

# REFRESHING THE SALE OF BEVERAGE ALCOHOL IN ONTARIO

A red-tinted photograph showing a grocery store aisle. Shelves on both sides are stocked with various items, likely non-alcoholic beverages. The lighting is warm and focused on the products.

## ABOUT THE ONTARIO CHAMBER OF COMMERCE

For more than a century, the Ontario Chamber of Commerce has been the independent, non-partisan voice of Ontario business. Our mission is to support economic growth in Ontario by defending business priorities at Queen's Park on behalf of our network's diverse 60,000 members.

From innovative SMEs to established multi-national corporations and industry associations, the OCC is committed to working with our members to improve business competitiveness across all sectors. We represent local chambers of commerce and boards of trade in over 135 communities across Ontario, steering public policy conversations provincially and within local communities.

The OCC provides exclusive support, networking opportunities and access to policy insight and analysis to our members. We also work alongside the Government of Ontario on the delivery of programs, and leverage our network to connect the business community to public initiatives relevant to their needs.

The OCC would like to thank members of the Beverage Alcohol Working Group, whose input helped shape the report in a meaningful way. This report was informed by consultative meetings held between March and June of 2019.



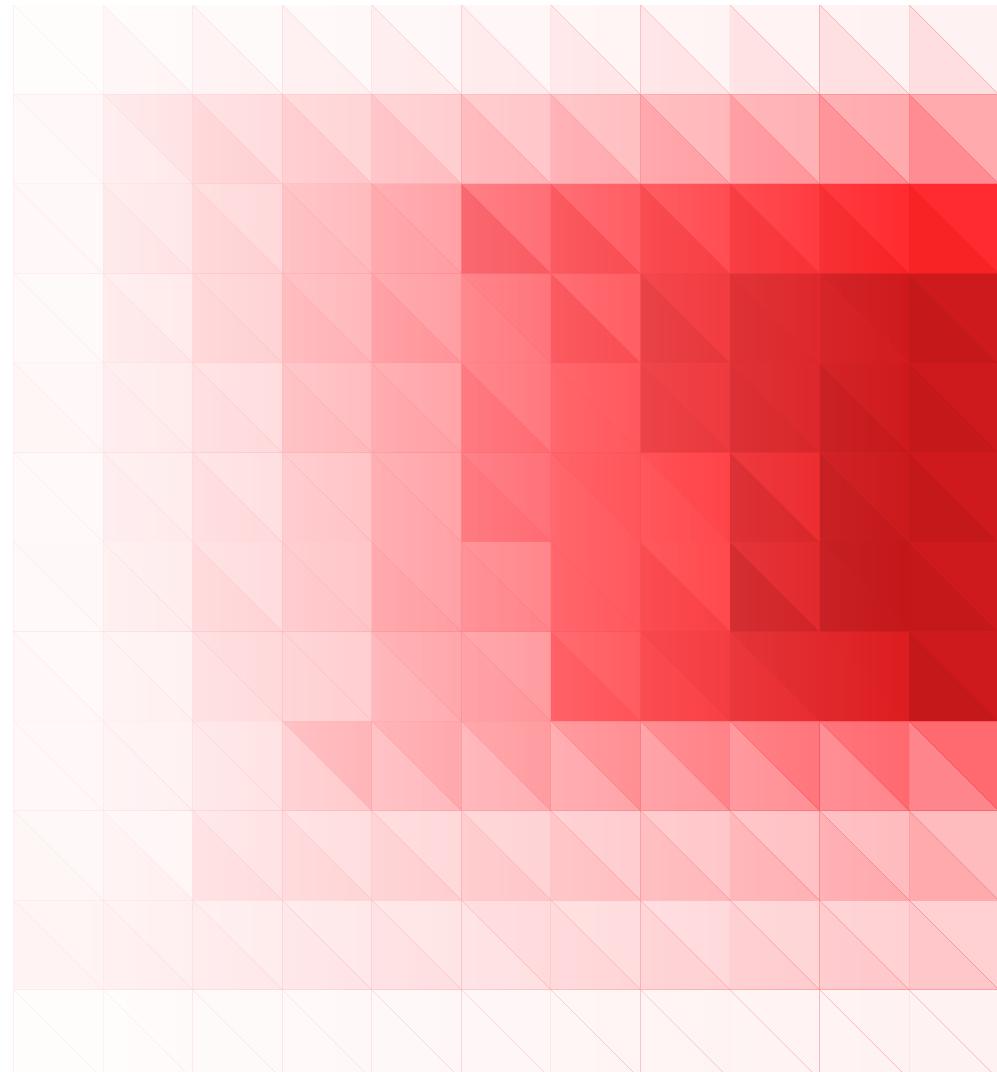
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## GLOSSARY

**ALCOHOL AND GAMING COMMISSION OF ONTARIO (AGCO):** An Ontario provincial regulatory agency that reports to the Ministry of the Attorney General. It is responsible for regulating the alcohol, gaming, and horse racing sectors, as well as cannabis retail.

**AGENT:** Refers to the representative of the supplier or manufacturer licensed by the AGCO. An Agent may work directly for a single supplier or may represent several simultaneously. Nearly every item available in the LCBO has an Ontario Agent responsible for sourcing the product, presenting it to LCBO buyers, and marketing the product when it reaches the market. This includes imported and domestic products in all categories of beverage alcohol (wine, beer, cider, spirits, and ready-to-drink products or RTD).

**AGRITOURISM:** An activity that is complementary to agriculture and allows agricultural producers, including farmers, to welcome tourists and visitors onto their farms to provide them with information on agriculture, food production, and the agricultural sector. The growth in agritourism is attributable to consumers wanting authentic travel experiences, healthy eating, and to reduce their negative environmental impact.<sup>1</sup>

**APIARY:** Refers to a location where beehives of honey bees are kept.

**BEVERAGE ALCOHOL:** In this report, the term beverage alcohol will be used to refer to all four categories – wine, beer, cider, and spirits – as well as ready-to-drink products.

**CRAFT:** The definition of craft varies, but it generally refers to beverage alcohol products that are made using locally-sourced or organic ingredients using traditional methods by independent producers who make small batches.

**CULINARY TOURISM:** Pursuit of unique and memorable eating and drinking experiences as food and drink have become as significant a part of a tourist's experience as accommodation, geography, and climate.<sup>2</sup>

**DOMESTIC PRODUCERS:** Licensed manufacturer of wine, beer, cider or spirits licensed by the AGCO.

**HORECA:** An abbreviation of the words hotel, restaurant, and café industry, and is commonly used to refer to the food service industry.

**INTERNATIONAL CANADIAN BLENDS (ICB):** Refers to custom-blended wines produced by the winemaking teams at Canadian wineries using a blend of international and Canadian grapes. ICB in Ontario is bottled and produced in Ontario, and is required to have a minimum of 25 percent Ontario grapes.<sup>3</sup>

**IMPORTED PRODUCER:** Refers to a foreign manufacturer of wine, beer, cider or spirits represented by Ontario Agents.

**LIQUOR CONTROL BOARD OF ONTARIO (LCBO):** A Crown Corporation that operates retail stores that sell wine, beer, and liquor to the public and commercial establishments.

**MEAD:** Often referred to as honey wine and made primarily through the fermentation of honey.

**ON-SITE AND OFF-SITE STORES:** An on-site store refers to the sale of beverage alcohol products in the location where the products are manufactured, such as at a winery, brewery, distillery, or cidery. An off-site store refers to the sale of beverage alcohol outside of where the product is manufactured, such as at a grocery store or restaurant.

**READY-TO-DRINK (RTD):** Refers to packaged alcoholic beverages that are ready for consumption, such as and bottled cocktails and coolers.

**VINTNERS QUALITY ALLIANCE (VQA):** An independent authority that establishes and monitors the province's appellation of origin system or grape-growing regions. VQA Ontario sets the standards for wine that is made in these regions. The term VQA on a bottle of wine refers to wine made from 100 percent fresh Ontario-grown grapes, which has been approved through a strict quality-assurance and label-integrity program.<sup>4</sup>

## SUMMARY OF RECOMMENDATIONS

### Modernizing the Sale of Beverage Alcohol in Ontario

- The Government of Ontario should provide Ontario craft distillers with the opportunity to “cross-sell” or sell products manufactured by other Ontario craft distillers at their own retail locations, thereby supporting the growth of this industry as a whole and eliminating unnecessary red tape.
- In addition to allowing beer, cider, and wine in corner, convenience, and big-box stores, the Government of Ontario should include spirits in these new distribution channels as it expands the sale of beverage alcohol.
- Like VQA Ontario wines and craft beer, the LCBO should provide dedicated shelf space/displays near the spirits category to better support Ontario craft distillers and local producers.
- The Government of Ontario should establish guaranteed shelf-space that would encourage convenience, grocery, and big box stores to stock Ontario wines which, in turn, will support Ontario farmers and the local wine industry.
- The Government of Ontario should create a new alcohol licence that would allow for private, independent wine stores.
- The Government of Ontario should create a “Universal Retail Licence” to help address inequities retailers face as a result of a tiered licencing system.
- The Government of Ontario should permit the sale of spirits, specialty/premium imported wines, RTD products, and products not on the LCBO’s General List at grocery, convenience, big-box, and independent stores, as well as other distribution channels.
- The Government of Ontario should amend the *Liquor Licence Act* to allow Ontario beverage alcohol producers to sell their products through online marketplaces using third parties to process payments for the sale of beverage alcohol on behalf of Ontario manufacturers,

distributors, and other licensed sellers. This would allow businesses to build a competitive, secure, and customer-friendly beverage alcohol e-commerce sector.

- The Government of Ontario should amend the *Liquor Licence Act’s Advertising Guidelines* to clarify that licensed sellers can list or advertise permitted beverage alcohol products on e-commerce marketplaces and platforms. This would provide small- and medium-sized licensed producers, manufacturers, and distributors with the opportunity to sell their goods across Ontario and, if permitted, across Canada as internal trade barriers are dissolved.

### Addressing Tax Burdens

- The Government of Ontario should reduce the tax burden on Ontario wines, namely eliminating the 35 percent mark-up on local wineries and the 6.1 percent retail store tax on domestically produced wine sold to restaurants and tourists.
- The Government of Ontario should allow all members of the domestic wine industry to direct deliver their products to private retail stores or their distribution centres.
- The Government of Ontario should align taxation levels for the craft cider industry with those of Ontario’s craft beer industry, thereby ensuring the competitiveness of the craft cider industry.
- The Government of Ontario should apply a graduated rate to the current spirits basic tax, with a zero percent mark-up on the first 50,000 litres sold.

### Reducing Red Tape

- The AGCO should allow Ontario spirits and craft beer producers with a retail store to sell their products at farmers’ markets.
- The Government of Ontario should work with the LCBO, Ministry of Finance, and VQA Ontario to reduce the reporting Ontario wineries and cideries are required to complete from a monthly to a quarterly basis.

