

FINAL REPORT AND RECOMMENDATIONS

Nunavut Liquor Act Review Task Force



A New Approach: HALTING THE HARM



Document prepared by **NORTH SKY CONSULTING GROUP LTD**

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FOREWORD

The Nunavut Liquor Act Review Task Force held meetings and consultations in every Nunavut community seeking views on how the *Nunavut Liquor Act* should be changed to better meet the needs of Nunavummiut. We are grateful to all the people who shared their opinions, experience, evidence, and expertise with us. Our report is based on consultation findings, and a review of the relevant national and international research about alcohol consumption, as well as the recent trends in the development of alcohol policy and legislation.

A cornerstone of our recommendations is the understanding that alcohol is not an ordinary commodity; rather, it is a legalized drug with the capacity to impact many lives. For some Nunavummiut, alcohol consumption contributes to poor health, family breakups, poor education outcomes, and crime. Nonetheless, for those who drink in a low-risk manner, alcohol can enhance personal and social experiences. We acknowledge that people hold many divergent and passionate opinions about how government should regulate alcohol. Some people are calling for prohibition in all Nunavut communities, while others are calling for a liberalization of current liquor laws. The majority of consultation participants want to see laws that provide an appropriate balance between protecting society from alcohol-related harm while allowing individuals the opportunity to drink responsibly. With this in mind during our deliberations, the Task Force placed a special importance on developing recommendations that will reduce alcohol-related harm, and encourage responsible behaviour.

Underpinning our recommendations is a strong belief that many of the alcohol-related problems we see today could be prevented. We believe that Nunavummiut, working together, can reduce these problems and make our communities healthier and safer places for everyone. Our recommendations place major emphases on efforts to change the drinking culture through strengthened community empowerment, greater enforcement against the illegal alcohol trade, more efficient sale and distribution systems, and a new focus on harm reduction and social responsibility.

The Task Force, with the knowledgeable assistance of the staff of the Nunavut Liquor Commission, has undertaken a preliminary costing of some of our major recommendations. The early indications are that some recommendations will result in

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increased efficiencies and eventual cost savings. However, the Task Force acknowledges that some of our recommendations are ambitious and will put an additional financial burden on the government. We sincerely believe that in the longer term the cost of doing nothing will be greater.

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TERMS OF REFERENCE

The Hon. Minister Keith Peterson convened the Task Force on the *Nunavut Liquor Act* Review in April 2010. He mandated the Task Force to make “*meaningful recommendations for changes to the Nunavut Liquor Act that will reflect the dynamic needs of Nunavummiut*” and to identify how the *Act* can “*be used as a vehicle to positively promote the responsible use of alcohol.*” In particular, he asked the Task Force to make recommendations on the following:

- The Liquor Licensing Board and its reporting requirements;
- The Liquor Commission and its reporting requirements;
- Licences and permits;
- Cancellation and suspension of licences;
- Plebiscites concerning licences;
- Plebiscites concerning restriction or prohibition; and,
- Penalties for contravening the *Act*.

The Task Force Members represent a cross section of Nunavut agencies. The members are:

Donna Adams (chair)	Qullit Nunavut Status of Women Council
Esau Tatatoapik (vice chair)	Alcohol Education Committee
Dr. David Wilman	Nunavut Liquor Licensing Board
Miranda Atatahak	Youth Representative
Jack Anawak	Nunavut Tunngavik Inc.
John Ningark	MLA
Fred Schell	MLA (resigned)
Dr. Geraldine Osborne	GN Department of Health (appt. May 2011)
Supt. Hilton Smee	RCMP (appt. Oct 2011)
Dr. Isaac Sobol	GN Department of Health (retired May 2011)
Supt. Howard Eaton	RCMP (resigned on transfer Oct. 2011)

Not all Task Force members attended every meeting but all members were active in the deliberation discussions, and in reviewing papers. The resulting recommendations contained in this report represent the consensus opinions of the Task Force members.

ACKNOWLEDGMENTS

In undertaking this work, the Task Force was assisted by many individuals and groups. Over 1000 people participated in the consultation meetings. It is impossible to thank each of you by name, but we truly appreciate your involvement and willingness to share your experiences and expertise with us. The Task Force members owe a special thanks to the many hamlet representatives who helped to promote, coordinate, and host our meetings in each community. The Task Force also wants to thank the staff of the Nunavut Liquor Commission, the Liquor Enforcement and Inspection Division, and the Departments of Finance, Health and Social Services, and Justice for their professional support and generosity in answering every question asked.

