2 Inspection Deadlines Established but Not Consistently Met

We recommended that Saskatchewan Liquor and Gaming Authority formalize expected timeframes for completing liquor inspections and investigations and communicating sanctions to permittees who sell liquor for consumption at permitted establishments. (2017 Report – Volume 1, p. 153, Recommendation 2; Public Accounts Committee agreement June 13, 2018)

Status – Partially Implemented

The Authority documented when it expected inspectors to complete liquor inspections and investigations, and communicate sanctions to permittees, but it did not consistently meet these expectations.³

In July 2017, the Authority updated its *Liquor Inspection Services Policy Manual* to set expected timeframes for completing liquor inspections and investigations, and for communicating sanctions to permittees. It expects inspectors to prepare an inspection report within 10 days of completing an inspection and an investigation report within 45 days of starting an investigation. If inspectors required additional time, they could document the reason for the delay and ask management to approve an extension. For inspections, the Authority expects to notify permittees of sanctions within 60 days of the offence.

The Authority expected to conduct about 1,000 inspections and about 100 investigations each year. It issues about 45 sanctions each year.

For 3 of 15 inspections we tested, inspectors prepared inspection reports between three and eight days late. For each of these, inspectors did not document the reasons for the delays and obtain approval to extend the time to complete the inspections.

For the investigation we tested, inspectors completed the investigation on time. The Authority communicated the sanction to the permittee on time for all four sanctions we tested.

Untimely completion of inspections increases the risk that the Authority applies its regulatory process in an inconsistent and unfair way.

³ Investigations occur upon receipt of direct or indirect information (e.g., from the public or police agencies) to determine if a permittee is in non-compliance with legislation, policy, or permit terms and conditions. Investigations are different than inspections that SLGA uses to routinely monitor permittees are complying with legislation, policy, and permit terms and conditions.

3.3 Sanction Decisions Documented

We recommended that Saskatchewan Liquor and Gaming Authority consistently document the basis for its decisions on sanctions for non-compliance with requirements for selling liquor for consumption in permitted establishments where those decisions differ from its recommended sanctions. (2017 Report – Volume 1, p. 157, Recommendation 4; Public Accounts Committee agreement June 13, 2018)

Status – Implemented

Since July 2017, the Authority's updated *Liquor Inspection Services Policy Manual* requires staff to document the reasons when they recommend a sanction that varies from established sanction guidance.

The Authority uses templates to create consistent documentation of reasons not to issue a sanction consistent with established sanction guidance (e.g., higher or lower sanctions). The Vice President of Regulatory Services is to review and approve these decisions.

For each of four sanctions we examined, the Authority either followed the sanction guidance, or documented the reasons for recommended sanctions that varied from guidance. The Vice President of Regulatory Services appropriately approved each of those decisions.

Documenting the basis for sanctions that vary from established guidance helps ensure the Authority treats commercial permittees consistently and fairly.

3.4 Need to Analyze Trends of Non-Compliance

We recommended that Saskatchewan Liquor and Gaming Authority analyze and report on key trends of non-compliance with requirements for selling liquor for consumption in permitted establishments. (2017 Report – Volume 1, p. 158, Recommendation 5; Public Accounts Committee agreement June 13, 2018)

Status – Not Implemented

The Authority had not analyzed and reported on key trends of non-compliance with requirements for selling liquor for consumption in permitted establishments.

During 2018-19, the Authority began to gather some data that it can use to analyze trends. For example, it had statistics about the number of permittees, inspections, and sanctions issued. Management advised us that it did not yet have sufficient data for meaningful analysis of key trends. It expects to have sufficient data to start analyzing and reporting on trends during 2019-20.

Without analysis of key trends, the Authority may not know whether its liquor regulatory processes work, it applies its regulatory processes fairly and consistently, or commercial permittee compliance is getting better or worse.



3.5 Retail Liquor Stores Notified of Suspensions

We recommended that Saskatchewan Liquor and Gaming Authority notify all retail liquor stores about suspended and reinstated special licences as required by The Liquor Consumption Tax Act. (2017 Report – Volume 1, p. 159, Recommendation 6; Public Accounts Committee agreement June 13, 2018)

Status – Implemented

The Authority used its computer system to automatically notify all retail liquor stores about suspended and reinstated special licences.

As part of its permitting process, the Authority communicated to retail liquor stores that they cannot sell liquor to a commercial permittee with a suspended licence. Since April 2017, the Authority has provided retail stores access to an ongoing list of commercial permittees with suspensions that retail stores can access via the Authority's website.

Promptly notifying all retail liquor stores about suspensions of special licences helps ensure liquor consumption taxes are properly remitted after collection.