- The Government of Ontario should provide wineries with a list of products they are not allowed to sell, rather than the current restrictive list of items outlining what businesses are allowed to sell, enabling wineries to provide consumers with greater choice and convenience.
- The Government of Ontario should update wineries' AGCO manufacturer's licence ("Retail Store Authorization") to enable wineries to sell bottles of wine at consumer and trade shows, thereby increasing consumer convenience and supporting business owners.
- The Government of Ontario should allow wineries to offer wine club members favorable pricing by modifying or granting an exemption to Ontario Regulation 116/10 under the *Liquor Control Act of Ontario*.
- The Government of Ontario should pass regulations under the *Liquor Licence Act* to allow for prizing without requiring a lottery licence. Such prizing should continue with the rules that do not require the purchase or consumption of wine.
- The Government of Ontario should eliminate the maximum of six months that off-site winery stores have to renovate or relocate their business before losing their licence.
- With the forthcoming expansion of beer into additional brick-and-mortar stores, the Government of Ontario should consider creating a new sub-section under Section 15 of the Ontario Regulation 718 in the *Liquor Licence Act* to allow The Beer Store or its successor to provide more consumers with e-commerce and home delivery options.
- The Government of Ontario should review its current and proposed beverage alcohol sales policies to ensure that reform does not inadvertently favour larger beer producers.
- The AGCO should revisit the requirement that mead producers must have 100 honey bee colonies each year and reduce the number to 50 bee colonies to align with the Agricorp requirement for commercial insurance coverage.
- The AGCO should allow mead producers to partner with local beekeepers to meet the 100 colonies requirement and/or acquire honey from Ontario beekeepers to produce their own products.

- The Government of Ontario, AGCO, and LCBO should review the licensing and reporting process with the goal of eliminating duplicative and unnecessary red tape for small- and medium-sized producers across all categories of beverage alcohol.
- The Government of Ontario should provide airports with an exemption under the *Liquor Licence Act*, allowing airports to sell beverage alcohol 24-hours a day, in post-security areas for both international and domestic passengers.

### Removing Inter-Provincial Trade Barriers

- The Government of Ontario should eliminate inter-provincial trade barriers with willing provinces/territories to allow residents to purchase alcohol products online and allow producers to offer direct-to-consumer delivery.

### Tourism and Beverage Alcohol

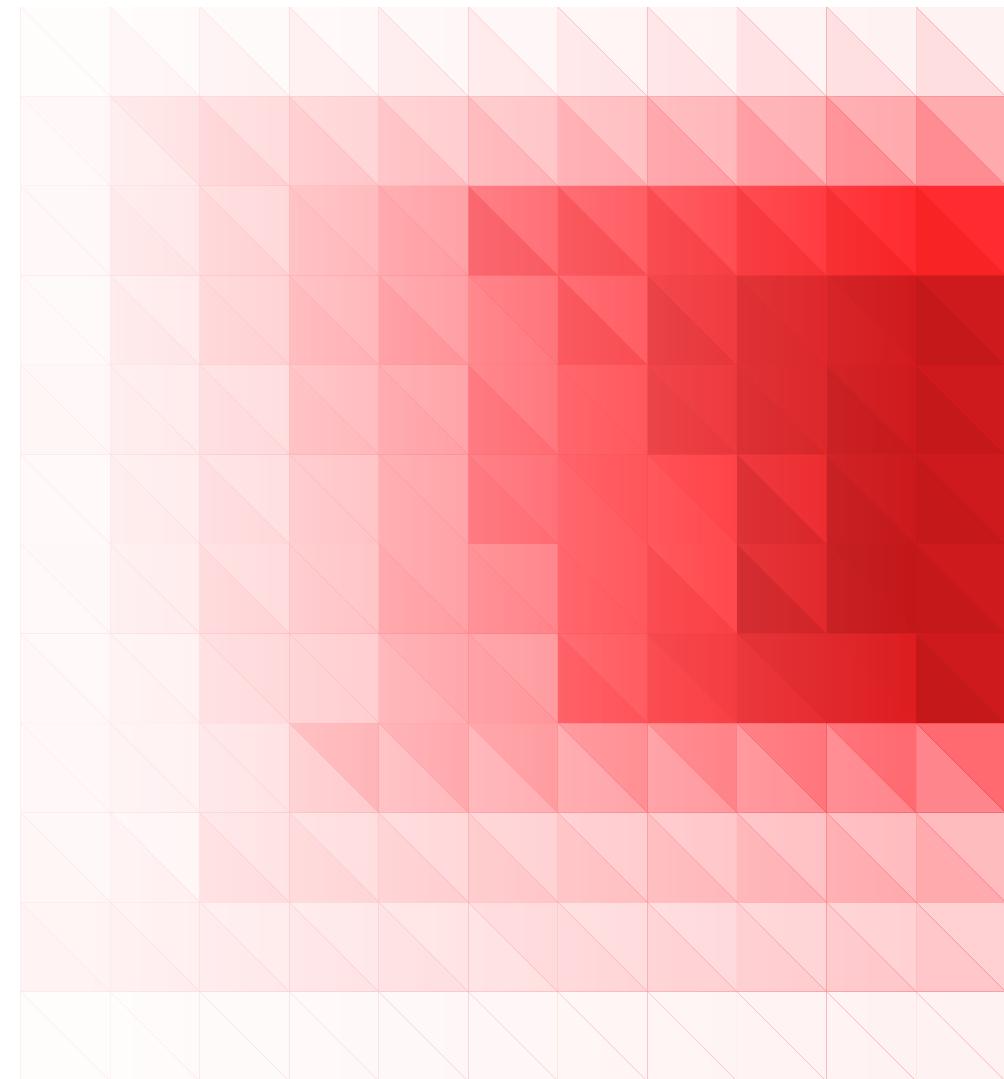
- The Government of Ontario should continue to invest in online and printed marketing materials for the tourism and beverage alcohol industries, distribute these materials more widely—including to Quebec, the United States, and abroad—and translate these resources to generate broader awareness.
- The Province's forthcoming Ontario Tourism Strategy should consult stakeholders from the beverage alcohol industry and the regions of Ontario where this industry is most prevalent. The Strategy itself should examine the critical infrastructure, transportation, and housing investments that will enable the responsible growth of beverage alcohol and culinary tourism, particularly in small and rural communities.
- The Government of Ontario should create a new provision in Regulation 232/16: Sale of Liquor in Government Stores of the *Liquor Control Act* that would authorize the sale of wine, cider, spirits, and beer at retail locations in all Ontario airports, similar to the provisions currently in place for grocery stores with wine boutiques.

### Public Health Considerations

- Given the potential health and social harms associated with increased access to beverage alcohol, the Government of Ontario should partner with relevant stakeholders, like the OMA and the OPHA,

to promote Canada's Low-Risk Alcohol Drinking Guidelines and develop comprehensive and targeted public education campaigns that focus on increasing awareness of long-term and acute health risks.

- As beverage alcohol enters more points of distribution, the Government of Ontario should invest in the AGCO's capacity to monitor and enforce regulations, conduct investigations, and respond to complaints at various establishments that retail or offer alcohol products to customers.
- The AGCO should partner with the OMA and other public health stakeholders to develop educational training tools and resources for businesses seeking to obtain an alcohol retail licence.
- In partnership with private sector stakeholders, the Government of Ontario should collect data to assess the potential impact of beverage alcohol sales reform and use this data to make evidence-based decisions on public health risk mitigation and/or further reform.
- The Government of Ontario should engage the beverage alcohol industry to increase public awareness and understanding of responsible consumption.



## INTRODUCTION

In 2019, the Government of Ontario is closer than ever to bringing about substantive reforms to the sale and distribution of beverage alcohol. While the desire to modernize the sale of beverage alcohol in this province is warranted, it is not new. In Ontario, regulation of the sale of beverage alcohol dates back to World War I and the temperance movement of the 1920s.<sup>5</sup> Since the 1960s, there have been seven special reviews and expert committees that have attempted various reforms.<sup>6</sup> In 2005, the provincial government assembled a committee called the Ontario Beverage Alcohol System Review. Although this committee produced recommendations, none were implemented by the Province. Following the 2005 Review, successive Ontario governments initiated further reviews. This includes the Premier's Advisory Council on Government Assets between 2014 and 2016 and, most recently, the 2019 report by Ontario's Special Advisor on Beverage Alcohol, Ken Hughes.

The frequency and variety of reviews and recommendations produced by the Province demonstrate the complexity of this policy file. Reforms in the past have taken a category-by-category approach, rather than a holistic approach that includes all four beverage alcohol categories, which left many of the underlying issues unaddressed in the alcohol industry. Altogether, reform is not a straightforward exercise given the considerable implications for industry and government alike.

The current government, during their 2018 election campaign, subsequent Throne Speech, and 2018 Fall Economic Statement, has made clear their intention to expand the sale of beer and wine into corner, big-box, and convenience stores. The 2019 Ontario Budget introduced a number of liquor reforms the Province is working with the Alcohol and Gaming Commission of Ontario (AGCO) to implement by Summer 2019:

- Creation of a Tailgate Event Permit for eligible sporting events;
- Introducing legislation to allow municipalities to designate public areas like parks for the consumption of alcohol;
- Providing flexibility for wineries, breweries, distilleries, and cideries to promote their products by removing the prescribed serving sizes for by-the-glass licences;

- Extending hours of alcohol service at licensed establishments to a 9:00 am start, seven days a week;
- Changing advertising rules to allow “happy hour” in Ontario so that licensed establishments can advertise their promotions; and
- Allowing casinos to advertise complementary alcohol.

As outlined in the Budget 2019, the proposed changes to the retail distribution of alcohol in Ontario are meant to provide consumers with greater choice and convenience, while providing the private sector with additional opportunities to compete in the sale and distribution of beverage alcohol.<sup>7</sup> At the time of its release, Budget 2019 noted that Ontario had 2,702 locations that sell alcohol. This was equivalent to 2.4 licensed retail outlets per 10,000 persons, which is less than the national average of 5.9 outlets per 10,000 persons.<sup>8</sup> In other words, Ontario has the fewest alcohol retail outlets per capita in Canada.

Ontario's current (and future) beverage alcohol retail landscape can be segmented into the following categories:<sup>9</sup>

- 663 Liquor Control Board of Ontario (LCBO) stores that sell and import a variety of beverage alcohol products;\*
- 209 privately-run LCBO Agency Stores, usually within a grocery or general store, located in areas that are too small for an LCBO location;
- 200 new “LCBO Convenience Outlets” in underserved communities by Spring 2020;<sup>10</sup>
- 450 The Beer Store locations;
- 450 grocery stores that currently or will sell wine, beer, and cider by September 2019;<sup>11</sup>
- 292 privately-owned winery stores that are typically located in grocery stores and sell Ontario wine manufactured off-site;

\*The LCBO is a Crown Corporation that operates retail stores that sell wine, beer, and liquor to the public and commercial establishments. In Ontario, The Beer Store is responsible, in large part, for the sale of beer to customers and commercial establishments. Three large brewers own The Beer Store (Labatt, Molson, and Sleeman) with 31 small Ontario breweries maintaining a small stake.

- Over 520 privately-owned wineries, breweries, distilleries, and cideries are authorized to sell products they manufacture on-site; and
- 15 privately-owned, duty-free stores at airports and border crossings that sell alcohol.

Based on recent surveys, most Ontarians support the government's decision to modernize and expand the alcohol retail system. Public opinion polling conducted by Abacus Data between May and June 2018\* found that 68 percent of respondents were in support of grocery stores selling beer and wine. Seventy-three percent of respondents were also in favour of being able to purchase larger volumes – between 12 to 24 cans of beer – at grocery stores. Finally, 49 percent of respondents believed that private retailers like grocery stores should be able to sell beer and wine online, similar to the LCBO and The Beer Store.<sup>12</sup>

Despite public support for modernization, making the necessary policy and regulatory changes to beverage alcohol is far more complex an endeavour than it appears at first glance. The above reforms, for example, do little to address the fundamental inequities as it pertains to beverage alcohol producers across all four categories – wine, beer, cider, and spirits. Policymakers must also navigate an established beverage alcohol industry in Ontario comprised of large domestic and international corporate entities as well as small businesses and producers.

