

LIQUOR CONTROL AND LICENSING ACT

[RSBC 1996] CHAPTER 267

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Definitions and interpretation

1 (1) In this Act:

"advertise" means, in respect of liquor or the availability of liquor,

(a) to exhibit or display, or permit to be exhibited or displayed, a notice respecting liquor

(i) by an electric, illuminated or other sign, contrivance or device, or

(ii) on a building, signboard, billboard, vehicle or other place in public view, or

(b) to publish, broadcast, distribute or display a sign, notice, circular, letter, poster, handbill, card, price list or information in any format that

(i) names, represents, describes or refers to liquor, or to the qualities or quantities of a liquor,

(ii) gives the name or address of a person manufacturing or dealing in liquor, or

(iii) states or indicates where liquor may be obtained or purchased;

"agency store" means a liquor store operated by an agent appointed under section 18 (5) of the Liquor Distribution Act;

"agent" means, for the purposes of section 52,

- (a) an agent of a liquor manufacturer,
- (b) an agent of a liquor importer, or
- (c) an importer;

"branch" means the Liquor Control and Licensing Branch continued under section 2;

"charitable purpose" means the relief of poverty, the advancement of education, the advancement of religion and other purposes beneficial to the community, and includes the advancement of the following:

- (a) recreation;
- (b) sports or athletics;
- (c) aid to the disabled and handicapped;
- (d) culture;
- (e) youth or senior citizens;

"club" means a corporation incorporated under the laws of British Columbia

- (a) that has been in continuous operation as a club for at least one year immediately before the date of its application for a licence under this Act,
 - (b) that has not less than 50 members,
 - (c) whose members pay an annual membership fee of not less than \$10,
 - (d) that has prime objects or purposes of a social, athletic, recreational, fraternal, benevolent or patriotic nature,
 - (e) that has its own facilities,
 - (f) that is not operated primarily for pecuniary gain, and
 - (g) that does not sublet its catering or the sale of liquor,
- and includes a veterans' club;

"consume", in relation to liquor, includes putting liquor to any use, by drinking or otherwise;

"establishment" means a place or premises that may comply with the requirements of this Act and the regulations prescribing the qualifications of a place or premises for which licences may be issued, and includes within such a place or premises any area where liquor is manufactured, stored or served;

"first nation" means

(a) in relation to a reserve, as defined in the Indian Act (Canada), the council of the band that is entitled to the use of that reserve under that Act, and

(b) in relation to an area under its jurisdiction, any prescribed aboriginal governing body;

"general manager" means the general manager of the branch appointed under section 3;

"licence" or "permit" means a licence or permit issued under this Act or the regulations;

"licensed establishment" means an establishment licensed under this Act;

"licensee" means

(a) a person licensed under this Act to sell liquor, including

(i) a person carrying on the business of a brewery, winery or distillery, and

(ii) a person holding a special occasion licence, or

(b) a person holding a licence under section 12.1;

"liquor" means

(a) fermented, spirituous and malt liquors,

(b) combinations of liquors, and

(c) drinks and drinkable liquids that are intoxicating,

and includes beer, or a substance that, by being dissolved or diluted is capable of being made a drinkable liquid that is intoxicating and that is declared by order of the Lieutenant Governor in Council to be liquor;

"liquor store" means a government liquor store, government beer store or government wine store or an agency established by the general manager under the Liquor Distribution Act;

"local government" means,

- (a) in relation to a regional district, the board of the regional district,
- (b) in relation to a municipality, the council of the municipality, and
- (c) in relation to a local trust area under the Islands Trust Act, the local trust committee or the executive committee acting as local trust committee for that area;

"minor" means a person under the age of majority established by the Age of Majority Act;

"monetary penalty" means a monetary penalty imposed under section 20 (2) (c);

"officer" means an officer of the branch appointed under section 4;

"off premises sale" means sale of packaged liquor to be consumed in a place other than the premises where it was sold;

"public place" includes

- (a) a place, building, passenger conveyance, boat or land to which the public resort or are permitted access, and
- (b) a motor vehicle located on land to which the public resort or are permitted access;

"pure grain alcohol" means absolute alcohol manufactured from grain;

"residence" means

- (a) a building or part of it, or a trailer, camper, manufactured home, tent or vessel that is genuinely and actually occupied and used by the owner, lessee or tenant solely as a
 - (i) private dwelling,
 - (ii) private guest room in a hotel, motel, auto court, lodging house, boarding house or club, or

(iii) private summer dwelling, or a private dwelling or living place used during vacation periods or a private lodge, or

(b) a building or part of it designated by the general manager in a permit or other document as a private dwelling,

together with the land appurtenant to it that is essential or appropriate for the convenient use, occupation and enjoyment of a private dwelling or private summer dwelling;

"sale" includes

(a) exchange, barter and traffic,

(b) selling, supplying or distributing liquor by any means, and

(c) a sale or selling in British Columbia to a foreign consignee or his or her agent in British Columbia;

"store manager" has the same meaning as in the Liquor Distribution Act;

"veterans' club" means

(a) The Royal Canadian Legion,

(b) Army, Navy, and Air Force Veterans in Canada,

(c) War Amputations of Canada,

(d) The Royal Canadian Air Force Association,

(e) a chartered branch of an organization listed in paragraph (a), (b), (c) or (d) that is in good standing with the central organization,

(f) British Ex-Servicemen's Association of Vancouver, or

(g) The Royal Canadian Naval Association;

"weapon" means anything used or intended for use

(a) in causing death or injury to persons whether designed for that purpose or not, or

(b) for the purpose of threatening or intimidating any person.

(2) A liquor that contains more than 1% alcohol by volume is conclusively deemed to be intoxicating.

Branch continued

2 (1) The Liquor Control and Licensing Branch, as established in the ministry of the minister, is continued.

(2) The branch may grant licences and permits to purchase liquor from the Liquor Distribution Branch for resale and reuse in accordance with this Act and the Liquor Distribution Act.

General manager

3 (1) The minister, under the Public Service Act, must appoint a general manager of the branch and set his or her remuneration.

(2) The general manager must, subject to the orders and direction of the minister on matters of general policy,

(a) administer this Act, and

(b) supervise all licensed establishments and manufacturers of liquor.

Staff

4 (1) Officers and other employees required for the purposes of this Act may be appointed under the Public Service Act.

(2) The general manager must issue written directives to the officers, and a directive affecting the public must be made available for public inspection at the offices of the branch.

Confidentiality

5 A person who is or has been

(a) an employee of the branch, or

(b) engaged in the administration of this Act or the regulations

must not be compelled to disclose any information contained in records of the branch, respecting a licensee or an applicant for a licence, except

(c) if the disclosure is necessary to administer this Act or the business of the branch,

(d) if the disclosure is made with the consent of the licensee or applicant to whom the record relates,

(e) in court proceedings, or

(f) if the general manager authorizes the disclosure.

Duties and powers of general manager

6 The general manager must, subject to this Act and the regulations,

- (a) issue, renew, amend, transfer, suspend or cancel licences as provided by this Act and the regulations,
- (b) specify which regulations apply to a licence so granted,
- (c) supervise the conduct and operation of licensed establishments,
- (d) [Repealed 1999-36-2.]
- (e) appoint or designate any person he or she considers advisable as an analyst for the purposes of this Act,
- (f) authorize officials to issue licences and permits under this Act, and
- (g) perform all other acts required to properly and efficiently administer his or her responsibilities as defined by the minister and under this Act and the regulations.

Special occasion licences

7 (1) On application in the prescribed form, a store manager or an officer authorized by the general manager to issue a special occasion licence for selling or serving liquor at designated establishments for special occasions as provided by the regulations must, on payment of the prescribed fee by the applicant, issue a licence entitling the applicant to sell or serve liquor for the purpose named in the licence and in accordance with its terms and this Act and the regulations.

(2) A licence must not be issued for the prime purpose of making a profit, unless the general manager is satisfied that the purpose of the special occasion is to raise funds for a genuine charitable purpose.

(3) The general manager may delegate to a store manager or other employee the authority to decide, subject to the directions of the general manager, whether or not a fund raising organization and its charitable purposes are genuine.

(4) If, in the general manager's opinion or in the opinion of a peace officer, there is a breach of this Act or the regulations, or of a federal, Provincial or municipal enactment relating to the sale, purchase or consumption of liquor, the general manager or the peace officer may cancel a licence issued under this section.

(5) The store manager must send a copy of every licence issued under this section to the chief constable in the jurisdiction where the designated establishment is located.

(6) For the purposes of paragraph 114 of the Nisga'a Government Chapter of the Nisga'a Final Agreement, the general manager has the responsibility for

- (a) authorizing a Nisga'a designate to issue special occasion licences under subsection (1), and
- (b) delegating to a Nisga'a designate the authority to make the decision referred to in subsection (3).

(7) A Nisga'a designate has the same duty in respect of a licence issued by the Nisga'a designate under this section as the store manager has under subsection (5) in respect of a licence issued by the store manager.

(8) In this section:

"Nisga'a designate" means a person designated under paragraph 114 of the Nisga'a Government Chapter of the Nisga'a Final Agreement;

"Nisga'a Final Agreement" has the same meaning as in the Nisga'a Final Agreement Act.