The submission of this report to the Minister of Finance is the culmination of twenty-seven months of hectic activity on the part of the Task Force. Our members travelled to every community in Nunavut in order to meet with stakeholder groups and hold public meetings; held many teleconference and face-to-face meetings to review progress and formulate our position, and, during the last few months, read and critiqued many draft versions of this report to ensure that it accurately reflects what we heard from Nunavummiut and what we, as members of the Task Force, want to recommend to the Government of Nunavut. This whole initiative could not have been undertaken and brought to conclusion without the tremendous and untiring support provided by the North Sky Consulting Group. Members of the North Sky team provided support and guidance for the Task Force from our first meeting in April 2010, until the day the report was completed and ready. North Sky organized our community visits and meetings, scheduled our travel (often several times over due to the vicissitudes of Arctic weather), arranged our accommodations, helped to accurately record and analyze the mountain of information and opinion presented to us, and patiently worked with the Task Force members as we deliberated over our conclusions and recommendations. The members of the Task Force greatly appreciate the support and guidance provided by the North Sky team, and commend them for their commitment and their professionalism.

Finally, we wish to thank all those individuals who provided, in different ways, support and encouragement to the Task Force to undertake this extremely challenging initiative.

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EXECUTIVE SUMMARY

A change of direction

The Hon. Keith Peterson, Minister of Finance, mandated the Nunavut Liquor Task Force to make “*meaningful recommendations for changes to the Nunavut Liquor Act that will reflect the dynamic needs of Nunavummiut*” and to identify how the *Act* can “*be used as a vehicle to positively promote the responsible use of alcohol.*” This summary provides an overview of the Task Force’s consultation and recommendations on the *Nunavut Liquor Act*.

During the Nunavut-wide consultation, the Task Force members were constantly reminded of the harm alcohol has caused within the territory. Many Nunavummiut are calling on the government to recognize the extent of this harm, and to institute a new approach to the sale and supply of alcohol. They are asking government to focus on harm reduction and, in particular, to bring about changes to the drinking context to encourage a climate of moderation and responsible use. Consistent with community traditions, many people have advocated that action be taken in the following areas:

- Provide better education in all communities whether alcohol use is banned or simply controlled. It is important for all citizens to understand the significant harm caused by the irresponsible use of alcohol and for Alcohol Education Committees to know what support they can receive at the community level and what practices are working in other communities.
- Crack down on those who do not respect people's wishes for healthy community development. Bootleggers who profiteer from irresponsible drinking must be stopped. Action must also be taken to the fullest extent possible to stop the illegal importation of liquor.
- Where there is controlled distribution of alcohol, action must be taken to encourage responsible consumption practices and discourage binge drinking.
- Practical and significant efforts should be made to treat those struggling with alcohol addiction and encourage healing at the individual, family, and community

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levels. No community can afford the casualties that are often associated with severe alcohol abuse and rehabilitation plans should encourage everyone to constructively contribute to their community.

The Task Force recommendations have not been made lightly. We are very aware that while a significant majority of Nunavummiut wants to see changes, there are many differences of opinion among residents, stakeholders, and experts on how the government should institute these changes to curb the harm. Some people are calling for prohibition throughout the Territory, while others want to liberalize the liquor laws. Many people, representing dissenting views, presented compelling arguments to the Task Force to substantiate their positions. The Task Force carefully considered these arguments along with the information and data provided by governments, non-profit agencies, front-line community workers, and others.

Based on our review we are recommending significant changes to the *Nunavut Liquor Act*. We are proposing a new policy framework and approach principally aimed at curbing alcohol-related harm while also serving the needs of the responsible consumer. We were faced with some very difficult choices in developing our recommendations. Our members accept that alcohol is a legalized drug that has caused considerable harm. We agree that completely stemming the flow of alcohol would significantly reduce alcohol-related problems. However, we are aware that even with the best intent, prohibition is a very difficult policy to enforce, and it allows bootleggers to prosper. We also acknowledge that many responsible drinkers in Nunavut are penalized by the current sales and distribution system. We strongly support the view that communities, with appropriate assistance, are in the best position to determine their alcohol status, to monitor consumption, and to design and implement harm reduction strategies.