As the Province proceeds with significant reform regarding the sale and distribution of alcohol in Ontario, they must be cognizant of how these decisions impact public health concerns related to increased availability and convenience. Finally, there is more than one long-standing piece of legislation that governs the sale of beverage alcohol, such as the *Liquor Control Act*<sup>†</sup> and *Liquor Licence Act*, which would require re-writing.

The recent findings by Ontario's Special Advisor on Beverage Alcohol provides a foundation for the Government of Ontario to build on as it consults with stakeholders. Importantly, the report considers all four categories of beverage alcohol and encourages the Ontario Government

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\*Abacus Data surveyed 969 Ontarians aged 18 and over between June 1 and 4, 2018, as well as 1,675 Ontarians between May 28 and 30, 2018.

<sup>†</sup>In Ontario, prohibition lasted from 1916 until 1927 when the *Liquor Control Act* was introduced by the provincial government to regulate the licensing and possession of alcohol.

not to privatize the LCBO given its established expertise as a retailer and wholesaler.<sup>13</sup>

Yet, more remains to be done.

As the Province proceeds with their proposed changes, it is critical that policymakers take a strategic and comprehensive approach to reform to foster a more equitable and competitive beverage alcohol landscape. *Refreshing the Sale of Beverage Alcohol in Ontario* aims to provide the Government of Ontario with timely recommendations to address existing inequities as they relate to the sale of alcohol, its taxation and regulation, and inter-provincial trade. It also explores often overlooked aspects of beverage alcohol, namely tourism and public health.

### Our recommendations are rooted in three principles:

First, despite their differences, there are many similarities between all four categories – wine, beer, cider, and spirits. For example, each category relies on local, agricultural inputs (e.g., barley, corn, grapes, etc.) grown in Ontario by Ontario farmers. These inputs are then transformed into products sold to consumers in the province, across Canada, and around the world. Thus, when referencing beverage alcohol, all four categories should be included in the Province's policymaking process.

Second, the Province has over time developed strategies and made investments to support certain categories of beverage alcohol over others, which has led to a patchwork of policies and regulations that cause inequity within the industry. The Province should therefore take a comprehensive, rather than piecemeal, approach when developing policies that pertain to the beverage alcohol industry.

Third, each category creates jobs and spurs economic activity for Ontarians and Ontario beyond the traditional supply chain. Accordingly, the beverage alcohol industry impacts and supports a number of adjacent industries, including farming, tourism, and hospitality. The power of beverage alcohol to be a force for economic development – particularly rural economic development – should therefore be reflected in policymaking.

Guided by these principles, this report examines how the Province can improve consumer choice and convenience, usher in more fairness for the beverage alcohol industry, and support the industry's long-term growth.

## MODERNIZING THE SALE OF BEVERAGE ALCOHOL IN ONTARIO

The uneven playing field within beverage alcohol policy and regulation has resulted in a situation where certain categories face higher barriers in reaching the consumer compared to others. As the Province proceeds to modernize the beverage alcohol system, it must think beyond brick and mortar stores and beyond just one category. Modernization should encompass increasing retail flexibility, cutting red tape, and enhancing e-commerce options to meet the interests of *all* beverage alcohol producers and needs of today's consumer.

Attempts to reform the way alcohol is sold, distributed, and purchased by consumers should seek to build on the established strengths of the current system. To that end, the OCC believes the LCBO has a key role to play as a retailer and wholesaler. The LCBO has worked diligently to provide a safe and sophisticated customer experience, and there is little doubt that it would remain competitive as more retail outlets sell beverage alcohol. It is also the largest single purchaser of beverage alcohol in the world, meaning it has the incredible power to promote and support Ontario producers and their products. The Government of Ontario should consider how to create the right incentives within policy and regulation to allow the LCBO to better utilize that power.

The following section addresses challenges confronting producers and retailers and makes a series of recommendations on how the Province can reform treatment of all major categories of beverage alcohol.

### Setting-Up Ontario's Spirit Industry for Success

Craft distillers face a number of challenges relating to market access and maintaining shelf space at the LCBO. In Ontario, Vintners Quality Alliance (VQA) wines and Ontario craft beer enjoy dedicated shelf space, which in turn allows these industries to showcase their products. Consumers can visit certain sections of the LCBO to purchase Ontario wines and craft beer.

Similar to VQA wines and craft beer, Ontario's craft distillers also source inputs from Ontario farms, but do not enjoy the same benefits with respect to dedicated shelf space at the LCBO. Instead, they compete

for shelf space with established, international brands. The current set-up makes it difficult for emerging Ontario craft distillers to maintain their shelf space once they have introduced a new product in the LBCO. Accordingly, Ontario craft distillers would like the LBCO to provide them with separate display space near the spirits section within LCBO stores. This would allow craft distillers to better showcase unique, made-in-Ontario products and improve consumer awareness of craft products, similar to the presence VQA Ontario wines and Ontario craft beers have at the LCBO.

Ontario craft distillers would also benefit from the opportunity to cross-sell products manufactured by other Ontario craft distillers at their retail locations. This simple, common sense reform would support the growth of the craft spirit industry by increasing distribution channels for producers. Beyond this, it would increase the value of a retail licence by allowing craft distillers to sell not only the products they produce, but also those of other craft distillers at their retail location.

### RECOMMENDATIONS

- The Government of Ontario should provide Ontario craft distillers with the opportunity to "cross-sell" or sell products manufactured by other Ontario craft distillers at their own retail locations, thereby supporting the growth of this industry as a whole and eliminating unnecessary red tape.
- In addition to allowing beer, cider, and wine in corner, convenience, and big-box stores, the Government of Ontario should include spirits in these new distribution channels as it expands the sale of beverage alcohol.
- Like VQA Ontario wines and craft beer, the LCBO should provide dedicated shelf space/displays near the spirits category to better support Ontario craft distillers and local producers.

## Retail Flexibility for Ontario's Wine Industry

Modernizing the sale of beverage alcohol in Ontario presents several concerns and opportunities for Ontario's wine industry. To begin, VQA wine currently has approximately 30 percent shelf space at the LCBO. As wine enters convenience, grocery, and big-box stores, it is unclear whether Ontario wines will be afforded this shelf space, or how much shelf-space Ontario VQA wines will be given, as retail is expanded. The Province should consider providing incentives like wholesale pricing to encourage private retailers to stock Ontario VQA wines, thereby supporting Ontario's wine and grape producers and the industry at large.

Wine consumers tend to enjoy spending time reading about the producer as well as the wine's origins and contents. Convenience or grocery stores may find it hard to deliver this type of customer experience for wine consumers, particularly compared to privately-owned, speciality wine stores.

Accordingly, the Province should consider creating a new alcohol licence that would allow for independent wine stores that sell premium or high-end wines with no chains or ability to consolidate. This would ensure greater consumer choice as private, independent wine stores could provide greater variety and vintages than grocery, convenience, or big box stores. It would also create the opportunity for small, premium producers to enter the marketplace. This would further ensure that private oligopolies (or a state of limited competition) would not arise and keep the market accessible to retailers of all sizes.

### RECOMMENDATIONS

- The Government of Ontario should establish guaranteed shelf-space that would encourage convenience, grocery, and big box stores to stock Ontario wines which, in turn, will support Ontario farmers and the local wine industry.
- The Government of Ontario should create a new alcohol licence that would allow for private, independent wine stores.

## Enhancing Consumer Choice and Distribution Opportunities

Currently, there are tiered licences available through the LCBO that permit grocery stores to sell domestic wine, while others sell domestic and imported wine, beer, and cider.

Grocery stores that sell beverage alcohol are restricted to products found on the LCBO's "General List." Imported products, namely wine, beer, and cider, must be drawn exclusively from the LCBO's General List, while VQA wines can be drawn from the LCBO's General List or directly from wineries and priced over \$10.95. Consequently, specialty wines, spirits, ready-to-drink (RTD) products, and other items not found on the General List are unavailable in grocery stores. Despite the province's desire to increase consumer choice, the tiered licences available through the LCBO adversely impacts consumer choice. To address this, grocery, convenience, and big-box stores, as well as independent retailers, should be able to sell a broader selection of alcohol, including wine, beer, cider, spirits, and RTD products.

Rather than tiered licences, the creation of a "Universal Retail Licence" would allow independent, grocery, convenience, and big-box stores to sell any category of beverage alcohol that suits their business model and consumer demand. If the province were to implement this, Universal Retail Licence holders should have access to all products inventoried in Ontario, including the ability to purchase products directly from an agent or a local beverage alcohol producer.

In addition, the hotel/restaurant/café (HORECA) industry pays near full-price to purchase beverage alcohol products from the LCBO, disadvantaging the industry and resulting in higher prices for consumers. To modernize alcohol pricing, the Province should establish a wholesale pricing model for the HORECA industry and, if implemented, Universal Retail Licence holders.

### RECOMMENDATIONS

- The Government of Ontario should create a Universal Retail Licence to help address inequities retailers face as a result of a tiered licencing system.
- The Government of Ontario should permit the sale of spirits, specialty/premium imported wines, RTD products, and products not on the LCBO's General List at grocery, convenience, big-box, and independent stores, as well as other distribution channels.

## Expanding E-Commerce Sales for Beverage Alcohol

Today, consumers can purchase almost any type of product online with low-cost and fast delivery options. Yet, when it comes to purchasing beverage alcohol, e-commerce in Ontario lags behind other product categories. Consumers currently have two options:

1. Order online through the LCBO\* which only retails alcohol; or
2. Order directly from a local manufacturer who only sells their own products on their website.

Ontario's *Liquor Licence Act* does not permit licensed sellers to offer alcoholic beverages on Canada's established e-commerce marketplaces and platforms, like eBay, Amazon, or Shopify, and alongside other products. Therefore, SMEs are unable to take advantage of the significant buyer traffic available through these online platforms, consequently losing out on incremental sales within Ontario and, if internal trade barriers were removed, across Canada. Selling on e-commerce platforms would allow SMEs to benefit from positive customer reviews and attain visibility alongside larger, more established brands.

E-commerce marketplaces and platforms note that current rules restrict manufacturers to selling their products on their own websites. As it stands, only a manufacturer can process the sale of their own alcohol products. In most online marketplace models, the operator processes the payment, retails a commission or fee, and then remits the remaining proceeds to the seller. Reforming Ontario's *Liquor Licence Act* to allow online alcohol purchases to be processed by third-parties, on behalf of the manufacturer, could allow small- and medium-sized beverage alcohol producers to be more easily discovered by customers across the province – and eventually, across Canada.

As the Government looks to modernize options for the brick-and-mortar sale of beverage alcohol, they should also consider the opportunities

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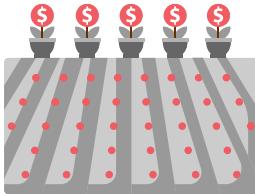
\*Through its online platform, the LCBO currently offers consumers same-day pick up and next day delivery for online orders. In conjunction with Foodora, the LCBO is currently piloting on-demand delivery. Furthermore, the LCBO's mobile app has over 450,000 users and allows consumers to scan bar codes and search for products based on the nearest retail location.

presented by e-commerce marketplaces and platforms. This should include allowing licensed sellers to stock, sell, and deliver alcohol directly to consumers.