Pure grain alcohol

8 A person must not purchase pure grain alcohol unless the person is

(a) a pharmacist, who may purchase and have in his or her possession the prescribed amount purchased by him or her for use solely in connection with his or her pharmacy business in compounding medicines or as a solvent or preservative, or for sale to physicians and hospitals as a sterilizing agent,

(b) a body referred to in section 18 (3) of the Liquor Distribution Act, or

(c) a person referred to in section 9.

Permit to purchase pure grain alcohol

9 (1) On application, the general manager may issue a permit to purchase pure grain alcohol to

(a) a person engaged in British Columbia in a mechanical or manufacturing business or scientific pursuit requiring the use of pure grain alcohol, or

(b) a person who proposes to use pure grain alcohol for a purpose that is, in the opinion of the general manager, not contrary to the public interest.

(2) A permit issued under subsection (1) must stipulate the maximum quantity of pure grain alcohol that may be purchased or kept in possession.

Institutions

10 (1) A person in charge of a hospital within the meaning of the Hospital Act, or a community care facility within the meaning of the Community Care and Assisted Living Act, may

(a) administer liquor to a patient or resident in that institution either as a beverage or otherwise, and

(b) charge for the liquor administered under paragraph (a).

(2) Liquor must not be administered under this section except to actual patients or residents of the institution of which the person referred to in subsection (1) is in charge.

(3) [Repealed 1999-36-3.]

Licensing area

11 For the purposes of this Act, British Columbia is one licensing area.

Recommendations of local government or first nation on issuance of licence

11.1 (1) A licence of a prescribed class or category must not be issued for an establishment under section 12 unless, in the prescribed circumstances, the general manager has given the local government or first nation for the area in which the establishment is proposed to be located notice of the licence application in accordance with the regulations.

(2) A local government or first nation that receives notice under subsection (1) must, if it wishes to provide comments and recommendations under this section with respect to the licence application,

(a) take into account the prescribed criteria before providing the comments and recommendations,

(b) provide the comments and recommendations to the general manager

(i) in the prescribed manner, and

(ii) within the prescribed time period, or any further period authorized by the general manager, and

(c) in the prescribed circumstances, gather the views of residents of an area determined by the local government or first nation in respect of the application by

(i) receiving written comments in response to a public notice of the licence application,

(ii) conducting a public hearing in respect of the licence application,

(iii) holding a referendum, or

(iv) any other similar method determined by the local government or first nation.

(3) Subject to section 11.2, if the local government or first nation recommends that the licence applied for not be issued, the general manager must not issue the licence.

(4) Subject to section 11.2, if the local government or first nation recommends that the licence applied for be issued, the general manager must take that recommendation into account in deciding whether to issue the licence under section 12.

(5) An applicant for a licence under section 12 must not obtain or attempt to obtain the comments or recommendations of the local government or first nation for the area in which the establishment is proposed to be located regarding the licence application until

- (a) the completed application is received by the general manager under section 15, and
- (b) the general manager has given notice to the local government or first nation under subsection (1) of this section.

General manager's role

11.2 (1) Despite section 11.1, if the general manager is satisfied that

(a) the local government or first nation that provided comments and recommendations under section 11.1 (2) failed to comply with that section, or

(b) the recommendation of the local government or first nation under section 11.1 (3) or (4) is not in the public interest

the general manager, before deciding whether or not to issue the licence under section 12, must provide an opportunity for residents of an area determined by the general manager to provide comments in respect of the licence application.

(2) In order to afford an opportunity for residents to provide comments under subsection (1), the general manager may direct that a public hearing or a referendum be held

(a) in a manner required by the general manager, and

(b) at the applicant's expense.

(3) After providing an opportunity for comments under subsections (1) and (2), if the general manager is of the opinion that

(a) a majority of the residents are in favour of the licence application, the general manager may, subject to subsection (4), issue the licence under section 12, or

(b) a majority of the residents are not in favour of the licence application, the general manager must not issue the licence under section 12.

(4) Despite subsection (3) (a), if a referendum is held under subsection (2), the general manager must not further consider the licence application unless 60% of the residents in the area referred to in subsection (1) who vote, favour the issuing of the licence.

(5) If notice is provided under section 11.1 (1) and the general manager does not receive comments and recommendations from the local government or first nation in respect of the licence application, the general manager must, in deciding whether or not to issue the licence under section 12, take into account

(a) the prescribed criteria referred to in section 11.1 (2) (a), and

(b) in the prescribed circumstances, the views of residents of an area determined by the general manager gathered in any manner in which the local government or first nation may gather them.

Comments of local government or first nation on amendment or renewal of licence

11.3 (1) A licence of a prescribed class or category issued under section 12 must not be amended or renewed under that section unless, in the prescribed circumstances, the general manager has given the local government or first nation for the area in which the licensed establishment is located notice of the proposed amendment or renewal in accordance with the regulations.

(2) A local government or first nation that receives notice under subsection (1) must, if it wishes to provide comments under this section with respect to the proposed amendment or renewal,

(a) take into account the prescribed criteria before providing the comments,

(b) provide the comments to the general manager

(i) in the prescribed manner, and

(ii) within the prescribed time period, or any further period authorized by the general manager, and

(c) in the prescribed circumstances, gather the views of residents of an area determined by the local government or first nation in respect of the proposed amendment or renewal by any of the methods set out in section 11.1 (2) (c).

(3) If the local government or first nation provides comments, or provides the views of residents, on the proposed amendment or renewal, the general manager must take those comments or views into account in deciding whether or not to amend or renew the licence under section 12.

Imposition of fees by local government or first nation

11.4 (1) A local government that provides comments or recommendations on an application for the issue, amendment or renewal of a licence under this Act may, by bylaw, and a first nation that provides comments or recommendations on such an application may, if it is authorized to do so by federal legislation or a treaty, impose fees on the applicant in order to recover the costs incurred by the local government or the first nation, as the case may be, in assessing the application.

(2) Fees imposed under subsection (1) may be different for

(a) different classes or categories of licence applications, amendments or renewals, and

(b) different methods used to conduct the assessments referred to in subsection (1).

Licences

12 (1) The general manager, having regard for the public interest, may, on application, issue a licence for the sale of liquor.

(2) The general manager may, in respect of any licence that is being or has been issued, impose, in the public interest, terms and conditions

(a) that vary the terms and conditions to which the licence is subject under the regulations, or

- (b) that are in addition to those referred to in paragraph (a).
- (3) Without limiting subsection (2), the terms and conditions referred to in that subsection may
 - (a) limit the type of liquor to be offered for sale,
 - (b) designate the areas of an establishment, both indoor and outdoor, where liquor may be sold and served,
 - (c) limit the days and hours that an establishment is permitted to be open for the sale of liquor,
 - (d) designate the areas within an establishment where minors are permitted,
 - (e) approve, prohibit or restrict games and entertainment in an establishment,
 - (f) exempt a class or category of licensee from requirements with respect to serving food and non-alcoholic beverages in an establishment,
 - (g) vary seating requirements in the dining area of an establishment,
 - (h) vary requirements with respect to the location of an establishment,
 - (i) exempt a class of licensee from requirements with respect to marine facilities where liquor is sold,
 - (j) specify the manner in which sponsorship by a liquor manufacturer or an agent under section 52 may be conducted and place restrictions on the types of events, activities or organizations that may be sponsored,
 - (k) specify requirements for reporting and record keeping, and
 - (l) control signs used in or for an establishment.
- (4) Nothing in subsection (2) or (3) authorizes the general manager to impose terms and conditions that are inconsistent with this Act or the regulations.
- (5) A licence expires on the date specified on it as the expiry date.
- (6) The general manager may, on application by a licensee, amend the terms of, renew or transfer a licence.
- (7) If the general manager, following application, refuses to issue, amend the terms of, renew or transfer a licence, the general manager must give to the applicant or licensee written reasons for the decision.

Licences for U-Brew or U-Vin establishments

12.1 (1) A person must not, without a licence issued under this section, operate an establishment that provides goods, facilities or services to persons producing or manufacturing wine, beer or cider in the establishment for their own consumption or consumption at no charge by others.

(2) The general manager, having regard for the public interest, may, on application, issue a licence for the operation of an establishment described in subsection (1).

- (3) The general manager may, in respect of any licence that is being or has been issued under subsection (1), impose, in the public interest, terms and conditions
- (a) that vary the terms and conditions to which the licence is subject under the regulations, or
 - (b) that are in addition to those referred to in paragraph (a).
- (4) Without limiting subsection (3), the terms and conditions referred to in that subsection may
- (a) specify requirements relating to the respective roles of the licensee and the person producing or manufacturing in regard to the production or manufacturing process,
 - (b) limit the days and hours that an establishment is permitted to be open,
 - (c) place limitations on the consumption of liquor in the establishment,
 - (d) establish rules regarding advertising by the licensee in respect of the goods, facilities or services offered by the establishment, and
 - (e) specify requirements relating to the storage of beer, wine or cider in the establishment.
- (5) Nothing in subsection (3) or (4) authorizes the general manager to impose terms and conditions that are inconsistent with this Act or the regulations.
- (6) A licence issued under this section expires on the date specified on it as the expiry date.
- (7) The general manager may, on application by a licensee, amend the terms of, renew or transfer a licence issued under this section.
- (8) If the general manager, following application, refuses to issue, amend the terms of, renew or transfer a licence under this section, the general manager must give to the applicant or licensee written reasons for the decision.