Our recommendations are evidence based, and respond to Nunavummiut's call for harm reduction. Each recommendation is an integral part of a comprehensive strategy and therefore should not be viewed in isolation of other recommendations. The Task Force took considerable care in attempting to understand the cause and effect of each recommendation and their linkages to one another. Any changes to the recommendations may influence the effectiveness of the strategy and therefore changes should be carefully considered in light of the overall goal of harm reduction, and improving the supply and distribution system.

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The key elements of the strategy include:

- Replace the current *Nunavut Liquor Act* with a new *Act* that is easily understood by all;
- Target special measures to stop bootlegging and the illegal manufacturing, sale, and distribution of alcohol;
- Strengthen community empowerment to deal with alcohol related issues;
- Change the drinking culture;
- Improve the alcohol control, supply, and distribution system; and,
- Increase efforts to help those individuals and families struggling with the outcomes of addiction.

This report is structured into three parts. In Part 1 – Alcohol in Nunavut, we present and consider the extent of alcohol-related harm in Nunavut. In Part 2 – Changing the Drinking Context, we provide a synopsis of the perceived strengths and weaknesses of the existing *Act*. We also give an overview of the research undertaken to identify and investigate the type and proven effectiveness of national and international alcohol policies, and the transferability of these policies to Nunavut. In Part 3 – Making it Happen, we present and examine the rationale for our recommendations towards minimizing alcohol-related harm, and improving the alcohol control, supply, and distribution systems.

PART 1 SUMMARY – ALCOHOL IN NUNAVUT

During the consultation phase of this project, many people commented that the Inuit are experiencing and having to react to significant changes in their community economies and overall society. Alcohol is often the ‘escape’ drug of choice for those who struggle to cope with these new realities. The harm caused by the irresponsible use of alcohol is putting considerable pressure on individuals, families, and communities, as evidenced by the following:

- Alcohol consumption is rising in Nunavut, particularly among young people;
- Heavy binge drinking is well above the national average in Nunavut;
- Addressing Fetal Alcohol Syndrome, which is a preventable condition, costs the GN about \$1.5 million (2002) per child from childhood to adulthood;

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- During the period of 1999 to 2007 approximately 23% of all accidental deaths involved alcohol, and 30% of homicides were associated with drugs and/or alcohol;
- Between 1999 and 2009, approximately 61% of alcohol-related suicides were in unrestricted communities, approximately 23% occurred in restricted communities, and 9% were reported in prohibited communities;
- RCMP officers estimate that 95% of their call-outs are alcohol-related;
- Homicides are 3.12 times higher in unrestricted communities when compared with prohibited communities;
- Reports indicate that 90% to 95% of Baffin Regional Correction Centre inmates were intoxicated at the time of their arrest and 95% of the prison population are identified as having drug and alcohol problems;
- It is estimated that the economic value of bootlegging in Nunavut is in excess of \$10,000,000 per year;
- There are no statistics in Nunavut to show the impact of alcohol on productivity. Nonetheless, many people commented that alcohol-related absenteeism is quite high in some worksites; and,
- Educators also told the Task Force that alcohol-related absenteeism is common among some high school students in some communities.

While there is significant and deserved focus on the harmful effects of alcohol in Nunavut, there are many Nunavummiut who drink and consume alcohol in a responsible manner.

PART 2 SUMMARY – CHANGING THE DRINKING CONTEXT

A fundamental question for the Task Force was, in what ways does the current *Act* contribute to alcohol-related harm, and can changes to the *Act* minimize or remove this harm? The Task Force found that many Nunavummiut are not satisfied with the existing *Act*, which was inherited from the NWT at the time of division.

Although there was much finger pointing at government for the perceived failures of the current *Act*, there was also a general recognition that the problems and issues

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contributing to alcohol-related harm are complex. People understand that changing laws and regulations is only one step in bringing about positive change. During the consultation meetings most people agreed that a constructive change to the drinking culture would require more than government intervention. Many presenters pointed out that there are a myriad of other factors—outside of the *Act* and government’s immediate control—that will need to be addressed.

Many people said they believe that the GN makes considerable profits selling alcohol and this money should be used to facilitate harm reduction initiatives. However, the Task Force reviewed information that demonstrated the GN actually spends far more money on addressing alcohol-related harm than it makes from the sale of alcohol products.