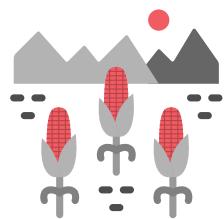
### RECOMMENDATIONS

- The Government of Ontario should amend the *Liquor Licence Act* to allow Ontario beverage alcohol producers to sell their products through online marketplaces using third parties to process payments for the sale of beverage alcohol on behalf of Ontario manufacturers, distributors, and other licensed sellers. This would allow businesses to build a competitive, secure, and customer-friendly beverage alcohol e-commerce sector.
- The Government of Ontario should amend the *Liquor Licence Act's Advertising Guidelines* to clarify that licensed sellers can list or advertise permitted beverage alcohol products on e-commerce marketplaces and platforms. This would provide small- and medium-sized licensed producers, manufacturers, and distributors with the opportunity to sell their goods across Ontario and, if permitted, across Canada as internal trade barriers are dissolved.

# ONTARIO'S SPIRITS INDUSTRY



The spirits industry works closely with local farmers and contributes to the economic growth of rural areas across Ontario.<sup>14</sup>



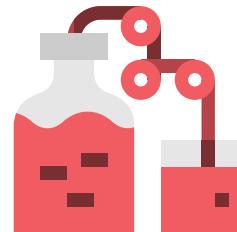
Distillers rely on grains to produce a range of spirits such as corn, wheat, rye, and barley. In Ontario, the spirits industry is the fourth largest purchaser of corn, buying 200,000 to 250,000 tonnes of high-quality corn.<sup>15</sup>



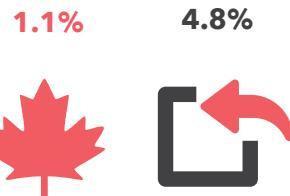
Ontario is currently home to 39 spirit distillers.<sup>17</sup> There has been an increase in the number of small and artisan distillers that specialize in niche products across Canada.<sup>18</sup>



In 2018, spirits represented 67.2% of the beverage alcohol products exported around the world - totalling \$650.5 million.<sup>19</sup>



The spirits industry and craft distillers in Ontario generate over \$2.4 billion in annual sales.<sup>20</sup>



In the last 10 years, the average rate of sales for Canadian spirits grew by 1.1% per year, while the annual growth rate for imported spirits was 4.8%.<sup>21</sup>



At the national level, whiskey (31.3%), vodka (24.8%), and rum (17.1%) were the most popular spirits sold in 2016/2017. In Ontario, whiskey had the greatest market share, with 38% of spirit sales for the province.<sup>22</sup>

## ADDRESSING TAX BURDENS

Taxation is a particularly acute concern for small beverage alcohol producers as it directly relates to the ability of a business to invest in itself and grow. Tax reform could help producers retain some of their capital and re-invest those resources to scale their businesses and create jobs. Moreover, with the end of the VQA Wine Support Program and the Small Cidery and Small Distillery Support Program,\* tax reform would strengthen Ontario's wine and cider industries. Further, introducing a graduated tax policy comparable to those in British Columbia could help craft spirits producers scale.

### Updating Wine Industry Tax Policy

With the end of the VQA Wine Support Program, the wine industry is advocating for changes to taxation as a sustainable solution that would enable wineries to undertake long-term planning and provide financial room to grow their businesses.

Currently, the mark-up for Ontario wine is the same as imported wine (71.5 percent) due to both international trade obligations and the three-tiered system for alcohol distribution. Under this three-tiered system, the LCBO serves as an importer (first tier), distributor (second tier), and retailer (third tier). In the U.S., wineries are subject only to two tiers of taxation – a distributor and retailer mark-up – and not an importer mark-up, alleviating between 30 and 35 percent in taxes but remaining compliant with trade obligations. Ontario's wine industry seeks the same advantage and tax treatment as their foreign competitors, namely U.S. wineries. Given that the mark-up for Ontario wine is the same as imported wine, removing the 35 percent tax on wine sold through the LCBO would help the industry remain competitive.

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\*Delivered by Agricorp, an agency of the Ontario Government, the VQA Wine Support Program provided grants to help wineries invest in growing their VQA wine business, including export and tourism development activities. The Small Cidery and Small Distillery Support Program provided small cideries in Ontario with financial support to grow and scale. Eligible cideries (and eligible distillers) were granted up to 74 cents per litre on eligible sales, with up to a maximum of \$220,000 per year per producer.

Another tax that the industry would like to see removed is the retail store tax: a 6.1 percent tax added to any bottle sold from a winery to a tourist or restaurant. This tax is in addition to other sales taxes the provincial government collects from wineries.

Around the world, domestic producers can realize significant additional margins by delivering their wines directly to retailers, while other producers are required to engage distributors. While some Ontario wineries are currently able to direct deliver to licensees and off-site wine stores, there is concern within industry that this privilege may be revoked by large-scale reform. Direct delivery is a smart policy that supports the goal of improved consumer choice and convenience, and provides wine producers with more opportunities to get their products to market.

### RECOMMENDATIONS:

- The Government of Ontario should reduce the tax burden on Ontario wines, namely eliminating the 35 percent mark-up on local wineries and the 6.1 percent retail store tax on domestically produced wine sold to restaurants and tourists.
- The Government of Ontario should allow all members of the domestic wine industry to direct deliver their products to private retail stores or their distribution centres.

### Supporting Ontario's Burgeoning Cideries

Ontario is home to 64 craft cider producers, generating \$73.5 million in economic activity in 2017. Increasing demand in this emerging industry gives it the potential to continue growing. While contributions to the economy is an important measure of an industry's value, so too is where that impact is being felt across the province. Seventy-five percent of craft cider producers are located in rural regions across Southern Ontario – with concentrations in Niagara, Prince Edward County, and the Greater Toronto Hamilton Area.<sup>23</sup>

Craft cider production contributes to rural economic development in a number of different ways, including through the use of Ontario-grown

apples and pears. While some producers rely entirely on their own fruit production to make their cider, others source inputs from fruit producers across the province. Accordingly, there are strong linkages between the craft cider industry and local agriculture.<sup>24</sup>

Demand for cider in Ontario and abroad has grown significantly due in part to the increased interest in culinary tourism. Cider is also recognized as a gluten-free alternative to beer,<sup>25</sup> with which it shares a similar alcohol content, placing it in direct competition with the craft beer industry.

While craft cider and craft beer are currently sold at a similar price point at the LCBO, the two categories are treated differently by government. Although consumers view cider as akin to beer, cider is taxed like wine. Existing tax policies put craft cider producers at a competitive disadvantage in terms of future growth. For example, if the retail price of a can of craft cider is \$3.45, only 48.79 percent returns to the producer, 43.58 percent goes to the Government of Ontario, 4.57 percent goes to the Government of Canada, and 3.05 percent is for the container deposit. In contrast, if the retail price of a craft beer is also \$3.45, 63.87 percent goes to the producer, 27.76 percent goes to the Government of Ontario, 5.21 percent goes to the Government of Canada, and 3.15 percent is for the container deposit. Furthermore, when craft cider is sold to restaurants and other venues at the same \$3.45 price point, only 48 percent returns to the producer. In comparison, if the price of craft beer at a restaurant is \$3.45, the producer retains 72.42 percent of the revenue.

In December 2018, the Small Cidery and Small Distillery Support Program ended. The program provided Ontario cideries with the financial support needed to grow and scale by granting eligible cideries (and eligible distillers) with up to 74 cents per litre on eligible sales and up to a maximum of \$220,000 per year per producer.<sup>26</sup> Despite the May 2019 announcement by the provincial and federal governments through the Canadian Agricultural Partnership that two Ontario cider producers would receive financial support for investing in productivity-enhancing technologies, the lack of future funding puts the growth of the larger craft cider industry in jeopardy.

#### **RECOMMENDATION:**

- The Government of Ontario should align taxation levels for the craft cider industry with those of Ontario's craft beer industry, thereby ensuring the competitiveness of the craft cider industry.

#### **Unlocking Growth in Ontario Craft Distilling**

Like cider, craft spirits are a growth industry for Ontario: well-financed entrepreneurs are looking to build new businesses and existing distilleries would like to hire more staff and market internationally. However, investment and growth are being restricted by burdensome taxes and mark-ups. Perhaps unsurprisingly, Ontario is home to only 39 craft distillers, whereas many other provinces are enjoying the benefits of a booming craft distiller industry.

British Columbia, for instance, doubled their number of craft distilleries by introducing a more progressive tax regime. In 2013, a graduated tax was introduced for the direct sale of alcohol from craft distilleries which produce small batches. Accordingly, those that produce less than 50,000 litres of spirits per year are exempt from provincial taxes.<sup>27,28</sup> To meet this exemption, distilled liquor products must consist of 100 percent British Columbia raw agricultural materials and be distilled in British Columbia by licensed distillers. Craft distillers that produce between 50,000 and 100,000 litres pay 103 percent tax and those that produce over 100,000 litres pay the full 163 percent mark-up the Province applies to other spirit makers. Graduated taxation has supported the province's craft distillers, business owners, and entrepreneurs as they continue to invest in their businesses and local communities. In 2013, there were around seven craft distillers in British Columbia, but today there are approximately 60 craft distillers that are fully operational. Since 2013, the volume of craft spirits produced in British Columbia grew by almost 400 percent.<sup>29</sup>