Training

- 13 (1) The general manager must not issue, transfer or renew a licence in a prescribed category unless the applicant or licensee to whom the licence will be issued, transferred or renewed satisfies the general manager that he or she has successfully completed a prescribed training program.
- (2) If the applicant or licensee is a corporation, the condition set out in subsection (1) is met if the prescribed training program is successfully completed by a director, officer or employee of the corporation who will have responsibility for controlling the sale of liquor.
- (3) A person must not manage a licensed establishment unless the person has successfully completed a prescribed training program.
- (4) A person must not serve liquor in a licensed establishment unless the person has successfully completed a prescribed training program.

Off premises sale

14 Subject to the regulations, a licensee may apply to the general manager for the privilege of off premises sale of liquor, and if satisfied that public need and convenience would be served, the general manager may so endorse the licence.

Applications

15 (1) An application for a new licence or a renewal, transfer or amendment of a licence must be in the form approved by the general manager and be accompanied by the prescribed fee.

(2) A person applying for the issue, renewal, transfer or amendment of a licence, who fails to disclose a material fact required by the form of application or makes a false or misleading statement in the form of application, commits an offence.

Repealed

15.1 [Repealed 2000-26-22.]

Issue of licence prohibited

16 (1) A licence must not be issued, renewed or transferred if, in the general manager's opinion, the applicant

(a) is not a fit and proper person,

(b) is not the owner of the business carried on at the establishment or the portion of the establishment to be licensed,

(c) is not the owner or lessee of the establishment or the portion of the establishment to be licensed, or

(d) is disqualified under this Act or the regulations or has not complied with the requirements of this Act or the regulations.

(2) In deciding if a person is fit and proper for the purposes of subsection (1) (a), consideration must be given to convictions in the preceding 3 years under the laws of Canada or any province or the bylaws of a municipality or regional district in British Columbia.

(3) A licence must not be issued, renewed or transferred if, in the general manager's opinion, it would be contrary to the public interest.

(4) Without limiting subsection (3), the general manager must consider whether

(a) the applicant is the holder of, has an interest in or is applying for another licence under this Act, or

(b) the applicant is qualified under this Act or the regulations or has complied with the requirements of this Act or the regulations.

(5) A licence, other than a special occasion licence under section 7, must not be issued, renewed or transferred except to

(a) a person who is a resident, normally resides in British Columbia and is not a minor,

(b) a partnership, of which each member is a resident, normally resides in British Columbia and is not a minor, or

(c) a corporation whose agent or manager selected by the corporation to carry on its business in the licensed establishment is a resident, normally resides in British Columbia and is not a minor.

(6) A special occasion licence must not be issued except to a person who is not a minor and who

(a) is a resident of and normally resides in British Columbia, or

(b) although not a resident of British Columbia is approved for a special occasion licence by the general manager.

(7) [Repealed 1999-36-9.]

Refusal to renew or transfer licence for unpaid penalties

16.1 The general manager may refuse to renew or transfer a licence in respect of which a fine, monetary penalty or suspension has been imposed under this Act if, at the date that the renewal or transfer is to take effect,

(a) in the case of a fine, the fine has become payable under the Offence Act, and has not been fully paid,

(b) in the case of a monetary penalty,

(i) the monetary penalty has become payable,

(ii) the time period for payment of the monetary penalty has expired, and

(iii) the monetary penalty has not been fully paid, or

(c) in the case of a suspension, the suspension has taken effect and has not been fully served.

Use of licence by other person

17 (1) A licensee must not allow another person to use his or her licence without having first obtained the written approval of the general manager.

(2) The general manager may grant the approval under subsection (1) subject to any conditions that he or she considers necessary or advisable, and the general manager may amend or cancel those conditions at any time.

Tied houses

18 (1) A licence, other than a licence referred to in section 52, 57 or 58, must not be issued, renewed or transferred

(a) to a person who has agreed or arranged with another to sell the liquor of a manufacturer to the exclusion of the liquor of another manufacturer, or

(b) to a liquor manufacturer or the manufacturer's agent, or a person who is so associated with, connected with or financially interested in them, that it is likely to promote the sale of liquor for that manufacturer or person.

(1.1) Subject to subsection (1.3), a licence referred to in section 12.1 must not be issued, renewed or transferred to a person who

(a) holds a licence referred to in section 12, 52, 57 or 58, or

(b) is associated with, connected with or financially interested in a person holding a licence referred to in section 12, 52, 57 or 58.

(1.2) Subject to subsection (1.3), a licence referred to in section 12, 52, 57 or 58 must not be issued, renewed or transferred to a person who

(a) holds a licence referred to in section 12.1, or

(b) is associated with, connected with or financially interested in a person holding a licence referred to in section 12.1.

(1.3) Subsections (1.1) and (1.2) do not apply to a person if

(a) the person held, on April 1, 2000,

(i) a licence referred to in section 12.1, and

(ii) a licence referred to in section 12, 52, 57 or 58, and

(b) any association, connection or financial interest referred to in subsection (1.1) or (1.2) of this section, as the case may be, existed on April 1, 2000 and has not, since that date, in the general manager's opinion, expanded in scope or degree.

(2) If conditions referred to in subsection (1), (1.1) or (1.2) that would prevent a licence from being issued, renewed or transferred apply to a person who is applying for a licence under this Act, the applicant must disclose the conditions to the general manager whether or not that subsection applies to that person.

(2.1) If conditions referred to in subsection (1), (1.1) or (1.2) that would prevent a licence from being issued, renewed or transferred apply to a licensee after the licence is issued, the licensee must, promptly after the conditions begin to apply, disclose the conditions to the general manager whether or not that subsection applies to that licensee.

(2.2) An action or other proceeding must not be brought or commenced in a court in British Columbia in respect of an agreement, arrangement, concession, obligation, undertaking or interest referred to in subsection (1), (1.1) or (1.2).

- (3) This section does not apply to a person who operates, in accordance with the regulations,
- (a) a brew pub and an establishment, licensed under section 12, that is operated in conjunction with and at the same site as the brew pub, with respect to liquor manufactured on the premises, or
 - (b) a winery and an establishment, licensed under section 12, that is operated in conjunction with and at the same site as the winery, with respect to liquor manufactured on the premises.
- (4) Subject to the regulations, the general manager may exempt a person from prohibitions and restrictions under subsection (1) in respect of an establishment, and may impose terms and conditions for the exemption.

Particulars of officers and shareholders

19 (1) The directors, officers or employees of a corporation that applies for the issue, renewal or transfer to it of a licence must, at the time of making the application or at other times during the term of the licence, when ordered by the general manager, produce particulars of the officers and shareholders of the corporation as the general manager requires.

(2) The general manager may require a corporation that holds a licence to submit to the general manager for approval a transfer of shares of its capital stock.

(3) A transfer of shares must not be completed before the approval referred to in subsection (2) has been given, and any transfer made without approval is void.

Action against a licensee

20 (1) In addition to any other powers the general manager has under this Act, the general manager may, on the general manager's own motion or on receiving a complaint, take action against a licensee for any of the following reasons:

- (a) the licensee's contravention of this Act or the regulations or the licensee's failure to comply with a term or condition of the licence;
- (b) the conviction of the licensee of an offence under the laws of Canada or British Columbia or under the bylaws of a municipality or regional district, if the offence relates to the licensed establishment or the conduct of it;
- (c) the persistent failure to keep the licensed establishment in a clean and orderly fashion;
 - (c.1) a failure by the licensee to take reasonable measures to ensure that the operation of the establishment is not contrary to the public interest and does not disturb persons in the vicinity of the establishment;
- (d) the existence of a circumstance that, under section 16, would prevent the issue of a licence;
- (e) the suspension or cancellation of a municipally, regionally, provincially or federally granted licence, permit or certificate that the licensee is required to hold in order to operate the licensed establishment.

(2) If the general manager has the right under subsection (1) to take action against a licensee, the general manager may do any one or more of the following, with or without a hearing:

(a) [Repealed 1999-36-13.]

(b) impose terms and conditions on the licensee's licence or rescind or amend existing terms and conditions on the licence;

(c) impose a monetary penalty on the licensee in accordance with the prescribed schedule of penalties;

(d) suspend all or any part of the licensee's licence in accordance with the prescribed schedule of licence suspensions;

(e) cancel all or any part of the licensee's licence;

(f) order the licensee to transfer the licence, within the prescribed period, to a person who is at arm's length from the licensee.

(2.1) The general manager may, if he or she is satisfied that it is in the public interest to do so,

(a) impose a monetary penalty under subsection (2) (c) that is greater than the amount provided for in the prescribed schedule of penalties, or

(b) suspend a licensee's licence under subsection (2) (d) for a period longer than that provided for in the prescribed schedule of suspensions.

(2.2) The general manager must, in taking action against a licensee under subsection (2.1), take into account

(a) the licensee's entire compliance history in respect of the matters referred to in subsection (1), and

(b) the particular circumstances giving rise to the taking of action by the general manager.

(2.3) The general manager may not impose a monetary penalty referred to in subsection (2.1) (a) that is greater than the following amounts:

(a) \$50 000 for a contravention of section 38 (1), and

(b) \$25 000 for any other reason referred to in subsection (1) of this section for taking action against the licensee.