There was considerable discussion, but no overwhelming consensus reached on the benefits and drawbacks of being a restricted, unrestricted, or prohibited community. Nonetheless, participants suggested that the drinking culture could be moderated and alcohol-related harm minimized if the *Act* was changed to better address the following:

1) Minimize Harm:

- a. Target and stop bootlegging and the illegal distribution of alcohol;
- b. Strengthen community capacity and involvement in addressing harm;
- c. Protect, educate, and inform (target vulnerable populations); and,
- d. Recognize and address the harm alcohol abuse has and can cause.

2) Improve systems and practices for the legal sale, supply, and distribution of alcohol:

- a. Strengthen the community control and involvement over legal alcohol sale and distribution;
- b. Provide communities with the capacity and support to properly monitor and control their local option (prohibition/restricted/unrestricted status); and,
- c. Address complexities and redundancies in the current control and distribution systems.

The Task Force reviewed many national and international research studies to gain a greater understanding of the linkages between alcohol availability and alcohol-related harm. In addition, the Task Force wanted to investigate the impact of changing laws on the level of alcohol-related harm. The findings of our research suggest that much of the

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harm attributed to alcohol can be addressed through well-designed, coordinated, and enforced public policies. These policies are identified in the following chart and include an indication of consultation participants' expressed support for this type of policy.

GOVERNMENT POLICY	LEVEL OF SUPPORT
1. Instituting government retail monopolies on the sale of alcohol	High level of support
2. Prohibition	Very mixed levels of support
3. Alcohol restrictions at population and individual levels	Medium levels of support
4. Raising the legal purchasing age	No support
5. Increasing prices and taxation	No support
6. Server liability	High level of support
7. Strengthening penalties against licensees or individuals who sell to minors, interdicted individuals, or other high-risk groups	High level of support
8. Regulating alcohol content - making available and promoting beverages of low alcohol content, thereby reducing the level of absolute alcohol consumed	Medium level of support
9. Drinking driving countermeasures	High level of support
10. Community mobilization	High level of support
11. Regulating alcohol promotion	Very limited discussion
12. Implementing prevention and intervention strategies including: <ul style="list-style-type: none"> a. Education and Persuasion b. Treatment and Early Prevention 	High level of support

When reviewing this list it becomes evident that the GN has already established components of some of these policies with the goal of moderating the drinking context in Nunavut. However, Nunavummiut are asking that, where appropriate, government take steps to strengthen the effectiveness, and in some situations broaden the application of these policies.

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PART 3 – MAKING IT HAPPEN

When Nunavummiut were asked to describe the “ideal situation” or what should be the goals of any new liquor laws, they invariably said they wanted their communities to be healthier and safer places. They frequently described a healthy and safe community as one where the drinking culture has changed, and alcohol-related harm has been significantly reduced because:

- a) Bootleggers have been shut down;
- b) Communities have meaningful input and effective control over local decisions;
- c) Well-resourced Alcohol Education Committees in every community;
- d) There is an effective and efficient control and distribution system in place;
- e) Penalties and deterrents are working; and,
- f) Appropriate and resourced education and treatment programs are readily available in Nunavut.

In this final section of the report we present the Task Force’s key recommendations toward achieving this ideal.

The Task Force recommends that the existing *Act* should be replaced:

1. Replace the current *Nunavut Liquor Act* with one that is not misleading and is easily understood by all (page 105);
2. Ensure the *Act* has a focus on harm reduction (page 106);
3. Ensure any changes to the *Act* are made quickly, reflecting the integrated and interdependent nature of the recommendations (page 106); and,
4. Develop a layperson’s guide to the *Act* (page 106).

The Task Force recommends that bootleggers be shut down by interfering with their supplies and markets, and by increasing penalties against bootlegging:

1. Where approved by the community, open a government run or licensed beer and wine outlet (page 109);
2. Liberalize access to beer and wine and restrict access to hard liquor (page 110);

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3. Standardize shipping costs for all communities (page 110);
4. The GN should abolish Import Permits and establish a monopoly over the importation, sale, and distribution of alcohol in the Territory (page 114);
5. Alcohol should be prohibited throughout Nunavut unless designated otherwise – current community designations continue to apply (page 115);
6. The GN should establish a territory-wide maximum limit on the amount of alcohol that can be purchased within a specified period (page 115);
7. That the GN should establish a maximum possession limit for alcohol, and that anyone in possession of alcohol over the allowed maximum be deemed to be in possession of alcohol for the purpose of bootlegging (page 116);
8. That the new *Act* should require mandatory disclosure of those who purchase large amounts of alcohol (page 117);
9. Special identification tags should be used to identify alcohol legally acquired through the GN sale and distribution system (page 117);
10. Strengthen search and seizure provisions under the *Act* and introduce strong civil forfeiture legislation to deter illegal sales of alcohol (page 119); and,
11. Significantly increase fines and penalties for bootlegging and redirect revenues to harm reduction programs (page 119).

