

Ferment-on-Premises (UBrew/UVin)

Discussion Paper and Request for Feedback

October 2017



Introduction

The Alberta Gaming and Liquor Commission (AGLC) is responsible for licensing, regulating, and monitoring liquor activities in Alberta. Specifically, the AGLC administers the *Gaming and Liquor Act*, *Gaming and Liquor Regulation*, and related policy governing the manufacture, importation, sale, purchase, possession, storage, transportation, use, and consumption of liquor in Alberta.

The AGLC is focused on modernizing a number of liquor policies to ensure they reflect the needs of Albertans. Ferment-on-Premises (FoP), also commonly known as UBrew/UVin, is one of the items identified for review and consultation.

In other jurisdictions, FoP operations provide customers with the ingredients, equipment, and advice they need to make beer, wine, cider, or coolers on-site. Once made, customers remove their liquor from the FoP establishment for personal use. FoP facilities are not licensed as liquor manufacturers and do not manufacture liquor for commercial purposes. The way that FoP establishments typically work in other jurisdictions is: customers purchase the wine, beer or cooler kit and pays a fee to the licensee to rent space, use the equipment and seek “advice” from the licensee in making their product. In other jurisdictions, licensees cannot store customers’ finished products.

Over the last several years, a number of UBrew and UVin proponents – those interested in operating UBrew and/or UVin operations in Alberta – have contacted the AGLC to enquire whether FoPs could be introduced into Alberta.

This Discussion Paper will explore the current regulatory environment in Alberta and provide a cross jurisdictional analysis on Ferment-on-Premises operations in Canada. Ultimately, through responses to the Key Questions (located at the conclusion), stakeholder input will inform whether and how liquor policies should be amended in Alberta to permit this activity.

Current Regulatory Environment

The AGLC is responsible for licensing, regulating and monitoring liquor activities in accordance with the *Gaming and Liquor Act* (GLA) and *Gaming and Liquor Regulation* (GLR). Under Section 86(1) of the GLA and Section 88(1) of the GLR, adults in Alberta are able to make up to 460 litres of wine, cider or beer *in their residence* for personal consumption. No provincial markup or federal excise duty is levied on this product. Currently there is no provision in the GLA for the licensing of FoP operations in the province.

Federally, FoP establishments are required to register as a FoP under Section 15 of the *Excise Act, 2001*. Under the *Excise Act, 2001* FoP operators and staff are not permitted to participate in some parts of the process including pitching yeast and bottling or storing the finished product.

History

The last review of FoP occurred in 2002. At that time, the majority of stakeholders were opposed to establishing a licence class and policy model to allow FoPs to operate in Alberta. Those opposed to the concept expressed concerns related to provincial revenues, regulatory controls, quality assurances and effect on liquor manufacturers and retailers. From a revenue perspective, a common concern is that FoP establishments may be used to avoid paying a liquor mark-up and would, therefore, be competing unfairly with commercial manufacturers whose product is subject to liquor mark-up.

Proponents of FoPs contended that these operations help educate consumers about wine and beer products, that there are extremely few cases of abuse involving FoP products in other jurisdictions. In addition, customers are encouraged to purchase commercial wine and beer products as part of becoming more knowledgeable about wine and beer. Proponents have also expressed that they believe public demand exists in Alberta for the services of these

establishments and that these small businesses could create economic benefits for Alberta's economy, namely small business and job creation opportunities.

Cross Jurisdictional Analysis

Ferment-on-Premises operations are currently permitted in many other Canadian jurisdictions – seven out of twelve Canada jurisdictions permit FoP operations. Several jurisdictions do not charge a markup on liquor produced at FoP locations. However, many of these jurisdictions have a provincial sales tax and charge a licence fee and yearly renewal fee (with the exception of Manitoba) which permits them to recoup some of the revenue lost in foregone markup. Because Alberta has no sales tax, it would not be able to supplement the loss of liquor markup from products produced at FoP operations in this manner. Prince Edward Island collects a \$0.75 per litre charge on what is produced by customers in store, reported and remitted monthly (volume produced = volume started minus volume destroyed).

British Columbia, Saskatchewan, New Brunswick, Prince Edward Island, and Ontario are the only provinces with legislative frameworks relating to FoP establishments and require operators to obtain a licence. Manitoba authorizes FoP establishments but does not issue permits. Most jurisdictions that allow FoP establishments to operate have a corresponding policy manual that requires, at a minimum, that federal requirements be met. Federally, FoP establishments are required to register as a FoP under Section 15 of the *Excise Act*, 2001. If FoP establishments are found to be operating illegally, they can be fined.

Enforcement in British Columbia and Ontario has raised some issues. Advertising violations and making product without consumer involvement have been two major problems. Strict enforcement procedures and control would be required to ensure the liquor is not available beyond the customer's personal consumption usage.

Next steps

In order to assess the introduction of policy regarding Ferment-on-Premises, along with a separate licence class, the AGLC is requesting feedback from industry stakeholders and proponents/interested parties who have contacted the AGLC regarding FoPs in the last two years.

All feedback will be compiled and provided to participating stakeholders for information and to the Board of the AGLC for decision.

Key Questions

Stakeholders are invited to provide feedback to the AGLC on the following Key Questions. Please provide written responses to Matt Becigneul, Manager, Strategic Policy by **November 1, 2017**. Submissions can be made via email to: Policy@aglc.ca or by mail – 50 Corriveau Avenue, St. Albert, AB, T8N 3T5.

1. Should Alberta permit Ferment-on-Premises operations? Please explain.
2. Implementing FoP could result in a decrease to government revenues due to through the loss of liquor mark-up revenue. Is this potential loss of revenue enough of a barrier to not permit FoPs? How would the benefits outweigh the risks? If FoPs were introduced, do you have any thoughts on what steps could be taken to lessen the financial impact to the province?
3. If a policy to allow FoPs were established what impact (positive or negative) would this have on you, your business, or your association?

4. What are the risks associated with implementing FoPs? How could these risks be mitigated appropriately?
5. What are the benefits associated with implementing FoPs?

Thank you for your time and participation in the AGLC's review of the establishment of Ferment-on-Premises operations in Alberta.