(2.4) If a corporation is liable to a monetary penalty imposed under this section in respect of a contravention of this Act or the regulations, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the contravention is also liable to the penalty.

(2.5) A person on whom a monetary penalty has been imposed under this section must pay the penalty whether or not the person

(a) has been convicted of an offence under this Act or the regulations, or

(b) is also liable to a fine for an offence under this Act or the regulations.

(2.6) A monetary penalty imposed under this section must be paid within 30 days after the date on which the notice referred to in subsection (4) (a) is provided to the licensee or within any longer period specified by the general manager.

(2.7) All monetary penalties received by the general manager under this section must be paid into the consolidated revenue fund.

(3) Despite subsection (2) (d), (e) and (f), the general manager must suspend, cancel or order the transfer of a licence held by a person who has been convicted of a prescribed number of prescribed offences under the laws of Canada or British Columbia.

(4) On taking action against a licensee under subsection (2), the general manager must

(a) provide the licensee with written notice of the action in accordance with the regulations,

(b) set out in the notice the reasons for taking the action,

(c) set out in the notice the details of the action including

(i) if a monetary penalty is imposed, the amount of the penalty and the date by which the penalty must be paid, and

(ii) if a suspension is imposed, the period of the suspension and the dates on which the suspension must be served, and

(d) [Repealed 2002-48-37.]

(4.1) For the purposes of any hearing referred to in subsection (2), the general manager, by summons, may require a person

(a) to attend as a witness, at a place and time mentioned in the summons, which time must be a reasonable time from the date of the summons, and

(b) to bring and produce before the general manager all documents, writings, books, deeds and papers in the person's possession, custody or power touching, or in any way relating to, the subject matter of the hearing.

(4.2) A person named in and served with a summons referred to in subsection (4.1) must attend before the general manager and answer on oath, unless the general manager directs otherwise, all questions touching the subject matter of the hearing, and produce all documents, writings, books, deeds and papers in accordance with the summons.

(4.3) When the general manager exercises a power under subsection (4.1), a person who fails or refuses to comply with subsection (4.2) is liable, on application to the Supreme Court, to be committed for contempt as if in breach of an order or judgment of the Supreme Court.

(5) [Repealed 1999-36-14.]

Transfer of licence

21 (1) A licence must not be transferred or otherwise dealt in or disposed of without the written consent of the general manager.

(2) If a licensee dies or becomes bankrupt, the heirs, executors, administrators or successors have the powers and obligations of the licensee until the licence expires, and the general manager may renew the licence for one year in the name of the heir, executor, administrator or successor.

(3) A licence is not transferable from one establishment to another or from one area in an establishment to another without the written consent of the general manager.

Public safety

22 (1) If in a licensed establishment the conduct of the licensee's patrons or employees is of a riotous, violent, drunken or disorderly nature, or the safety of one or more persons in the licensed establishment is threatened, the general manager may, without a hearing, suspend the licence and order the immediate removal of patrons and closure of the licensed establishment for a period not exceeding 24 hours.

(2) [Repealed 1999-36-15.]

(3) The general manager may delegate to specified officers and peace officers authority to exercise the general manager's powers under subsection (1).

(4) If the licensed establishment of a licensee is required to be vacated under this section, the licensee must take all reasonable steps to ensure that the licensed establishment is immediately vacated.

Temporary suspensions or conditions

23 (1) The general manager may suspend or impose conditions on a licence for a period not exceeding 24 hours if, in the general manager's opinion, it is in the public interest to do so.

(2) [Repealed 1999-36-16.]

(3) If as a result of the suspension of or the imposition of conditions on a licence under this section the licensed establishment of the licensee is required to be vacated, the licensee must take all reasonable steps to ensure that the licensed establishment is immediately vacated.

When licence issued to club becomes void

24 (1) A licence issued to a club is void if the club ceases to exist.

(2) The general manager may determine whether a club has ceased to exist for the purposes of this Act.

Sale only to members and guests

25 A club that holds a licence must sell liquor only to an actual member of or an actual guest of a member of the club.

Repealed

26 [Repealed 1999-36-17.]

Liquor kept for personal consumption

27 If a club, recreational centre, community centre or municipal or Provincial cultural centre is a licence holder

(a) the general manager may direct that the licence entitles the members of the club to keep on the club establishment a reasonable quantity of liquor for personal consumption on the club establishment, and

(b) the general manager may authorize the sale of liquor for consumption by members and their guests

(i) on the premises elsewhere than in that portion of the establishment covered by the licence, or

(ii) off the premises.

Suspension of charter

28 On suspension or cancellation by the central organization of a veterans' club of the charter of a branch of that veterans' club that holds a licence, the licence held by that branch is void.

Club to be in good standing

29 A chartered branch of a veterans' club is not entitled to apply for, obtain or hold a licence while not in good standing with the central organization.

Repealed

30 and 31 [Repealed 2002-48-38.]

General manager prohibited from liquor interests

32 (1) A general manager or other officer or employee of the branch must not solicit or receive, directly or indirectly, a commission, remuneration or gift from a person who has sold, is selling or is offering for sale liquor or other products or services offered for purchase, or purchased, by the branch.

(2) A person selling or offering for sale liquor or other products or services to, or purchasing liquor or other products or services for resale or reuse from, the Liquor Distribution Branch or the general

manager must not, either directly or indirectly, offer to pay a commission, profit or remuneration or make a gift to the general manager or an officer or employee of the branch.

Supplying liquor to minors

33 (1) A person must not

- (a) sell, give or otherwise supply liquor to a minor,
- (b) have liquor in his or her possession for the purpose of selling, giving or otherwise supplying it to a minor, or
- (c) in or at a place under his or her control, permit a minor to consume liquor.

(2) Subsection (1) does not apply if liquor is

- (a) given to a minor by his or her parent, spouse or guardian in a residence for consumption in the residence,
- (b) administered to a minor by or under the authority of a medical practitioner or dentist for medicinal purposes, or
- (c) given or otherwise supplied to a minor in accordance with the regulations.

(3) A person has liquor in his or her possession when the person has it in his or her personal possession or knowingly

- (a) has it in the actual possession or custody of another person, or
 - (b) has it in or at a place, whether or not that place belongs to or is occupied by the person, for the use or benefit of the person or another person.
- (4) If one of 2 or more persons, with the knowledge and consent of the rest, has liquor in his or her possession, it is deemed to be in the possession of each of them.

(5) It is a defence to a charge under this section if the defendant satisfies the court that, in reaching the conclusion that the person was not a minor, the defendant

- (a) required that the person produce identification, and
- (b) examined and acted on the authenticity of the identification.

(6) A person who contravenes this section commits an offence and is liable on conviction to a fine of not less than \$500.

Prohibitions with respect to minors

34 (1) A minor who purchases or consumes liquor on a licensed establishment, except as provided by this Act and the regulations or the Liquor Distribution Act, commits an offence and is liable on conviction to a fine of not less than \$100.

(2) A minor who, without lawful reason or excuse, enters or is found in a liquor store, or in that part of a licensed establishment where the minor is not permitted by the regulations, commits an offence and is liable on conviction to a fine of not less than \$100.

(3) A minor who, without lawful reason or excuse, has liquor in his or her possession commits an offence.

(4) A minor commits an offence who, for the purpose of purchasing or attempting to purchase liquor or of gaining or attempting to gain access to a licensed establishment, presents identification, proof of age or any other record to establish his or her age or identity if that identification, proof of age or other record

(a) has been altered or defaced to misrepresent the age or identity of the minor,

(b) was not issued by the issuing agency to the minor,

(c) was issued by the issuing agency to another person, or

(d) is otherwise forged or fraudulently made.

Minors on licensed premises

35 A person who holds a licence under this Act or who sells liquor under the Liquor Distribution Act, or the person's employee, must not authorize or permit a minor to enter on or to be on premises where liquor is sold or kept for sale except

(a) if the minor is accompanied by a parent or guardian on premises where liquor is sold exclusively for consumption off the premises,

(b) with lawful excuse, or

(c) in prescribed circumstances.

Prohibition against gambling

36 (1) In this section, "gambling" does not include anything done under the authority of

(a) a licence issued under section 207 (1) (b) or (f) of the Criminal Code,

(b) an enactment referred to in section 207 (1) (a) of the Criminal Code, or

(c) section 204 (1) (c) of the Criminal Code.

(2) A person holding a licence or the person's employee must not authorize or permit in the licensed establishment

(a) gambling, drunkenness or violent, quarrelsome, riotous or disorderly conduct,

(b) any unlawful activities or conduct, or

(c) a device used for gambling to be placed, kept or maintained.

(3) An activity permitted under the authority referred to in subsection (1) may be restricted, cancelled or prohibited in a licensed establishment by order of the general manager.

Breathalyzer machine

37 A licensee who installs a breathalyzer machine is not liable if the machine malfunctions or is misinterpreted, provided the licensee does not aid in its operation or interpret its results.

Unlawful sale of liquor

38 (1) Except as provided in this Act, the Liquor Distribution Act or the regulations made under those Acts, a person must not, personally or by his or her clerk, employee or agent, keep for sale, sell or, in consideration of the purchase or transfer of property or for other consideration, give liquor to another person.

(2) Despite subsection (1), a delivery service may purchase liquor on behalf of a customer during the days and hours for sale of liquor prescribed in that area and deliver the liquor to the customer, if the charge for the liquor is no more than the liquor store price plus the delivery service charge.