The Task Force recommends strengthening community empowerment through changes to the plebiscite process, and by supporting and strengthening the strategic and educational roles of the AEC and Hamlet Councils:

1. Plebiscites should remain the main tool of control for communities (page 123);
2. There should be no changes to the prescribed duties of the Minister (page 124);
3. Voter eligibility should remain the same (page 124);
4. There should be an increase in the threshold of signatures required to trigger a plebiscite (page 124);
5. The frequency and term of plebiscites should not be changed (page 125);
6. The plebiscite questions and processes should be standardized (page 125);
7. All communities should be required to adopt a local alcohol strategy (page 126);
8. Communities should be allowed to institute 48 hour prohibition bans (page 127);

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9. Establish an appropriately mandated AEC in each community (page 131);
10. The approval of individual liquor orders should change to make it less onerous for AEC Members; (page 131)
11. Alcohol Education Committees should be given adequate resources and support through a secretariat (page 131);
12. AEC membership be extended to include ex-officio members (page 132);
13. Elected AEC members should be recognized for their commitment and be offered an honorarium (page 132); and,
14. There should be no changes to the election process for AEC members, or changes to terms of office for AEC members (page 133).

The Task Force recommends that the drinking culture be moderated through education to reduce high-risk drinking, and increase protection for vulnerable populations:

1. A new and well-resourced Social Responsibility Function should be incorporated into the mandate of the proposed Nunavut Liquor Corporation (page);
2. Maintain the legal drinking age at 19 (page 138);
3. Strengthen interdiction outcomes (page 138);
4. Place health warning labels on all alcohol containers sold in Nunavut (page 139);
5. Clarify the circumstances under which parents/adults can supply alcohol to children/youths (page 146);
6. Make it mandatory for licensees and liquor stores to require proof of age (page 146); and,
7. Make server training mandatory for all individuals working in licensed establishments and at functions held under Special Occasion Permits (page 146).

The Task Force recommends that improvements and operational changes be made to the control and supply system:

1. Reduce the number of classes of licences (page 147);
2. Clarify the conditions and uses of Special Occasion Permits (page 147);
3. Specify hours of operations for licensed establishments and clarify the Policy for Tolerance (page 148);

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4. Increase licence application and renewal fees to offset the GN's administrative and program costs (page 149);
5. Significantly increase fines and penalties for violations of the *Liquor Act* (page 149);
6. Standardize the size of a single measure of alcohol (page 150); and,
7. Establish a Crown Corporation, called the Nunavut Liquor Corporation, amalgamating the Nunavut Liquor Licensing Board, the Nunavut Liquor Commission, and the Liquor Enforcement Division (page 153).

The Task Force also made a number of supplementary recommendations. These recommendations reflect a number of participant recommendations that, while having considerable merit, fall outside the normal purview of a Liquor Act.

Supplementary Recommendations

- a) Facilitate collaboration and information sharing and data collection on alcohol purchasing between licensing, sales and distribution, and law enforcement agencies (page 120);
- b) More resources including education and informational materials should be provided to residents prior to a plebiscite vote (page 136);
- c) Prior to a plebiscite, sufficient time should be given to allow for community engagement and discussion (page 126);
- d) Mandatory reporting requirements for signs of alcohol abuse in the home and alcohol abuse by underage students should be strengthened (page 118);
- e) Interagency protocols for reporting alcohol abuse should be established where appropriate (page 118);
- f) Make available sufficient effective prevention, treatment, and support programs at the community and regional levels (page 142);
- g) Provide assistance for private sector and non-profit employers to establish Employee Assistance Programs to address alcohol issues in the workplace (page 142); and,
- h) Address confidentiality issues in order to allow elders, and family members to assist in addiction treatments (page 142).

