



---

December 23, 2009

To: All LCLB Staff  
All Industry Associations  
All Local Government, First Nations and Police Agencies

**Re: Inspector Discretion in Issuing Contravention Notices**

---

This bulletin should be read in conjunction with Policy Directive 09-07.

**Purpose**

This bulletin provides an overview of the workflow process relating to Policy Directive 09-07, and the next steps in implementing this policy.

**Background**

Section 64(1) of the Liquor Control and Licensing Regulation gives inspectors the authority to exercise discretion in the issuance of a contravention notice, where authorized by the general manager, effective immediately. Liquor inspectors may use discretion in issuing contravention notices for the contraventions noted in policy directive 09-07, as follows:

- Failure to keep liquor register in the licensed premises (a CN must be issued where there is no register or it is incomplete);
- Failure by a manager or server to complete the required Serving It Right responsible beverage service program; this applies to where the manager or server is unable to produce the SIR certificate, however where the server or manager has not completed the course a CN will be issued;
- Permitting any prohibited entertainment in the licensed premises;
- Signage that has not been approved by the general manager, or failure to post a notice informing the public if the establishment offers adult entertainment;
- Liquor advertising that does not comply with section 57 of the Liquor Control and Licensing Regulation;
- Transferring shares of the licensee's capital stock without the general manager's approval;
- Making a structural alteration of or change to the size of any area of the licensed

- establishment without the general manager's approval; and
- Engaging in a promotional activity that is required to be but is not documented in an appropriate buy-sell agreement.

Inspectors should take the following factors into account when considering exercising discretion:

- The number of contraventions identified during the inspection;
- The circumstances of the contravention;
- Whether the contravention is an isolated incident;
- Whether the contravention was repeated or continuous;
- Whether the contravention was deliberate;
- Whether any economic benefit was derived by the licensee from the contravention;
- the licensee's cooperativeness and efforts to correct the contravention;
- Previous contraventions of a similar nature;
- The compliance history of the licensee and establishment; and
- Any other relevant factors.

In situations where inspectors exercise discretion and no contravention notice results, it is expected that inspectors will continue to enter inspection details into POSSE, as is currently done with all inspections, including any issues raised and how they were resolved, to ensure complete compliance histories are maintained.

Any questions should be directed to the regional managers.



Bruce Edmundson  
Deputy General Manager  
Compliance and Enforcement Division