(3) A licensee must not sell liquor except

(a) liquor purchased from the Liquor Distribution Branch, and

(b) in accordance with this Act, the regulations and the terms and conditions of the licence.

Unlawful to dilute or adulterate liquor

38.1 (1) A licensee must not dilute or adulterate liquor purchased from the Liquor Distribution Branch or keep for sale, sell or in consideration of the purchase or transfer of property or for other consideration give to another person liquor that has been diluted or adulterated after its purchase from the Liquor Distribution Branch.

(2) Subsection (1) does not prevent a licensee from diluting or adulterating liquor in a drink at the request of a customer ordering that drink.

(3) A licensee must not refill a bottle or container or add to the contents of a bottle or container purchased from the Liquor Distribution Branch.

Unlawful purchase of liquor

39 Except as provided in this Act, the Liquor Distribution Act or the regulations made under those Acts, a person must not, personally or by his or her clerk, employee or agent, purchase or, in consideration of the sale or transfer of any property or for other consideration, take liquor from another person.

Consumption of liquor in public

40 (1) Except for liquor purchased and consumed in accordance with a licence that permits consumption in a public place, a person must not consume liquor in a public place.

(2) Despite subsection (1), but subject to terms and conditions approved by the general manager not inconsistent with this Act and the regulations, a public beach, public park or public campground, or part of it, may be designated by

(a) an order of the government of Canada or of British Columbia, or

(b) a bylaw of a municipality or regional district

having jurisdiction over it as a place where liquor may be consumed.

(3) Subsection (1) does not apply to a place designated under subsection (2).

(4) This section does not affect section 41, and subsection (2) does not apply to an offence under section 48 (1) in respect of a contravention of section 41.

Drunkenness in public place

41 (1) A person who is intoxicated must not be or remain in a public place.

(2) A peace officer may arrest, without a warrant, a person found intoxicated in a public place.

Consumption of liquor in government liquor stores, etc.

42 A person must not consume liquor in a liquor warehouse, distillery, winery, brewery, liquor store or agency store, except as this Act provides, or as authorized by the general manager of the Liquor Distribution Branch.

Drunkenness

43 (1) A person must not sell or give liquor to an intoxicated person or a person apparently under the influence of liquor.

(2) A licensee or the licensee's employee must not permit

(a) a person to become intoxicated, or

(b) an intoxicated person to remain in that part of a licensed establishment where liquor is sold, served or otherwise supplied.

Liquor in motor vehicle

44 (1) In this section:

"motor home" has the same meaning as in the Motor Vehicle Act;

"motor vehicle" has the same meaning as in the Motor Vehicle Act, and includes an all terrain vehicle as defined in the Motor Vehicle (All Terrain) Act.

(2) Subject to subsection (3), a person must not drive or otherwise exercise control over the operation of a motor vehicle, whether or not it is in motion, while there is liquor in the person's possession or in the motor vehicle.

(3) Subsection (2) does not apply

(a) if the liquor is in a container that is unopened and has an unbroken seal,

(b) if the liquor is being transported or used in accordance with a licence issued under this Act, or

(c) in any other case, if the motor vehicle

(i) is a motor home and the liquor is kept in a cabinet away from the driver's area,

(ii) is a station wagon or hatchback and the liquor is behind the rear seat, whether or not that seat is in an upright position,

(iii) is a pickup truck and the liquor is in an exterior compartment, a space designed for the carriage of baggage or parcels or any other location that is not readily accessible to any person in the motor vehicle,

(iv) is a motorcycle and the liquor is not readily accessible to the operator, or

(v) is not one referred to in subparagraphs (i) to (iv) and the liquor is in the trunk or space designed for the carriage of baggage or parcels.

Licensee not to give or accept gifts for promoting liquor

45 (1) A person must not offer or give or agree to offer or give and a licensee or the licensee's employee must not demand, accept or receive or agree to accept or receive money, gifts, reward or remuneration, directly or indirectly, for promoting, inducing or furthering the sale of a particular kind, class or brand of liquor.

(2) A licensee or the licensee's employee must not induce, further or promote the sale of a particular kind, class or brand of liquor.

(3) Subsection (2) does not apply in respect of liquor sold at a brew pub, winery, distillery, brewery or establishment referred to in section 18 (3) that is operated in accordance with the regulations.

(4) Subject to the regulations, the general manager may exempt a person from prohibitions and restrictions under subsections (1) and (2) in respect of an establishment, and may impose terms and conditions for the exemption.

Request to leave licensed establishment

46 (1) A licensee or the licensee's employee may

(a) request a person to leave, or

(b) forbid a person to enter

a licensed establishment if for any reason he or she believes the presence of that person in the licensed establishment is undesirable or that person is intoxicated.

(2) A licensee or the licensee's employee, in reaching an opinion under subsection (1), must not contravene the Human Rights Code.

(3) A person must not

(a) remain in a licensed establishment after he or she is requested to leave by the licensee or the licensee's employee,

(b) enter a licensed establishment within 24 hours after the time he or she was requested to leave the licensed establishment by the licensee or the licensee's employee, or

(c) without lawful excuse, the proof of which lies on the person, possess a knife, firearm or weapon in a licensed establishment.

(4) A person who contravenes subsection (3) commits an offence and is liable on conviction to a fine of not less than \$500.

(5) A peace officer may arrest, without warrant, a person contravening or suspected of contravening subsection (3).

Licensee's duty — dangerous weapons

47 (1) In this section and in section 46 (3) (c):

"knife" does not include cutlery provided by a licensee or the licensee's employee for the purpose of food services;

"lawful excuse" does not include possession for self protection.

(2) A licensee or the licensee's employee must not permit a person to enter, or if the person has already entered, to remain in, a licensed establishment if the licensee or employee knows that the person has, without lawful excuse, a knife, firearm or weapon in his or her possession.

(3) A person who contravenes subsection (2) commits an offence and is liable on conviction to a fine of not less than \$500.

Offences and penalties

48 (1) A person who contravenes this Act or the regulations commits an offence.

(2) Subject to subsection (3), if the person convicted of an offence is an individual, the individual is liable,

(a) if convicted of an offence under this section in respect of a contravention of section 38 (1), to a fine of not more than \$50 000 or to imprisonment for not more than 12 months, or to both, or

(b) if convicted of any other offence, to a fine of not more than \$10 000 or to imprisonment for not more than 6 months, or to both.

(3) If the person convicted of an offence is a corporation or a licensee that is not a corporation, the person is liable,

(a) if convicted of an offence under this section in respect of a contravention of section 38 (1), to a fine of not more than \$100 000, or

(b) if convicted of any other offence, to a fine of not more than \$50 000.

(4) Subject to the maximum fine referred to in subsection (2) (a), section 4 of the Offence Act continues to apply to a person convicted of an offence under this section in respect of a contravention of section 38 (1) of this Act.

Display of signs

49 (1) and (2) [Repealed 1999-36-26.]

(3) The holder of a licence may maintain in or on the outside of the establishment specified in the licence a sign displaying the name of the establishment and the fact that the establishment is licensed under this Act, if the sign complies with local government bylaws and is approved by the general manager and other signs must not be displayed inside or outside the establishment unless they are approved by the general manager.

(4) A licensed establishment that offers adult entertainment must, at the entrance to the licensed establishment, post a notice to inform the public of the nature of the entertainment.

Entertainment

50 (1) If entertainment is permitted under the regulations or the terms and conditions of a licence, a municipality or regional district may restrict or prohibit any or all of the types of entertainment permitted.

(2) Without limiting section 12, the general manager may, at the time of the issue of a licence or at any time during the term of the licence, impose as a condition of it the restrictions and limitations that the general manager considers necessary on any type or form of entertainment performed or carried on in the establishment for which the licence is issued.

Soliciting orders for liquor

51 A person must not canvass for, solicit, receive or take orders for the purchase or sale of liquor, or act as agent for its purchase or sale, except as provided by this Act and the regulations.

Advertising liquor

51.1 (1) Except as provided in the regulations, a person must not advertise liquor or the availability of liquor.

(2) Subsection (1) ceases to operate to the extent that it conflicts with or is inconsistent with legislation enacted by the Parliament of Canada for the control and regulation of liquor advertising.

Agents

52 (1) A person must not act as an agent unless the person holds a valid and subsisting agent's licence.

(2) An agent's licence may be obtained from the general manager on payment of the prescribed fee.

(3) A liquor manufacturer or agent must not give liquor to a person, except as provided in this Act and the regulations.

(4) An agent licensed under this Act must record all liquor coming into the agent's possession and its disposal, as specified by the general manager, and must make the record available for inspection on request of the general manager.

(5) An agent may deliver samples of the product of the manufacturer or importer the agent represents to potential customers, but an agent must not give a person more than the prescribed amount.

(6) An agent who contravenes this section commits an offence and, if convicted, must have his licence suspended by the general manager for a period not exceeding one year.

Promotion

53 (1) A brewery, winery or distillery may open its premises to the public for informational tours, and may apply to the general manager to designate an area as a sampling room in which it may present to the public samples of its products to taste, as provided in the regulations.

(2) A brewery, winery or distillery licensed under this Act may apply to the general manager for permission to conduct tasting to acquaint the public with its products and, if the place and circumstances of the proposed tasting appear reasonable to the general manager, the general manager may grant permission by issuing a licence under section 7.