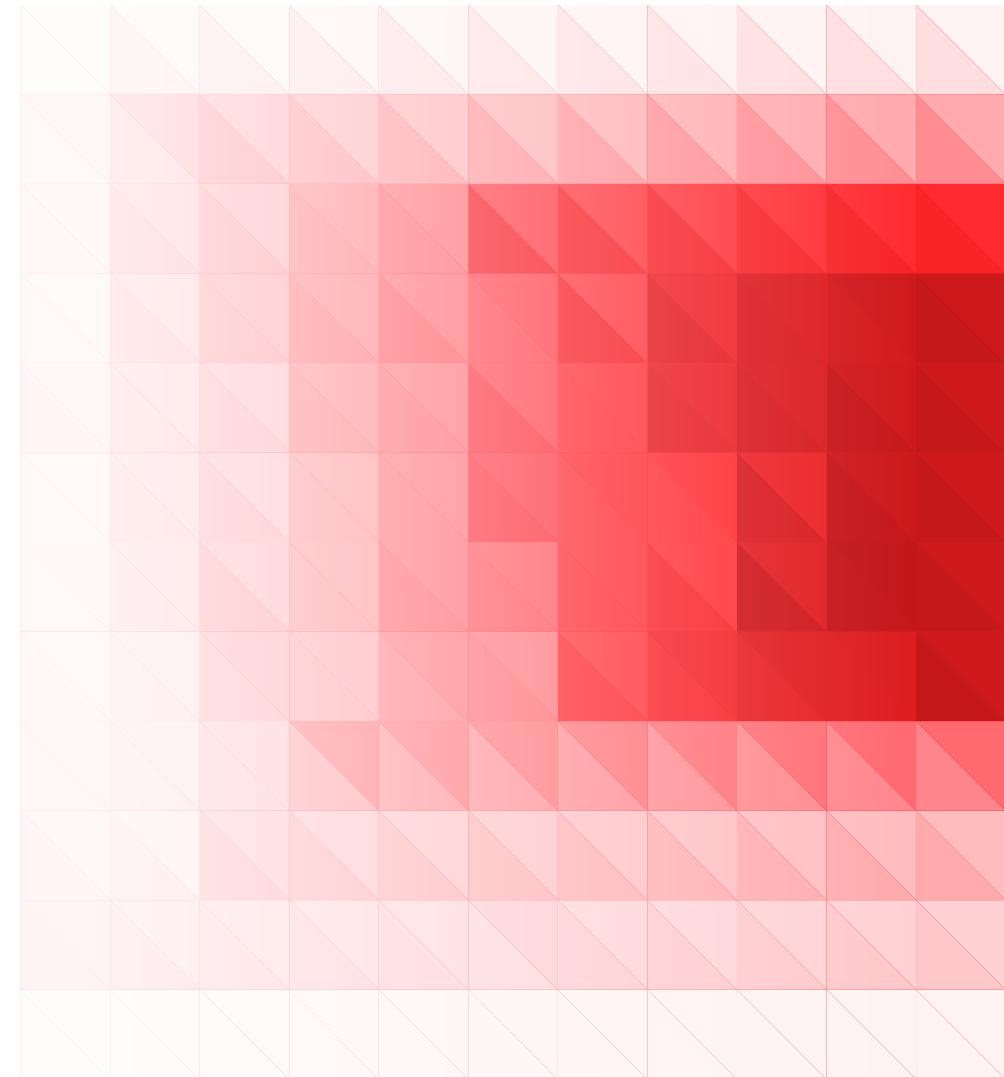
In 2017, the spirits basic tax was introduced in Ontario for on-site sales at independent distillery stores. The spirits basic tax was set at 61.5 percent of the retail price of a bottle of spirits or spirits cooler, regardless of the number of sales. In contrast, the comparable tax paid for on-site sales by Ontario wineries is six percent. While the spirits basic tax was

accompanied by the Small Cidery and Small Distillery Support Program, this program ended in December 2018.

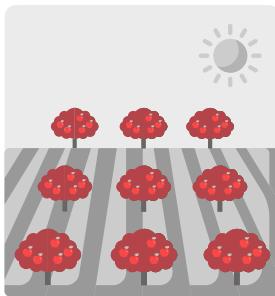
In 2016, then-Member of Provincial Parliament for Niagara West-Glanbrook, Tim Hudak, introduced a private members Bill (Bill 203, *Free My Rye Act*), which proposed a graduated limit on the provincial tax rate for spirits sold directly by producers. The bill proposed a 10 percent tax on the first 50,000 litres, 20 percent on the next 50,000 to 100,000 litres, and 40 percent on 100,000 to 625,000 litres. Like the current spirits basic tax, the *Free My Rye Act* did not impose restrictions on the methods of production and did not limit the overall size of the producer. Although this bill did not pass, the craft spirits industry notes that this type of graduated tax framework could help Ontario producers scale to internationally competitive levels.

**RECOMMENDATION:**

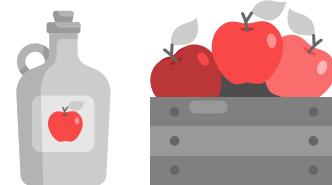
- The Government of Ontario should apply a graduated rate to the current spirits basic tax, with a zero percent mark-up on the first 50,000 litres sold.



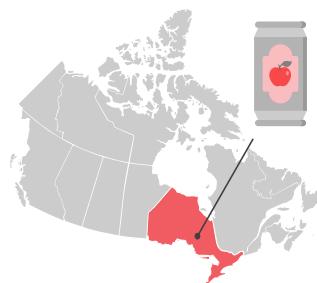
# ONTARIO'S CIDER INDUSTRY



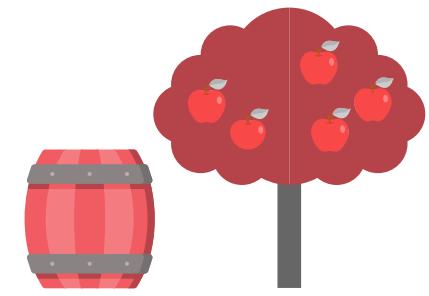
Ontario craft cider must be produced by a craft cidery in Ontario, who use 100% Ontario-grown apples or pears.



Ontario is home to 64 craft cider producers, using 100% Ontario apples as their main ingredient. Together, these producers used 23 million pounds of Ontario apples in 2017.<sup>30</sup>



Ontario is one of the top cider producing and selling provinces in Canada. In 2015, Ontario craft cider producers made about 2.1 million litres of craft cider.<sup>31</sup>



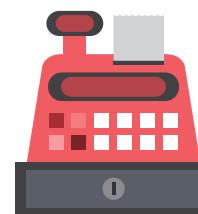
Many craft cider producers are in rural communities, have strong connections with local fruit producers, and contribute to regional economic development.<sup>32</sup>



The craft cider industry contributes \$12.7 million to the provincial GDP.<sup>33</sup>



Ontario craft cider comprises 11.5% of total cider sales at the LCBO.<sup>34</sup>



Between 2017 and 2018, the industry had over \$11.5 million in sales at the LCBO - an increase of 42 per cent from the previous year.<sup>35</sup>



In 2017, Ontario's craft cider industry generated \$73.5 million in economic activity.<sup>36</sup>

## REDUCING RED TAPE

As announced in the 2018 Fall Economic Statement, the Government of Ontario aims to reduce regulatory burden on businesses by 25 percent by 2020 and save firms at least \$400 million per year against the cost of complying with regulations.

As the Province takes action to meet this target, it should specifically examine red tape facing the beverage alcohol industry. The following section provides an overview of unnecessary regulatory burdens facing the spirits, wine, cider, beer, and mead industries as well as retailers that require special exemptions from local regulation.

### Eliminating Disparities at Farmers' Markets for Spirits and Craft Beer

Between 2014 and 2016, the AGCO administered a two-year pilot program to permit the sale of VQA wine and fruit wine, including cider made from 100 percent Ontario apples at farmers' markets. Following the success of the pilot initiative, effective May 1, 2016, the Province approved the continuation of this program.

Unfortunately, with this specific distribution channel, spirits are not treated equitably due to the long-standing categorization as "hard liquor." This long-standing view has created disparities between the various categories, putting the spirits industry and Ontario craft distillers at a disadvantage. The spirits industry relies on inputs produced in Ontario by Ontario farmers. Inconsistent rules impact customer experience and convenience as well as market access for local producers. Currently, craft brewers must apply for special licences to sell at farmers' markets – a process that does not apply to the other categories. Therefore, both spirits and craft beer should be available at farmers' markets alongside VQA wine, fruit wine including cider, honey wine, and maple wine.

#### RECOMMENDATION:

- The AGCO should allow Ontario spirits and craft beer producers with a retail store to sell their products at farmers' markets.

### Streamlining Reporting for Ontario Wineries and Cideries

Licensed Ontario wineries and cideries must report their sales to the LCBO monthly as long as the producer is in operation under the *Liquor Control Act*, Regulation 717, Section 16. Accordingly, wineries and cideries have to submit a monthly reporting form known as the "J10." While these producers must collect and share the data with the LCBO monthly, the Ministry of Finance and industry associations only review the data on a quarterly basis. This monthly reporting is not only time-consuming, but Ontario brewers, for instance, are not required to endure a similar process. This presents an opportunity for the Province to reduce red tape for Ontario wineries and cideries as well as standardizing reporting requirements between beverage alcohol categories.

#### RECOMMENDATION:

- The Government of Ontario should work with the LCBO, Ministry of Finance, and VQA Ontario to reduce the reporting Ontario wineries and cideries are required to complete from a monthly to a quarterly basis.

### Cutting Red Tape for Ontario's Wine Industry

Currently, the wine industry faces a number of regulatory burdens that present excellent opportunity for a government looking to reduce red tape. To begin, wineries are currently restricted by government policy on what they can sell at their stores. This limited, prescriptive list\* hinders the ability of wineries to provide customers with a wide range of products that complements their shopping experience. To make it easier for business owners, wineries should instead be provided with a list of items (other than beverage alcohol) that they *cannot* sell at their stores.

\*According to the December 2017 AGCO Winery Retail Store Information Guide, the following non-liquor products can be sold at an on-site manufacturer retail store: items used for storing, opening, carrying, and serving beverage alcohol; books, magazines, and other media related to food and beverage, local history, art, and tourism; clothing and accessories which display the manufacturer's branding; locally-produced artisanal products; dealcoholized wine and beer produced by the manufacturer; tickets for public events taking place in the community; gift cards and certificates to purchase the manufacturer's goods and services.

In addition, wine can be sampled at consumer or trade shows, but purchasing a bottle of wine is prohibited. As a result, businesses who showcase their products at a trade show have to hope that customers will visit their winery or website at a later date to purchase the bottle of wine they sampled. This not only inconveniences consumers, it also makes it difficult for business owners to sell their products and effectively serve customers.

Currently, wineries and producers are also not allowed to offer wine club members favorable pricing. Doing so would allow customers to save money on wine purchased through their wine club, as well as help Ontario wineries attract new customers. In addition, advertising laws should be updated to permit prizeing. This would allow consumers to enter to win, for instance, a bottle of wine signed by the winemaker. Both wine club pricing and permitting prizeing are offerings that would likely appeal to Ontario consumers and are currently common practice in British Columbia.

Finally, privately-owned wine stores seeking to re-locate to another premise have a six-month period in order to do so. If the wine store owner does not meet that timeframe, they could lose their licence. With the expansion of alcohol retail locations across the province, there will be more locations selling alcohol. Some private wine store owners may want to relocate to maintain their competitiveness, but it may be difficult for business owners to find a suitable retail location and relocate within that six-month period.

#### **RECOMMENDATIONS:**

- The Government of Ontario should provide wineries with a list of products they are not allowed to sell, rather than the current restrictive list of items outlining what businesses are allowed to sell, enabling wineries to provide consumers with greater choice and convenience.
- The Government of Ontario should update wineries' AGCO manufacturer's licence ("Retail Store Authorization") to enable wineries to sell bottles of wine at consumer and trade shows, thereby increasing consumer convenience and supporting business owners.

- The Government of Ontario should allow wineries to offer wine club members favorable pricing by modifying or granting an exemption to Ontario Regulation 116/10 under the *Liquor Control Act of Ontario*.
- The Government of Ontario should pass regulations under the *Liquor Licence Act* to allow for prizeing without requiring a lottery licence. Such prizeing should continue with the rules that do not require the purchase or consumption of wine.
- The Government of Ontario should eliminate the maximum of six months that off-site winery stores have to renovate or relocate their business before losing their licence.

#### **The Future of The Beer Store**

The recent passage of Bill 155, *Bringing Choice and Fairness to the People Act, 2019* ended the Province's ten-year contract known as the Master Framework Agreement (MFA) with The Beer Store.\* As the province expands the sale of beer into additional distribution channels, there is an opportunity to address longstanding concerns of Ontario's craft beer producers, specifically, securing shelf space at the LCBO and The Beer Store. Ultimately, Ontario's new alcohol sales and distribution regime must be structured in a way that benefit both domestic and foreign producers as well as large and small producers. It is also an opportunity to better align all four categories and develop a comprehensive approach to beverage alcohol sales that balances consumer convenience with the development of the industry as a whole.