PART ONE: ALCOHOL IN NUNAVUT

In Part One of this report we discuss the causes and effects of alcohol-related harm on the economic and social well-being of Nunavummiut, and our communities. We consider:

- *How and why Nunavummiut consume alcohol;*
- *How alcohol contributes to poor physical and mental health outcomes in Nunavut;*
- *The relationship between crime and alcohol in our communities;*
- *The impact of alcohol on our vulnerable populations; and,*
- *The best practices for limiting alcohol-related harm and the policy implications for Nunavut.*

1.0 THE NUNAVUT CONTEXT

During the consultation phase of this project, many people commented that the Inuit are experiencing and having to react to significant changes in their community economies and overall society. It was only 60 years ago—within the lifetime of many elders—that much of Inuit society lived off the land and worked within self-supporting family circles.

Past generations of Nunavummiut thrived in a harsh environment where hard work, cooperation, ingenuity, and self-reliance were necessary to survive. Everyone had a job to do to contribute to the well-being of the family, and the proficiency of their hunting and domestic skills determined the likelihood of their survival. Each person in the family had a place and a purpose. It was this confident community identity and well-practiced self-reliance that epitomized and still exemplifies Inuit core cultural values.

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In recent decades much has changed. Inuit families are practicing less and less those skills once needed for survival and many have had difficulty making the transition to a modern wage economy with too few jobs. Many Inuit families have come to rely on income support from government for survival and many, particularly in the smaller communities, live in poverty. Crowded and poorly maintained housing is of epidemic proportions. These circumstances, and the poorer than expected outcomes from the contemporary education system, have produced a sense of purposelessness for many people.

In particular, young men have a sense that finding a useful place in modern northern communities is almost impossible. They have lost their place, and the old skills that were once important for family and community survival have been replaced with barely and often inadequate income support. They have transitioned from proudly self-reliant and indispensable participants and providers within their community to people who are heavily dependent on government support and who have no recognized and significant role to play in the well-being of their community.

At the same time, while many are having a hard time becoming financially self-supporting in modern community economies, they are alert to and aware of the many opportunities and success stories elsewhere in the world through exposure to the Internet and the hundred-television channel universe. They are acutely aware that their material circumstances could be better.

Consequently, many people are losing hope and are turning to self-medication and binge drinking in order to 'zone out' and forget their circumstances. Many wake up each day without important and responsible work to do and, instead, look forward only to getting numb through alcohol and drug use.

This typically leads to negative outcomes both for the health of those who drink and also for other community members who are the victims of alcohol induced anti-social behaviour. The use and abuse of alcohol and drugs and its impact on community health is outlined in detail in the Task Force's preliminary report *What We've Heard* that is a companion document to this report. People despair at the consequences of this abuse, whether it takes the form of violence within families, criminal activity within communities, cost pressures on the health care and criminal justice systems, or the suffering and agony associated with the suicide of young people.

Elders have commented on many occasions that the growing abuse of alcohol and drugs is something they feel ill-equipped to deal with as they have little life experience with the

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situation to share with younger generations. They have trouble providing guidance to young family members because they don't know what will help.

Even as this is acknowledged, they and most people do know that the abuse of alcohol affects everyone. They know that bootlegging, or the unofficial, uncontrolled sale of alcohol, is pervasive and only serves to make a bad situation much worse. While alcohol consumption and drug use have not been part of the Nunavut way of life in the past, its introduction in recent decades has made the difficult cultural transition facing many Inuit almost toxic.

As described in *What We've Heard*, people are consequently calling out for action to reduce the harm created by alcohol abuse. They fear that it is tearing families and communities apart. It is making the cultural transition from proud Inuit origins to a modern, self-reliant, and healthy society far more difficult than it needs to be.

With much experience and with a deep-rooted confidence in their ability to set their own course, most community members insist that actions to reduce alcohol abuse should come from and be led by the communities themselves. This reflects back on and is drawn from Inuit traditions of self-determination and self-reliance, often referred to as the 'Inuit Way'. Taking ownership of the solutions at the community level will offer the best chances of success.

Of course, government can and should provide support for communities and ensure that they have resources to get the job done. Government can also influence the actions of others who can contribute to solutions. Working in partnership they can help promote responsible alcohol use, deal with those who transgress including those who would profiteer from irresponsible consumption, and support those victimized by anti-social behaviour. Most importantly, communities and government can work together to address the root causes of alcohol and drug abuse.