Sponsorship

54 A liquor manufacturer or agent under section 52 may, subject to the regulations and the terms and conditions imposed on the licence of the manufacturer or agent by the general manager, sponsor an event, activity or organization under the corporate name of the manufacturer or agent or under the brand name of the product sold by the manufacturer or agent.

Manufacture of liquor

55 (1) A person must not manufacture liquor in British Columbia except in accordance with this Act and the regulations.

(2) This section does not apply to a person producing or manufacturing wine, beer or cider

(a) in a residence, or

(b) in an establishment licensed under section 12.1

for the person's own consumption or consumption at no charge by other persons.

Licensed manufacturers of liquor

56 This Act does not prevent a brewer, distiller or other person licensed by the government of Canada for the manufacture of liquor from

(a) having or keeping liquor in a place and manner authorized under an Act of Canada, or

(b) selling to a manufacturer in bond, properly licensed by the government of Canada, liquor required by the manufacturer for the manufacture of products permitted under his or her licence,

if the general manager has consented in writing to the issue of the licence to the manufacturer in bond, and the liquor sold to that manufacturer does not contain less than 85.59% by volume of absolute alcohol.

Licence fee provisions

57 (1) A distiller in British Columbia licensed by the government of Canada to manufacture or keep liquor in a place and manner authorized under an Act of Canada must

(a) apply each year to the general manager for a separate licence authorizing the sale of liquor to the Liquor Distribution Branch, and

(b) pay the general manager a prescribed annual fee for the licence.

(2) A brewer in British Columbia licensed by the government of Canada to manufacture or keep malt liquor in a place and manner authorized under an Act of Canada must

(a) apply each year to the general manager for a separate licence authorizing the sale of malt liquor to the Liquor Distribution Branch, and

(b) pay the general manager a prescribed annual fee for the licence.

(3) The applicant for a distiller's or brewer's licence must apply in the prescribed form and file it with the general manager, with the prescribed licence fee.

(4) On receiving the application for a distiller's licence or brewer's licence, and the prescribed licence fee, the general manager may issue a licence expiring on the date specified on it as the expiry date.

(5) A person engaged in or carrying on a business mentioned in subsection (1) or (2) who

(a) fails to apply for a licence under this section, or

(b) fails to pay the prescribed licence fee for each distillery or brewery in British Columbia owned, occupied or used by the person for his or her business

commits an offence and is liable on conviction to a fine of not less than the amount of the unpaid licence fees payable by the person under this section, and a fine of \$150 for every day that the default continues.

(6) All distillery and brewery premises must at all reasonable times be open to inspection by an officer or peace officer to ascertain whether a contravention of this Act or the regulations has taken place or is taking place in those premises.

(7) An officer may at all reasonable times examine the books of a distiller or brewer required to make returns by or under this Act, and may otherwise verify those returns.

(8) A person commits an offence if the person is in or has charge of a distillery or brewery premises, and the person

(a) refuses or fails to admit an officer or peace officer demanding to enter in the execution of his or her duty under this section,

(b) obstructs or attempts to obstruct the entry of an officer or peace officer,

(c) refuses to allow an officer to examine the books of the distillery or brewery, or

(d) refuses or neglects to make a return required by this Act or the regulations.

Manufacture of wine

58 (1) Except as provided in section 55, a person who intends to produce or manufacture wine in British Columbia must, before doing so, notify the general manager in writing, giving full particulars of the following:

- (a) the location at which the wine is to be produced or manufactured;
 - (b) the kind of wine and the quantity to be produced or manufactured;
 - (c) the place the wine is to be stored or kept after production or manufacture;
 - (d) the purpose for which the wine is intended.
- (2) The person referred to in subsection (1) must, under section 15, apply for a licence.
- (3) On receiving the notice under subsection (1), the application and fee under section 15 and payment of the prescribed annual fee, the general manager may, under section 12, issue a licence for the winery, authorizing the licensee to do one or more of the following:
- (a) produce or manufacture wine in accordance with the regulations;
 - (b) store and keep the wine in specified warehouses or storage places;
 - (c) use the wine for prescribed purposes;
 - (d) sell the wine to another winery licensed under section 12;
 - (e) purchase wine from another winery licensed under section 12;
 - (f) sell the wine and wine produced by other wineries licensed under section 12, in accordance with the regulations, for consumption at the winery.
- (4) and (5) [Repealed 1999-36-32.]

Export business

59 (1) This Act does not prevent a person from

- (a) having or keeping liquor for export in his or her liquor warehouse or place of business, or
- (b) engaging in or carrying on the business of
 - (i) importing liquor from a place outside British Columbia, or
 - (ii) exporting liquor to a place outside British Columbia.

(2) A liquor warehouse or place of business in British Columbia that is occupied or used by a person for the purposes referred to in subsection (1) must be constructed and equipped in accordance with this Act and the regulations and the Excise Act (Canada).

Sales of pharmaceutical preparations

60 (1) This Act does not apply to or prevent the sale, purchase or consumption of

(a) a pharmaceutical preparation containing liquor prepared by a pharmacist according to the formula of the British Pharmacopoeia, The British Pharmaceutical Codex, the Pharmacopoeia of the United States, the Dispensatory of the United States of America or Martindale's Extra Pharmacopoeia,

(b) a proprietary medicine under the Food and Drugs Act (Canada), or

(c) wood alcohol or denatured alcohol, unless the sale, purchase or consumption of wood alcohol or denatured alcohol is for beverage purposes, either alone or combined with another liquid or substance.

(2) This Act does not apply to or prevent the manufacture, sale, purchase or consumption of vinegar.

Purchase of liquor by manufacturer in bond

61 This Act does not prevent a manufacturer in bond, licensed by the government of Canada, from purchasing in bond, direct from a distillery licensed by the government of Canada, liquor required by the manufacturer for the manufacture of those preparations permitted under the manufacturer's licence, if the written consent of the general manager has been given to the issue of the licence to the manufacturer in bond, and the liquor so purchased does not contain less than 85.59% by volume of absolute alcohol.

Preparations containing alcohol

62 (1) If a medicinal preparation contains liquor as one of its necessary ingredients, and also contains sufficient ingredient or medication to prevent its use as an alcoholic beverage, this Act does not apply to or prevent

(a) the compounding or sale of the medicinal preparation by a pharmacist if it is compounded from liquor purchased by the pharmacist under section 8 or under a permit held by the pharmacist, or

(b) the purchase or consumption of the medicinal preparation by a person for strictly medicinal purposes.

(2) Despite subsection (1), and subject to the Pharmacists, Pharmacy Operations and Drug Scheduling Act and the regulations under that Act, the general manager may direct the manner in which a medicinal preparation containing liquor sufficient to be used as an alcoholic beverage must be sold, distributed and kept for sale.

(3) If a toilet, confectionery, culinary, cleaning or disinfecting preparation contains liquor and also contains sufficient other ingredients or medication to prevent its use as an alcoholic beverage, this Act does not apply to or prevent the sale of that preparation to a person who purchases it for use as a toilet, confectionery, culinary, cleaning or disinfecting preparation or for resale for a similar purpose.

(3.1) Despite subsection (3), the general manager may, in accordance with the regulations, direct the manner in which a toilet, confectionery, culinary, cleaning or disinfecting preparation containing liquor sufficient to be used as an alcoholic beverage must be sold, distributed and kept for sale.

(4) To determine whether a medicinal, toilet, confectionery, culinary, cleaning or disinfecting preparation referred to in this section contains sufficient ingredients or medication to prevent its use as an alcoholic beverage, the general manager may have a sample of the preparation purchased or obtained from a person analysed by an analyst appointed or designated by the minister or the general manager for the purposes of this Act.

(5) If a certificate purporting to be signed by the analyst referred to in subsection (4) shows that the analyst finds the sample analysed by him or her does not contain sufficient ingredients or medication to prevent its use as an alcoholic beverage, that certificate is conclusive proof that the preparation is not a preparation the sale or purchase of which is permitted by this section, without proof of the signature or official position of the analyst by whom the certificate is made.

(6) A person who purchases or sells a preparation that is not a preparation permitted by this section to be purchased or sold commits an offence and, without limiting the liability of corporations under section 48, in the case of a purchase or sale by a natural person the liability on conviction is a fine of not less than \$500.

(7) A person must not sell a preparation described in subsection (1), (2), (3) or (3.1) without taking reasonable measures to ensure that the preparation is being purchased for the intended purpose and is not being purchased for use as an alcoholic beverage.

Sacramental wine

63 This Act does not affect the right of

(a) a minister of religion to import wine from outside British Columbia for consumption in British Columbia for sacramental purposes, or

(b) 2 or more ministers of religion to import wine jointly from outside British Columbia for consumption in British Columbia, to be kept in common stock, used, divided and distributed among them for sacramental purposes.

Interprovincial transactions

64 Every provision of this Act that may affect transactions in liquor between a person in British Columbia and a person in another province or in another country or state must be construed to affect those transactions only so far as the Legislature has power to make laws in relation to them.