In 2017, The Beer Store launched an online and home delivery option; however, this is currently only available in select Ontario communities. Section 15 of the Ontario Regulation 718 in the *Liquor Licence Act* prohibits The Beer Store from working directly with liquor delivery service providers licensed under the Act. This hinders The Beer Store's

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\*In 2015, the previous provincial government signed the Master Framework Agreement (MFA) with The Beer Store and Molson, Labatt, and Sleeman. The contract was to expire in December 2025 and contained several stipulations. First, the contract capped the number of grocery stores that could sell beer at 450 across Ontario, and limited the amount of beer grocery stores could sell to six-packs and singles. Second, Labatt and Molson were required to freeze the price of their most popular products for two years. Third, the Beer Store had to spend \$100 million in capital investments to upgrade their stores and improve customer experience.

ability to scale home delivery across Ontario and restricts the ability of consumers to pay for products electronically through The Beer Store's home delivery app. Including a new sub-section in the existing regulation could provide The Beer Store (or its successor) with exemptions from the prohibitive provisions in Section 15 and eliminate these obstacles.

**RECOMMENDATION:**

- With the forthcoming expansion of beer into additional brick-and-mortar stores, the Government of Ontario should consider creating a new sub-section under Section 15 of the Ontario Regulation 718 in the *Liquor Licence Act* to allow The Beer Store or its successor to provide more consumers with e-commerce and home delivery options.

### Balancing the Needs of All Beer Producers

Craft beer producers in Ontario confront a number of regulatory and policy challenges that restrict their ability to access markets and compete. Perhaps most importantly, craft beer producers face several challenges to get into the LCBO and The Beer Store. For those who do gain entry, they struggle to compete against major brands with name recognition and the economies of scale that allow for lower price points. As the Province looks to modernize the sale and distribution of alcohol, new policies should consider the issues that craft producers confront as they seek to gain shelf space at more retail outlets.

Simply allowing grocery, convenience, and big box stores to sell beer may not, in and of itself, solve the issues facing locally-made and locally-owned craft breweries.

**RECOMMENDATION:**

- The Government of Ontario should review its current and proposed beverage alcohol sales policies to ensure that reform does not inadvertently favour larger beer producers.

### Improving Regulations for Mead Producers

Mead, also known as honey wine, is an alcoholic beverage made primarily through the fermentation of honey. There are 30 mead producers in Canada and five located in Ontario. Mead producers must have a Beekeeper Certificate of Registration through the Ontario Ministry of

Agriculture, Food and Rural Affairs (OMAFRA). They must also have 100 bee colonies to receive AGCO authorization to sell mead to the LCBO for distribution or at an on-site retail store. The latter requirement deters individuals from entering the mead industry.

The impacts of climate change, the widespread use of agricultural pesticides, and prevalence of treatment-resistant bee and hive pests are leading to the catastrophic loss of honeybees in Ontario and around the world. Consequently, mead makers in Ontario find it challenging to achieve and sustain 100 bee colonies to meet the AGCO's requirement. In fact, a mead producer must have well over 100 colonies, potentially 150 to 200 bee colonies, to successfully meet this stringent requirement due to the above challenges. Moreover, if the number of bee colonies a mead maker has drops to less than 50, they cannot obtain insurance coverage for catastrophic loss through Agricorp – an agency of the Ontario Government. If a mead maker's apiary has less than 50 bee colonies, they are no longer considered a commercial farming entity or eligible for Agricorp insurance coverage.

Currently, mead producers must deal with the disparities between the AGCO for honey wine production and cumbersome requirements for bee colony insurance. Consequently, aspiring mead producers must assume significant financial risk and capital investment to enter the industry.

The current AGCO regulation means that to produce mead, an individual must be knowledgeable and skilled in both beekeeping and winemaking, resulting in a significant workload and expense. The regulation also requires that the licensee own at least 100 colonies, preventing a mead maker from entering into a more efficient honey sourcing arrangement. In other words, mead makers cannot purchase honey from local honey producers to use as a source of sugar to make their own products. This consequently stifles creativity in product development and restricts the ability of producers to source unique blends of honey. Rather than focusing on mead excellence, efficiencies, or innovation, producers are forced to focus on managing their livestock and maintaining their honey supply.

**RECOMMENDATIONS:**

- The AGCO should revisit the requirement that mead producers must have 100 honey bee colonies each year and reduce the number to 50 bee colonies to align with the Agricorp requirement for commercial insurance coverage.
- The AGCO should allow mead producers to partner with local beekeepers to meet the 100 colonies requirement and/or acquire honey from Ontario beekeepers to produce their own products.

**Streamlining Licences and Associated Costs**

To open a winery in Ontario, a business owner needs to obtain a prohibitive number of licences through multiple government agencies, including manufacturing, retail sales, by the glass, direct delivery, and off-site warehouse licences. A prerequisite to obtain these licences is a processing licence issued by the Ontario Farm Products Marketing Commission. The Canada Revenue Agency (CRA) also issues excise licences for both manufacturing and warehousing of alcohol. In addition, to produce VQA wines, producers must be members of the Grape Growers of Ontario and the Vintner's Quality Alliance (VQA). Not only are all of these licences and memberships costly, they are also time-consuming to obtain, maintain, and manage. The layering of licences with different timelines and conflicting requirements are administratively burdensome and costly for small- and medium-sized wineries. Craft beer, cider, mead, and spirits producers all face similar challenges which drive up costs and divert time and resources away from running their businesses.

**RECOMMENDATION:**

- The Government of Ontario, AGCO, and LCBO should review the licensing and reporting process with the goal of eliminating duplicative and unnecessary red tape for small- and medium-sized producers across all categories of beverage alcohol.

**Common Sense Regulation for Airport Retailers**

Efforts to modernize Ontario's beverage alcohol sales should look beyond traditional stakeholders and consider the challenges and opportunities current legislation presents to other retailers, such as airports. For passengers travelling through an airport, there is no discernible time of day. International hubs like Pearson Airport operate on a 24-hour

schedule and 70 percent of passengers are international, arriving in Toronto from different time zones. As a result, breakfast at Pearson Airport may actually be lunch or dinner for many passengers.

Currently, under Regulation 719: Licences to Sell Liquor, Section 25, beverage alcohol can only be sold during the hours of 9:00 am and 2:00 am on the following day at all Ontario airports. However, at Pearson Airport, 35 percent of all food and non-alcoholic beverage sales are generated between the hours of 4:00 am and 9:00 am. This disconnect prevents airports from serving passengers appropriately at restaurants, bars, and other licensed establishments with a liquor license, and puts Ontario out of step with other jurisdictions including Quebec, Alberta, and Nova Scotia where alcohol is available 24-hours a day.

The Greater Toronto Airports Authority estimates that 24-hour service would increase beverage alcohol sales by an additional 30 percent or \$12 million annually, having a positive impact on the province's domestic industry as well as the Province through increased tax revenue. For front-line employees at the airport, it also means increased working hours and income.

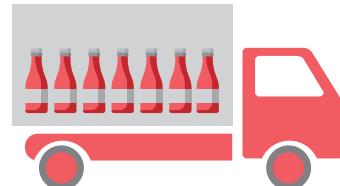
**RECOMMENDATION:**

- The Government of Ontario should provide local airports with an exemption under the *Liquor Licence Act*, thus allowing airports to sell beverage alcohol 24-hours a day, in post-security areas, and for both international and domestic passengers.

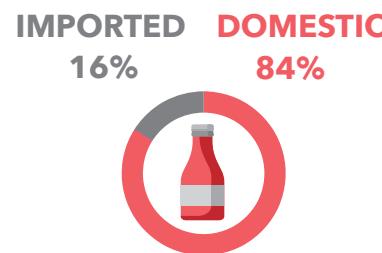
# CANADA'S BEER INDUSTRY



Beer is the most popular alcoholic beverage in Canada, comprising 41.5% of total alcohol sales through liquor boards and retail outlets.<sup>37</sup>



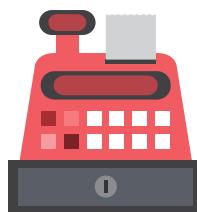
In 2016, the average Canadian purchased 223 bottles of beer.<sup>38</sup>



While domestic beers accounted for nearly 84% of beer purchases, imported beer accounted for almost 16% of all beer purchased in Canada in 2016.<sup>39</sup>



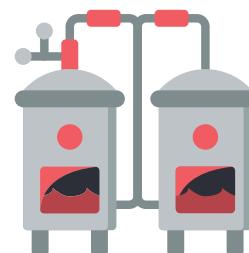
Provincial and federal taxes and liquor board mark-ups account for 47% of the average price of beer sold in Canada.<sup>40</sup>



Beer sales in Canada generate \$5.7 billion in government tax revenues annually, not including profits through liquor boards.<sup>41</sup>



In 2016, Canada's beer industry contributed \$13.6 billion to Canada's GDP, accounting for 0.7% of the Canadian economy.<sup>42</sup>



As of 2018, Ontario is home to 300 breweries - a 15.4% increase since 2017.<sup>43</sup>



In 2016, the beer industry employed almost 149,000 Canadians - including 52,435 Ontarians - in accommodation and food services, retail trade, manufacturing, and arts, entertainment, and recreation.<sup>44</sup>

## REMOVING INTER-PROVINCIAL TRADE BARRIERS

In Canada, antiquated inter-provincial trade barriers prohibit residents and non-resident tourists from purchasing beverage alcohol online and having products shipped to their home from other provinces. While regulations preventing consumers from purchasing wine, beer, cider, or spirits online are neither well-known nor well-enforced, shipping alcohol to one's home in Ontario carries a \$100,000 penalty or a one-year prison sentence.

A recent survey of 1,106 Canadians conducted by Ipsos between February 13 and 19, 2019 found 75 percent of respondents believe Canadians should be allowed to bring any amount of beer or wine across provincial and territorial boundaries. The vast majority of Canadians also believe that reducing inter-provincial trade barriers would be positive for businesses and consumers alike.<sup>45</sup>

In April 2019, the Government of Canada introduced legislation that would remove the federal requirement that anyone moving beer, wine, or spirits from one province to another must go through a provincial liquor authority – thus removing the final federal barrier preventing the flow of beverage alcohol across provincial and territorial boundaries.<sup>46</sup> The federal government, in turn, encouraged provinces and territories to enact changes that would allow for direct-to-consumer sales of alcohol.

Ontarians currently have access to more international than domestic products made by Canadians using Canadian inputs. The removal of internal trade barriers as it relates to beverage alcohol would support Ontario and Canadian producers by facilitating new distribution channels for local producers who lack access to other provinces.

As Ontario aims to provide consumers with greater choice and convenience, working with other orders of governments to eliminate internal trade barriers for beverage alcohol should be a priority. In addition, the federal government should ensure that any internal trade reforms are compliant with our international trade obligations.

### Benefits Associated with Removing Internal Trade Barriers

Currently, three Canadian provinces (British Columbia, Manitoba, and Nova Scotia) allow direct-to-consumer delivery of wine within their own

provinces. The remaining provinces and territories require purchases to go through liquor boards. When Nova Scotia removed barriers preventing direct-to-consumer sale of wine in 2015, the sale of Canadian wine within the province grew by 88 percent. Similarly, sales increased by 17 percent in British Columbia and 24 percent in Manitoba.<sup>47</sup>

Loosening inter-provincial regulations pertaining to beverage alcohol presents an opportunity for the Government of Ontario to demonstrate national leadership and benefit from increased tax revenue. In light of the steps taken by the British Columbia, Manitoba, and Nova Scotia Governments, as well as the size of the beverage alcohol market in Quebec, the Ontario Government should prioritize the removal of inter-provincial trade barriers with these provinces.