Consistent with community traditions, many people have advocated that action be taken in the following areas:

- Provide better education in all communities whether alcohol use is banned or simply controlled. It is important for all citizens to understand the significant harm caused by the irresponsible use of alcohol and for Alcohol Education Committees to know what support they can receive at the community level and what practices are working in other communities.
- Crack down on those who do not respect people's wishes for healthy community development. Bootleggers who profiteer from irresponsible drinking must be

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stopped. Action must also be taken to the fullest extent possible to stop the illegal importation of liquor into Nunavut and its communities.

- Where there is controlled distribution of alcohol, action must be taken to encourage responsible consumption practices and discourage binge drinking.
- Practical and significant efforts should be made to treat those struggling with alcohol addiction and encourage healing at the individual, family, and community levels. No community can afford the casualties that are often associated with severe alcohol abuse and rehabilitation plans should encourage everyone to constructively contribute to their community.

TASK FORCE COMMENTS

The Task Force members are convinced by the weight of research evidence, and the shared experiences of the consultation participants that the loss of cultural identity is a significant and underlying cause of alcohol abuse. In turn, the members believe that alcohol misuse is a substantial contributor to social, psychological, and physical harm in our communities.

Addressing the harm will require a holistic approach that not only deals with alcohol problems but also addresses the underlying causes of individual and community distress.

Changing the law is just one tool to effect change. Developing, implementing, and monitoring a comprehensive community plan of action is another important tool. Gaining a complete understanding of the issues that are leading to alcohol problems is critical to developing an effective community plan. Forming strongly supported networks at the community level is also required.

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2.0 ALCOHOL AND HARM

Today alcohol is part of everyday life in Nunavut. People drink for stress release and personal pleasure, at social events, and family celebratory occasions. Alcohol also plays a role in the local economy, providing jobs and supporting business enterprises in the tourism and hospitality industry. Some people drink in moderation for the cardiovascular health benefits. However, the World Health Organization (WHO)¹ refers to alcohol as “no ordinary commodity” for while it is part of our social customs and economic interests, it is also a drug with the potential to seriously harm the drinker and, through their intoxicated actions, hurt others.

During the consultation meetings the Task Force was reminded over and over again about the harm and hurt that alcohol misuse causes in every community. Elders and educators often spoke of the loss of the younger generation to alcohol and drugs. Health professionals identified harmful drinking as a significant public health concern. Social workers raised concerns about families where children go hungry because too much money goes towards buying alcohol and not food. The RCMP and justice workers provided information on the strong relationship between alcohol and crime. Every group expressed their concern that harmful drinking is on the increase among Nunavummiut and the youth in particular.

The consultation discussions about the role of alcohol in a host of individual and social problems always included the question of why are Nunavummiut, and particularly Inuit communities, so susceptible to the harm of alcohol? As discussed in the previous chapter, the Task Force learned that cultural alienation and poverty are often the key drivers of harmful drinking within the Territory.

2.1 How Much Is Consumed?

How much and how often a person drinks are significant determinants in the potential for harm. The more a person consumes the greater the risk for alcohol poisoning, accidents, injuries, and anti-social behaviour. Over time, if unhealthy consumption levels continue, then the individual has a much higher risk of

¹ Babor, T. F., Caetano, R., Casswell, S., Edwards, G., Giesbrecht, N., Graham, K., ... Rossow, I. (2005). Alcohol: No Ordinary Commodity. *Research and Public Policy*. Oxford: Oxford University Press.

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experiencing a multitude of alcohol-related health problems. Over 60 diseases and conditions have been attributed to high-risk alcohol consumption including cancers, cardiovascular disease, liver disease, high blood pressure, depression, anxiety, and alcohol addiction.²

The amount and frequency of drinking occurring in a community are key determinants in the overall health and well-being of the community. Many Nunavut community leaders agree with the findings that the greater the number of people participating in high-risk drinking behaviours, the greater the exposure of the community to crime, and the greater the pressure on health and social services.

“In my community many people are drinking in secret. They are ashamed.”
-Elder, Prohibited Community

The Canadian Centre for Substance Abuse (CCSA) has published low-risk drinking guidelines, which they encourage Canadian consumers to follow.