Duty to report liquor and pay taxes

65 (1) Except in the case of

(a) liquor in the possession of or kept by a person in a place and manner referred to in section 56,

(b) liquor in the possession of or kept by a manufacturer in bond which he or she has purchased for the purposes of and under section 61, or

(c) wine, beer or cider produced or manufactured by a person for the person's own consumption under section 55,

a person who keeps or has in his or her possession or under his or her control liquor not purchased from the Liquor Distribution Branch must immediately report the liquor to the general manager in the prescribed form.

(2) The person referred to in subsection (1) must pay the general manager an amount to be set by the general manager either by general order or by special order in a particular case, at the rates that will, in the opinion of the general manager, represent the amount of profit that would have accrued to the government from the liquor if it had been purchased from a liquor store, plus 10% of that amount.

(3) A person keeping or having in his or her possession or under his or her control liquor for which an amount is payable by the person under subsection (2) who does not report it and pay the amount set by the general manager commits an offence.

(4) Nothing in subsection (3) or the enforcement of a penalty under it suspends or affects a remedy for the recovery of the amount imposed and payable under subsection (2).

Taxes additional to other taxes

66 The amount imposed for licence fee under sections 57 and 58 and an amount set under section 65 are in addition to all other taxes, for licence fees or otherwise, imposed under another Act and may be recovered by action in a court as for a debt due to the government.

Right to search

67 (1) A peace officer who, on reasonable and probable grounds, believes that liquor is, anywhere or on anyone, unlawfully possessed or kept, or possessed or kept for unlawful purposes may, subject to subsection (2), enter or search, or both, for the liquor where the peace officer suspects it to be, and may seize and remove liquor found and the packages in which it is kept.

(2) For the purposes of this section, a peace officer may without a warrant

(a) search any person, and

(b) enter or search, or both, anywhere except a residence.

(3) A person commits an offence if the person

(a) obstructs or attempts to obstruct an entry or search by a peace officer under this section, or

(b) refuses or fails to admit immediately a peace officer demanding entry anywhere under this section.

Warrant to search

68 (1) A justice who is satisfied by information on oath in the prescribed form that there are reasonable grounds to believe that there is in a residence liquor in respect of which an offence under section 33 (1) has been or is being committed may issue a warrant under his or her signature authorizing a person named in it or a peace officer to

- (a) enter and search the residence for the liquor, and
- (b) seize and remove liquor found and the packages in which it is kept.

(2) A search warrant issued under this section may be in the prescribed form.

Seizure of liquor unlawfully kept

69 (1) If the officer or peace officer, in making or attempting to make a search under section 67 or 68 finds liquor that in his or her opinion is unlawfully possessed or kept, or possessed or kept for unlawful purposes, contrary to this Act or the regulations, he or she may immediately seize and remove

- (a) the liquor and the packages in which it is kept, and
 - (b) books or papers found in his or her search under section 67 or 68 that, in the opinion of the officer or peace officer, will provide evidence of an offence against this Act.
- (2) On conviction of a person under section 33 or of the owner or person in possession of the land or the occupant or person in charge of the vehicle, motor vehicle, vessel, boat, canoe or conveyance for a contravention of this Act or the regulations, the liquor and the packages containing it are forfeited to the government.

Seizure of liquor kept in quantity

70 (1) If liquor is found by an officer or peace officer under circumstances that satisfy the officer or peace officer that it is being possessed or kept contrary to this Act or the regulations, the officer or peace officer may immediately seize and remove the liquor and packages containing it and

- (a) may retain the liquor and packages to be dealt with under this Act, or
 - (b) may immediately destroy the liquor and packages.
- (2) If liquor is seized under subsection (1) but is not destroyed under subsection (1) (b), and no person by notice in writing filed with the general manager within 30 days of the date of the seizure claims to be the owner of the liquor, the liquor and the packages containing it are forfeited to the government.
- (3) The liquor and packages forfeited under subsection (2) must be
- (a) destroyed or otherwise disposed of as the minister may direct, or
 - (b) delivered without delay to the general manager of the Liquor Distribution Branch.

(4) Only if within 30 days of the date of the seizure of liquor under subsection (1) a person applies to the general manager claiming to be the owner of the liquor, the general manager may, as soon as practicable after receiving notice of the claim, on being satisfied of the person's claim,

(a) in respect of liquor that is still in the custody of an officer or a peace officer, order that the liquor be returned to the owner,

(b) in respect of liquor that has been destroyed by a peace officer under subsection (1) (b), require the police force of which the peace officer who seized the liquor is a member to provide compensation to the owner, or

(c) in respect of liquor that has been destroyed by an officer under subsection (1) (b), provide for compensation to the owner by the branch.

(5) For the purposes of subsection (4) (b) and (c) compensation is limited

(a) if the liquor is or was listed for sale under the Liquor Distribution Act, to the retail price under that Act of the destroyed liquor, or

(b) if the liquor has never been listed for sale under the Liquor Distribution Act, to the replacement value of the liquor as determined as if the liquor were available for purchase through the Liquor Distribution Branch.

Forfeiture by order of court

71 (1) If a justice makes an order for forfeiture of liquor under this Act, or a claimant to liquor under section 70 fails to establish his or her claim and right to possession of liquor, the liquor and the packages containing it must be

(a) destroyed or otherwise disposed of as the minister directs, or

(b) delivered without delay to the general manager of the Liquor Distribution Branch.

(2) If, under subsection (1) or section 70 (3) (b), liquor is delivered to the general manager of the Liquor Distribution Branch that he or she finds suitable for sale in the liquor stores, he or she must advise the minister of its value and it must be taken into stock by the general manager of the Liquor Distribution Branch and sold under this Act.

(3) The proceeds of a sale under subsection (2), after deducting the amount required to reimburse the general manager for expenses necessarily incurred for transporting the liquor to the government liquor warehouse, must be paid to the Minister of Finance.

(4) Liquor delivered to the general manager of the Liquor Distribution Branch under subsection (1) or section 70 (3) (b) that he or she finds to be unsuitable for sale in liquor stores must be destroyed under competent supervision and as directed by the minister.

Reports of seizures

72 If liquor is seized by a peace officer, his or her chief constable or the officer in charge of his or her detachment must immediately report in writing to the general manager the particulars of the seizure.

Power to retain documents and inspect books and premises

73 (1) To obtain information respecting the administration or enforcement of this Act or the regulations, the general manager, a person designated by the general manager or a person within a class of persons that is designated by the general manager may

(a) require the licensee to produce any prescribed document relating to the operation of the business licensed under this Act, and

(b) inspect any of the following:

(i) records in the possession of any person that may contain information relating to goods shipped, carried or consigned or received for shipment or carriage in British Columbia,

(ii) premises of any person set apart or used as a warehouse for the storage of liquor, and

(iii) establishments licensed under this Act and records, liquor and other things associated with the operation of the establishment.

(1.1) A person requiring the production of documents or carrying out an inspection under subsection (1) may

(a) retain the documents produced or remove records or things relevant to the inspection for the purpose of making copies or extracts, and

(b) take reasonable samples of liquor for testing and analysis.

(1.2) A person who retains the documents produced, removes records or things or takes a sample must

(a) give a receipt for the documents retained, records or things removed or the sample taken, and

(b) make any copy or extract, and return the documents, records or things retained or removed, within a reasonable time.

(1.3) A copy made or extract taken under this section, certified by the person carrying out the inspection as a true copy of or extract from the original, is admissible in evidence to the same extent as, and has the same evidentiary value as, the record of which it is a copy or from which it is an extract.

(1.4) When acting under the authority of this section, a person shall carry identification in a form authorized by the general manager and present it on request to the owner or occupant of the premises referred to in subsection (1).

(1.5) A person when acting under the authority of this section may request and receive the assistance of a peace officer.

(2) Without limiting any other provision of this section, a licensee must

(a) promptly produce and submit for inspection any record, thing or sample requested by a person acting under the authority of this section, and

(b) allow the licensed establishment to be inspected under this section, immediately upon being requested to do so by a person acting under the authority of this section,

(i) at any time provided for in the terms and conditions of the licence, and

(ii) without limiting subparagraph (i), at all reasonable times.

(3) Despite section 48 (1) and any other provision of this Act or the regulations, a contravention of subsection (2) does not constitute an offence.

Presumption

74 (1) In a proceeding under this Act or the regulations, proof of one unlawful sale of liquor is sufficient to establish the intent or purpose of unlawfully keeping liquor for sale in contravention of this Act or the regulations.

(2) On hearing a charge of selling, purchasing, possessing, giving, taking, supplying or keeping liquor contrary to this Act or the regulations, the court may find that the accused has sold, purchased, possessed, given, taken, supplied or kept liquor

(a) from the kind and quantity of liquor found in the possession of the accused, or in any residence, place, premises, vehicle, vessel or craft that he or she controls or occupies, from the frequency with which liquor is received from, in, on or at them or any of them, or is removed from them or any of them, or

(b) from the circumstances under which it is kept or dealt with.

(3) The burden of proving the right to sell, purchase, possess, give, take, supply, keep or consume liquor is on the person accused of improperly or unlawfully selling, purchasing, possessing, giving, taking, supplying, keeping or consuming it.

Certificate of analyst

75 (1) A certificate of an analyst, designated in writing by the minister or general manager for the purposes of this Act or the regulations, stating that he or she has made a chemical analysis of a sample of a substance and stating the composition of that substance, is evidence of the statements contained in the certificate without proof of the signature or the official character of the person appearing to have signed the certificate.