### Supporting Local Producers and Increasing Distribution Channels

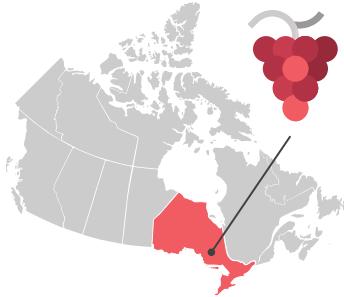
Although internal trade regulations are largely unenforced, they serve as barriers preventing SMEs in Ontario from selling across provincial borders, expanding into new markets, and reaching new consumers. This lack of market access blocks opportunities for growth and hinders competitiveness.<sup>48</sup>

For example, a tourist from Quebec visiting Niagara-on-the-Lake is not allowed to order a bottle or a case of the wine they sampled during their visit directly from the winery and have it shipped to their home in Quebec. Consequently, they are faced with two inconvenient options: leave the product behind or physically carry it home with them. Given that Quebec has the highest per capita consumption of beverage alcohol in Canada,<sup>49</sup> removing this barrier with just one province could have a measurable impact on local tourism and economic growth in Ontario.

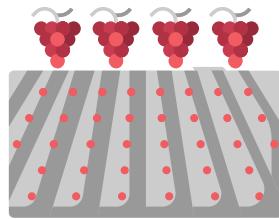
### RECOMMENDATIONS:

- The Government of Ontario should eliminate inter-provincial trade barriers with willing provinces/territories to allow residents to purchase alcohol products online and allow producers to offer direct-to-consumer delivery.

# ONTARIO'S WINE INDUSTRY



Ontario is the largest wine grape producing province in Canada in terms of acreage, volume, and sales.<sup>50</sup>



Ontario was home to over 455 grape growers in 2015. In 2017, Ontario grape growers produced 87,567 tonnes of grapes for wine production - up from 70,851 tonnes in 2016.<sup>51</sup>



Ontario's wine and grape industry created over 18,000 jobs in 2015.<sup>52</sup>



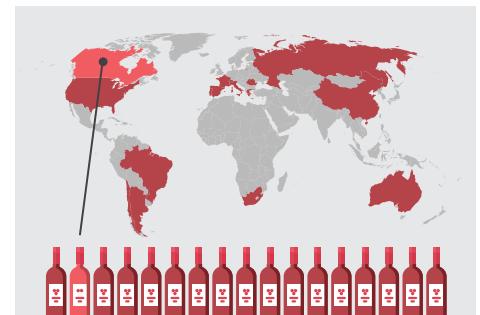
In 2015, the total economic impact of Ontario's wine industry was \$4.4 billion, including business revenue, wages, and tax revenue.<sup>54</sup>



In 2015, approximately 2.4 million tourists visited Ontario's 180 wineries, purchasing almost 100 million bottles of Ontario wine.<sup>55</sup> This resulted in \$847 million in tourism-related dollars for the province.<sup>56</sup>



Ontario's wine industry generated over \$755 million in federal and provincial taxes and liquor board mark-ups in 2015.<sup>57</sup>



Canada has one of the lowest percentages of domestic wine sales in comparison to the top 16 wine consuming nations.<sup>53</sup>



## TOURISM AND BEVERAGE ALCOHOL

Every year, Ontario welcomes over 141 million visitors across the province, contributing approximately \$33 billion to the province's GDP.<sup>58</sup> There are over 188,000 tourism-related businesses that employ 391,000 people in a range of areas, including food and beverage, recreation and entertainment, transportation, accommodation, and travel services.<sup>59,60</sup> The tourism industry creates jobs, benefits many adjacent industries, and promotes Ontario's diverse communities.<sup>61</sup> It also contributes over \$5 billion annually in tax revenues for the Ontario Government – larger than the economic contributions of the agricultural, forestry, and mining sectors combined.<sup>62</sup>

Data from the United Nations World Tourism Organization reveals that tourism is one of the fastest growing sectors of the global economy. Despite Ontario's globally-renowned cities, thriving arts and culture sector, and unique tourism offerings, the province's tourism industry has not been able to attract visitors at the same rate as tourist visitation has increased globally. Between 1996 and 2015, the number of non-resident tourists visiting Ontario declined from 9.8 million arrivals in 2002 to 8.4 million in 2015.<sup>63</sup> More recently, forecasted tourism arrivals between 2018 and 2019 grew by less than two percent.<sup>64</sup> The difference between potential and actual tourism visitation growth has been referred to as the tourism gap, which the OCC estimated to represent \$16 billion in foregone spending between 2006 and 2012 alone.<sup>65</sup> Thus, the Ontario Government should consider investments in critical resources to ensure Ontario remains a destination of choice for tourists.

Typically, those visiting a region like Prince Edward County or Niagara stay for several days, enjoying multiple experiences and excursions. When a tourist visits a winery, brewery, distillery, or cidery in Ontario, this creates a ripple effect that supports a range of sectors and spurs economic activity in regions across the province. Tourist spending on shopping, dining, attractions, accommodations, and car rental/transportation benefits the province as a whole.

To plan their trip, tourists rely on a combination of tourism marketing resources, including online reviews, word-of-mouth, visitor centres, and

printed materials, such as the Brewery Discovery Route, Wine Tasting and Route Planner, or Wine Country Ontario Travel Guide. Although provincial funding for some of these tools and printed materials will or has already ended, they are well-used by tourists and help inform, inspire, and influence travellers' decisions. Predictable and sustained tourism marketing funding from the province would enable marketing organizations to plan for and more effectively conduct campaigns.<sup>66</sup>

Tourism in Ontario is most popular in the summer months, which can leave local business owners and beverage alcohol producers straining to deal with seasonal crowding and visitors struggling to find reasonable accommodations. Meanwhile, tourism during the off-season, between November and March, tends to drop precipitously.

Regardless of the season, rural and remote communities emerging as tourist destinations must also contend with public safety risks stemming from poor road conditions and a lack of public transportation. This is especially concerning as some tourists and/or residents sample alcohol from local producers and then choose to drive.

As tourism grows in small and rural communities, additional pressure is placed on infrastructure, transportation, and housing. The Ontario government should continue to invest in critical infrastructure to attract visitors and support the growth of local businesses and the broader tourism industry. Such investments will also attract skilled workers and help address the potential 91,236 tourism jobs that the industry predicts will go unfilled by 2035.<sup>67</sup>

### RECOMMENDATIONS

- The Government of Ontario should continue to invest in online and printed marketing materials for the tourism and beverage alcohol industries, distribute these materials more widely—including to Quebec, the United States, and abroad—and translate these resources to generate broader awareness.
- The Province's forthcoming Ontario Tourism Strategy should consult stakeholders from the beverage alcohol industry and the regions of

Ontario where this industry is most prevalent. The Strategy should examine the critical infrastructure, transportation, and housing investments that will enable the responsible growth of beverage alcohol and culinary tourism, particularly in small and rural communities.

## Expanding the Sale of Beverage Alcohol at Ontario Airports

In the last ten years, passenger air travel has grown considerably within Canada, with Toronto Pearson Airport in particular becoming an increasingly important entry point for visitors to this country. In 2008, non-residents accounted for 11.3 percent of individuals arriving in Canada through Pearson Airport, but this number reached 15.6 percent in 2018. Pearson Airport is also the first and last destination for 42 percent of Canada's tourists – presenting a unique opportunity to market Ontario-made beverage alcohol products to international (as well as domestic) travellers. Presently, approximately 40 to 50 percent of beverage alcohol products available at Pearson Airport are made in Ontario.

Currently, only departing international passengers can purchase duty-free products at Ontario's airports. Therefore, arriving domestic and international passengers as well as departing domestic tourists do not have the convenience of purchasing local beverage alcohol at the airport. As a result, these tourists spend their dollars outside of Ontario when purchasing duty-free products. This situation puts the province and its local industries at an economic disadvantage.

As the Province begins expanding the sale of beverage alcohol into corner, grocery, and big box stores, it should consider allowing all passengers to purchase beverage alcohol at the retail price at airport stores. British Columbia, Alberta, and Nova Scotia have already implemented retail operations in their airports to compliment their duty-free stores. As a result, these airports sell retail beverage alcohol with duties and taxes included to departing domestic passengers as well as arriving international and domestic passengers for consumption elsewhere.

According to Section 3(1)(e.1) of the *Liquor Control Act*, the Liquor Control Board has the power to authorize persons to operate government stores for the sale of liquor to the public. Amending this section could open new opportunities for both Ontario airports and Ontario beverage alcohol producers.

### RECOMMENDATION:

- The Government of Ontario should create a new provision in Regulation 232/16: Sale of Liquor in Government Stores of the *Liquor Control Act* that would authorize the sale of wine, cider, spirits, and beer at retail locations in all Ontario airports, similar to the provisions currently in place for grocery stores with wine boutiques.

## PUBLIC HEALTH CONSIDERATIONS

While support for both consumer choice and industry growth is important, it must be acknowledged that beverage alcohol is not an ordinary product as there are risks associated with its use.<sup>68</sup> From a public health perspective, it is important to note that an increase in the number of retail outlets for alcohol has been associated with an increase in alcohol consumption.<sup>69</sup> Research also indicates that alcohol-related harms can be reduced by restricting the availability of alcohol and limiting the number of places where beverage alcohol is sold.<sup>70</sup> Public health officials are concerned that the Province's decision to expand the sale of alcohol into grocery, convenience, and big box stores runs counter to a harm reduction approach and could impact the health of Ontarians as well as strain the province's health care system.

Heavy alcohol use\* is associated with causing or exacerbating various diseases and chronic conditions, including high blood pressure, stroke, liver disease, depression, anxiety, and cancer. Studies show that increasing the availability of beverage alcohol leads to an increase in heavy drinking as well as serious health-risks, including automobile collisions and violence.<sup>71</sup>

As the Ontario Public Health Association (OPHA) notes, annual costs directly attributable to alcohol-related harms in Ontario is significant – totalling \$5.3 billion per year in 2002 – and includes costs to health care, law enforcement, corrections, and lost productivity.<sup>72</sup> In 2015, visits to the emergency room increased by six percent after the Ontario Government permitted the sale of beer and wine in certain grocery stores.<sup>73,74</sup> In Canada, there are an estimated 5,000 alcohol-related deaths and 77,000 hospitalizations every year.<sup>75</sup>

Modernizing the sale of beverage alcohol to provide consumers with greater choice and convenience will impact a number of ministries and public policy decisions.<sup>76</sup> Accordingly, changes to beverage alcohol

\*Heavy alcohol use refers to drinking more than the daily or weekly limits. Canada's Low-Risk Alcohol Drinking Guidelines recommends that adult women consume no more than 10 alcoholic drinks a week, with no more than 2 drinks a day on most days. For adult men, Canada's Low-Risk Alcohol Drinking Guidelines recommends 15 alcoholic drinks a week, with no more than 3 drinks a day most days.

policies should not be made in isolation but in tandem with public health considerations and mitigation strategies.