(2) In a proceeding in respect of an offence committed contrary to this Act or the regulations, a court may, in the absence of proof to the contrary, find that the substance is intoxicating from the fact that a witness describes it as intoxicating or by a name commonly applied to an intoxicating liquor.

Service on corporations

76 (1) In a prosecution, action or proceeding under this Act or the regulations against a corporation, a summons, warrant, order, writ or other proceeding may, in addition to another manner of service that may be provided or authorized by law, be served on the corporation in accordance with the Business Corporations Act.

(2) In a prosecution, action or proceeding under this Act or the regulations in which it is alleged that a corporation is or has been guilty of an offence, the fact of the incorporation of that corporation is presumed unless the contrary is proven.

(3) If an offence under this Act is alleged to have been committed by a corporation, a violation ticket required to be served under the Offence Act is deemed to have been served on the corporation if it has been served on the officer or agent of the corporation in charge of the establishment in which the offence is alleged to have been committed.

Liability of officer of corporation

77 If an offence under this Act or the regulations is committed by a corporation, the officer or agent of the corporation in charge of the establishment in which the offence is committed is deemed to be a party to the offence and is personally liable to the penalties prescribed for the offence as a principal offender but nothing in this section relieves the corporation or the person actually committing the offence from liability for it.

Liability of occupant of establishment

78 On proof that an offence under this Act or the regulations has been committed by

(a) a person employed by the occupant of a house, shop, restaurant, room or other establishment in which the offence is committed, or

(b) a person permitted by the occupant to be or remain in or on that house, shop, restaurant, room or establishment, or to act in any way for the occupant,

the occupant is deemed to be a party to the offence and is liable as a principal offender to the penalties prescribed for the offence, even though the offence was committed by a person who is not proved to have committed it under or by the direction of the occupant but nothing in this section relieves the person actually committing the offence from liability for it.

Want of form

79 (1) A conviction or order made in a matter arising under this Act or the regulations, either originally or on appeal, must not be quashed for want of form.

(2) An information, summons, conviction, order or other proceeding must not be held to be bad or quashed for charging 2 or more offences or charging an offence disjunctively or in the alternative.

Certified copies of documents as evidence

80 A certified copy of a licence, floor plan or order of the general manager purporting to be signed by the general manager must be received in every court in British Columbia as proof of the original licence, floor plan or order of which it purports to be a copy.

Annual report

81 (1) The general manager must report to the minister with respect to the administration or enforcement of this Act as the minister requires, and must prepare and forward to the minister annually a report for the 12 month period ending on March 31 of the year in which the report is made.

(2) The annual report required under subsection (1) must contain the following:

(a) the number of subsisting licences and of licences issued, renewed, transferred, cancelled or suspended;

(b) a report of the operation of the branch for the period referred to in subsection (1);

(c) a financial statement of the branch for that period;

(d) other information requested by the minister.

(3) The minister must lay the report before the Legislative Assembly if it is then sitting, and if it is not sitting, within 15 days after the beginning of the first session in the following calendar year.

Repealed

82 and 83 [Repealed 2000-22-29.]

Power to make regulations

84 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) setting expiry dates for licences, with power to prescribe different dates for different licences and different classes or categories of licences;

(b) respecting special occasion licences and providing mechanisms for consultation by the general manager with public authorities and police before issuing those licences;

(c) setting and imposing fees and charges payable under this Act by applicants for licences, by licensees or by other persons who obtain or require the benefits or services of the branch, with power to impose different fees for different types of services or benefits and on different classes or categories of persons and establishments;

(d) setting and imposing penalties for failing or refusing to pay a fee or charge referred to in paragraph (c) when and as that fee or charge is payable;

- (e) defining a word or expression used but not defined in this Act;
- (f) respecting any matter for which regulations are contemplated by this Act;
- (g) controlling signs used in, for or by agency stores, licensed establishments, liquor manufacturers and agents under section 52;
- (g.1) respecting the advertising of liquor or the availability of liquor;
- (h) without limiting the powers of the general manager to impose conditions and restrictions on licences and on establishments, providing for types of entertainment and other activities that may be carried on in licensed establishments, and setting criteria by which the general manager may implement his or her powers under section 50 (2);
- (i) respecting the issue, renewal, transfer and amendment of licences;
- (j) respecting training programs referred to in section 13, with power
 - (i) to set different programs for licensees, managers and servers of liquor,
 - (ii) in prescribed situations to exempt persons or classes of persons from the requirement to complete training programs,
 - (iii) to set fees for attendance at training programs, and
 - (iv) to prescribe establishments or classes or categories of establishments for which a training program is necessary;
- (k) setting fees for filing appeals and providing for refunds in prescribed circumstances;
- (l) conferring additional powers, duties or functions on the general manager;
- (m) providing for the delegation by the general manager of any or all of his or her powers, duties or functions, including without restriction, powers, duties and functions relating to licensing or enforcement, to officers or other persons or to a committee, which may include the general manager or officers or both;
- (n) [Repealed 2002-48-39.]
- (o) [Repealed 1999-36-38.]
- (p) imposing terms and conditions on licences issued, or to be issued, to liquor manufacturers, with power to impose different terms and conditions on licences issued or to be issued to different classes of liquor manufacturers;
- (q) respecting the criteria to be considered by the general manager under sections 18 (4) and 45 (4) and the classes of persons eligible for exemptions under those provisions;
- (r) respecting terms and conditions to be imposed by the general manager when granting exemptions under sections 18 (4) and 45 (4);
- (s) prescribing a schedule of monetary penalties for the purposes of section 20 (2) (c);
- (t) prescribing a schedule of licence suspensions for the purposes of section 20 (2) (d);

(u) respecting the purposes for which establishments may be used during any period when the sale of liquor is not permitted;

(v) prescribing the practices and procedures to be followed by the general manager in conducting hearings in respect of enforcement action taken under section 20;

(w) imposing terms and conditions on licences issued under section 52;

(x) respecting public tasting of product samples for the purposes of section 53 (1) and specifying any amounts, or the formula for calculating the amounts, to be charged for the samples;

(y) specifying the manner in which sponsorship by a liquor manufacturer or an agent under section 52 may be conducted and placing restrictions on the types of events, activities or organizations that may be sponsored;

(z) respecting liquor pricing in licensed establishments;

(z.1) respecting the size of portions of liquor served in licensed establishments.

(2.1) Regulations made under subsection (2) (g.1) may adopt by reference a code, standard or rule enacted as or under a law of Canada, as amended from time to time.

(2.2) Without limiting subsection (2) (i), the Lieutenant Governor in Council may make regulations providing for the conversion of licences from one class or category to another class or category and the regulations may be different

(a) for different classes or categories of licences, or

(b) for licences of the same class or category that are issued at different times.

(2.3) Regulations made under subsection (2) (s) or (t) may provide for different monetary penalties or licence suspensions according to

(a) the class or category of licence held,

(b) the nature of the circumstances referred to in section 20 (1) on which the monetary penalty or licence suspension is based, including the type or category of contravention of this Act or the regulations involved, or

(c) the number of occurrences of the circumstances referred to in paragraph (b).

(3) Regulations made under subsection (2) (i) may

(a) in the case of licences under section 12, set terms and conditions respecting all matters relating to the sale of liquor in establishments and all matters relating to the operation of establishments, and

(b) in the case of licences under section 12.1, set terms and conditions respecting all matters relating to the operation of establishments.

(4) Without limiting subsection (3) (a), the terms and conditions referred to in that subsection may

(a) provide for the issue of different classes or categories of licences for different classes or categories of establishments,

- (b) specify the types of liquor that may be sold and consumed in an establishment,
 - (c) provide for and regulate the sale of liquor for off premises consumption,
 - (d) provide for and regulate the presence of minors in establishments in specific circumstances,
 - (d.1) provide for and regulate, in respect of a licence issued to a club, the presence of persons other than club members in the licensed establishment,
 - (e) set the hours of operation of an establishment,
 - (f) prohibit or restrict entertainment in an establishment in circumstances specified by the regulations,
 - (g) specify the allowable seating and patron capacity for different classes or categories of establishments,
 - (h) specify requirements respecting the availability, service and ordering of foods and non-alcoholic beverages in an establishment,
 - (i) specify the manner and circumstances for the serving of liquor in dining and holding areas of an establishment, and
 - (j) specify requirements respecting the location of different classes or categories of establishments.
- (4.1) Without limiting subsection (3) (b), the terms and conditions referred to in that subsection may
- (a) specify requirements for record keeping and reporting,
 - (b) specify requirements relating to the respective roles of the licensee and the person producing or manufacturing in regard to the production or manufacturing process,
 - (c) limit the days and hours that an establishment is permitted to be open,
 - (d) place limitations on the consumption of liquor in the establishment,
 - (e) establish rules regarding advertising by the licensee in respect of the goods, facilities or services offered by the establishment, and
 - (f) specify requirements relating to the storage of beer, wine or cider in the establishment.
- (5) The terms and conditions under subsections (3) (a) and (4) may be different
- (a) for different classes or categories of licences prescribed, or
 - (b) for licences of the same class or category that are issued at different times.

Administration of oaths

85 The general manager, every store manager and every official authorized by the general manager to issue permits and licences under this Act or the Liquor Distribution Act may administer an oath and take and receive an affidavit or declaration required under this Act or the regulations.