The OPHA's analysis of the 2019 Ontario Budget notes that the AGCO's guidelines for tailgate events allows the public to bring and consume their own beverage alcohol. Event staff are not required to have SmartServe training and communities do not have input into the tailgate events hosted in their neighborhoods.<sup>77</sup> The Budget also permits municipalities to designate public areas, like parks, for the consumption of beverage alcohol. The OPHA notes this change could hinder the public's enjoyment of areas in family, child-friendly, or conservation areas, as well as potentially increase underage drinking and alcohol-related harms.<sup>78</sup>

To combat negative and unintended consequences of expanded beverage alcohol sales, the government should invest in public education campaigns that equip Ontarians with the knowledge needed to make responsible choices, including raising awareness of Canada's Low-Risk Alcohol Drinking Guidelines. These guidelines are meant to provide Canadians who consume beverage alcohol with an understanding of the potential risks associated with drinking above the suggested limits, advice on when not to drink (e.g., during pregnancy, when breastfeeding, when planning to become pregnant, when operating a vehicle, etc.), and how to reduce risks (e.g., drink slowly, eat before and while consuming beverage alcohol, etc.).<sup>79</sup>

Furthermore, the Province should invest in targeted campaigns, including those geared towards women and seniors.<sup>80</sup> In comparison to men, women are more vulnerable to the effects of alcohol.<sup>†</sup> Moreover, drinking more than the daily or weekly limits set out in Canada's Low-Risk Alcohol Drinking Guidelines is currently on the rise for women, especially those 35 years and older.<sup>81</sup> For seniors, almost half of all prescription drugs taken by older Canadians interact with alcohol, either

<sup>†</sup>Typically, women weigh less than men and those of smaller stature reach higher blood alcohol levels than those with larger bodies. Women also have less water in their bodies than men, which is needed to dilute alcohol in the body. In addition, women have less alcohol-metabolizing enzymes and digest alcohol in the stomach differently than men.

reducing or neutralizing the effects of over-the-counter and prescription medications. In addition, as we age, the body typically loses lean body mass. Accordingly, there is less water in the body to dilute the alcohol, alcohol is processed more slowly, and individuals are more sensitive to the effects of alcohol. The British Columbia Centre for Addictions Research therefore advises that older adults adopt lower limits of alcohol than those recommended for adults in general under Canada's Low-Risk Alcohol Drinking Guidelines.<sup>82</sup>

Under the current regime of beverage alcohol sales, certain safeguards are in place. For example, at the LCBO store managers and employees are provided with public health and safety training. In the spirit of preventative action, the government may wish to extend similar safeguards to other retail outlets so that employees are trained to understand the health risks associated with alcohol consumption, the variety of beverage alcohol products sold and how they can affect consumers, and how to identify customers who are under the influence.<sup>83</sup>

While the Special Advisor Report delivered to the Minister of Finance included a brief section on social responsibility, the document lacked substantive recommendations to address public health concerns. This section pointed to data from 2014 that found that the per capita cost attributable to substance use was the second lowest in Ontario, as well as Statistics Canada data that showed Ontario had among the lowest rates of impaired driving.<sup>84</sup> As the Province proceeds with significant reforms to the sale of beverage alcohol, it should not rest on its laurels on outdated data. Historic data should instead serve as a benchmark from which to assess whether more points of sale will increase the costs to health care, social services, and policing.

The Ontario Medical Association (OMA) notes that mechanisms should be in place to allow grocery, convenience, and big box stores to collect data on beverage alcohol sales. This data should, in turn, be used to by the government to determine whether the increased availability of beverage alcohol has led to an increase in alcohol-related problems and costs to the health care and social welfare system as well as inform future policy decisions by the Province.<sup>85,86</sup>

#### **RECOMMENDATIONS:**

- Given the potential health and social harms associated with increased access to beverage alcohol, the Government of Ontario should partner with relevant stakeholders, like the OMA and the OPHA, to promote Canada's Low-Risk Alcohol Drinking Guidelines and develop comprehensive and targeted public education campaigns that focus on increasing awareness of long-term and acute health risks.
- As beverage alcohol enters more points of distribution, the Government of Ontario should invest in the AGCO's capacity to monitor and enforce regulations, conduct investigations, and respond to complaints at various establishments that retail or offer alcohol products to customers.
- The AGCO should partner with the OMA and other public health stakeholders to develop educational training tools and resources for businesses seeking to obtain an alcohol retail licence.
- In partnership with private sector stakeholders, the Government of Ontario should collect data to assess the potential impact of beverage alcohol sales reform and use this data to make evidence-based decisions on public health risk mitigation and/or further reform.
- The Government of Ontario should engage the beverage alcohol industry to increase public awareness and understanding of responsible consumption.

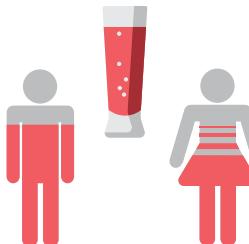
# PUBLIC HEALTH CONSIDERATIONS



In 2013, approximately 80% of Canadians consumed alcohol.<sup>87</sup>



In Ontario, those between the ages of 19 and 24 have the highest rate of binge drinking.<sup>88</sup>



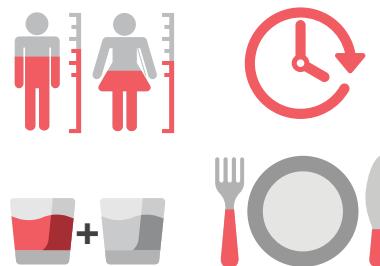
Rates of heavy drinking are higher for men than women. However, heavy alcohol use is on the rise among women aged 35 and older.<sup>89</sup>



In 2002, alcohol-related harms in Ontario was estimated at \$5.3 billion, including costs to health care, law enforcement, corrections, and lost productivity.<sup>90</sup>

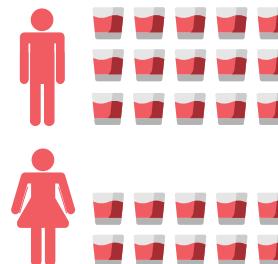


Research indicates that an increase in the number of alcohol retail outlets leads to greater alcohol consumption and related harms, including assault, injuries, and public disturbances.<sup>91</sup>



The Canadian Centre on Substance Abuse provides the following safe drinking tips:

- Set limits and stick with them;
- Drink slowly;
- For every alcoholic drink, have 1 non-alcohol drink; and
- Eat before and while drinking.<sup>92</sup>



To reduce long-term health risks, Canada's Low-Risk Alcohol Drinking Guidelines recommends that adult women consume no more than 10 alcoholic drinks a week and adult men consume no more than 15 alcoholic drinks a week.<sup>93</sup>



Consuming more than the safe amount of alcohol can aggravate health problems, including:

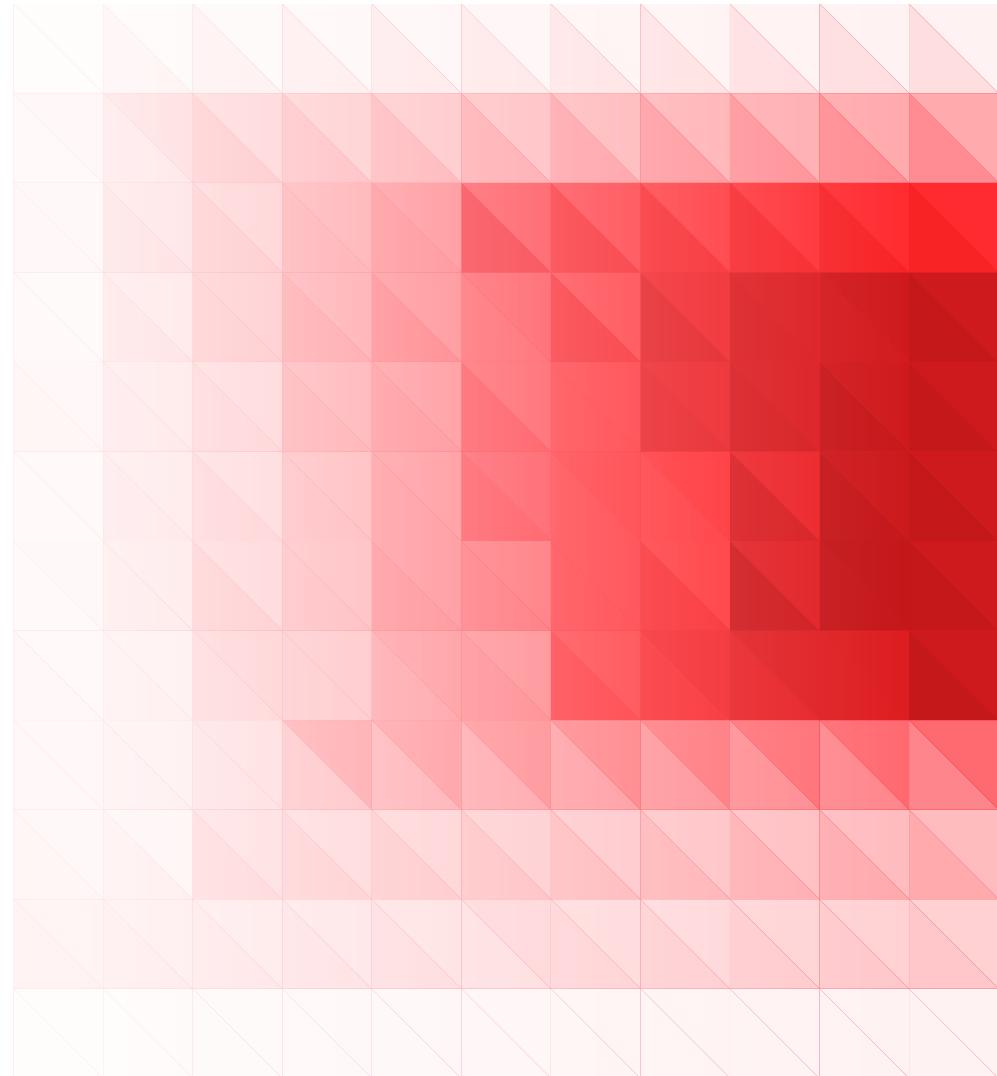
- high blood pressure;
- mood disorders;
- diabetes;
- digestive problems; and
- osteoporosis.<sup>94</sup>

## CONCLUSION

As this report demonstrates, the impact of the beverage alcohol sector extends beyond just alcohol – it has broad impacts across the economy and encompasses agriculture, tourism and hospitality, and regional economic development. Many beverage alcohol producers view themselves as stewards of the land, given their connection to local farmers and reliance on agricultural inputs; theirs is a valuable local industry that demonstrates the passion, innovation, and talent of Ontarians.

While the Ontario government's desire to modernize the sale of alcohol in this province is laudable, as outlined in this report, a comprehensive approach to reform is needed to avoid further reinforcing inequities driven by regulatory burden and a patchwork of policy decisions to date. Rather than focusing efforts on beer alone, the Province should also focus on the important contributions of wine, cider, and spirits producers, for whom it takes years and significant investment to produce a batch of alcohol and generate profit. By getting the modernization process right, the government could unlock economic growth and generate greater tax revenue to fund the public services Ontarians rely on.

The beverage alcohol file is currently at a critical juncture. Policymakers must work with all categories of producers, the LBCO, and public health officials to bring about comprehensive, evidence-based reforms that benefit consumers, producers, and the province alike.



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