Low-Risk Drinking Guidelines		
Category	Men	Women
Lower risk drinking	15 drinks a week. Men should not regularly drink more than 3 units of alcohol per day	10 drinks a week. Women should not regularly drink more than 2 units of alcohol per day
Avoid alcohol addiction	Plan non-drinking days every week to avoid developing a habit	
Reduce your risk of injury and harm	No more than 4 drinks on any single occasion	No more than 3 drinks on any single occasion
Avoid FASD	Do not drink at all	
Harmful drinking	Regularly drinking over 8 drinks per day and over 50 drinks per week	Regularly drink over 6 drinks per day and over 35 drinks per week

² European Commission. Alcohol and Individuals. Europa, pg. 131. Retrieved from ec.europa.eu/health-eu/doc/alcoholineu_chap5_en.pdf

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Health Canada conducts an annual general population survey of alcohol and drug use among Canadians aged 15 years and older. The surveys are intended to determine the extent of alcohol and drug use in Canada, and to find out how many Canadians are affected by the use of alcohol and drugs even if they do not actually use them. This survey is called the Canadian Alcohol and Drug Use Monitoring Survey (CADUMS), and is probably the most complete and up-to-date data on alcohol and drug use in Canada.³ Unfortunately, the territories are not included in the CADUMS data. As a result, the statistical data on alcohol use and the related harm in Nunavut is less than that available to the Canadian provinces.

To compensate for the lack of available comprehensive data, Nunavut agencies have frequently conducted one-time surveys or they have mined existing databases and operational reports for information. Some of the information gathered has been collected sporadically, and is often a by-product of surveys or reports where alcohol was not the central focus of the study. The nature of the data, and the way the data is collected, makes it almost impossible to accurately compare Nunavut data to that from other jurisdictions, and to determine how prevalent the drinking problem is. These inadequacies in the data make it very difficult to identify and interpret trends in Nunavut. Nonetheless, there is some statistical data that is very informative. By utilizing this data in conjunction with the observations and experiences of Nunavut public and Inuit agencies, the Task Force has been able to gain a better understanding of the alcohol issues in Nunavut.

A Nunavut Bureau of Statistics report dated February 20, 2012 shows a major increase in the legal sales of alcoholic beverages in Nunavut between the years of 2000 and 2010.⁴ The table below shows that the volume of alcohol consumed yearly in Nunavut from 2000 to 2010 increased from 25,000 to 35,000 litres for spirits, 15,000 to 25,000 litres for wine, and 450,000 to 728,000 litres for beer. This report does not include homemade alcoholic beverages, duty free purchases, or alcohol that has been imported illegally (i.e. imported without a permit through the sealift or by someone travelling to Nunavut).

*Legal sales of alcohol in
Nunavut increased between
2000 and 2010.*

³ Health Canada. Canadian Alcohol and Drug use Monitoring Survey. Retrieved from www.hc-sc.gc.ca/hc-ps/drugs-drogues/stat/index-eng.php

⁴ Nunavut Bureau of Statistics. Retrieved from www.gov.nu.ca/eia/stats/

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Nunavut Sales of Alcoholic Beverages, 2000 to 2010											
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
	Value in Dollars ('000)										
Total, Alcoholic Beverages	3,400	3,717	3,790	3,824	3,928	3,799	4,263	4,903	5,077	5,372	5,921
Spirits	880	922	891	899	923	842	1,003	1,148	1,188	1,257	1,386
Wines	206	203	203	211	216	293	240	274	283	300	331
Beer	2,314	2,592	2,695	2,715	2,788	2,663	3,021	3,482	3,606	3,815	4,204
	Volume in Litres ('000)										
Alcoholic Beverages¹											
Spirits	25	27	25	23	24	19	26	29	30	32	35
Wines	15	13	13	14	16	25	18	21	22	23	25
Beer	450	460	461	474	478	427	517	596	620	661	728

Nunavut Bureau of Statistics, February 21, 2012

In 2010, Statistics Canada published data illustrating the sales of alcoholic beverages per capita for the population 15 years and over. While the Nunavut statistics are included with those of the Northwest Territories, the following table still provides a good indication of the amount of alcohol consumed in the Canadian Arctic. This table does not include alcohol imported illegally into Nunavut, homemade alcoholic beverages, or duty free purchases.

Sales of Alcohol Beverages Per Capita 15 years and Over				
	Beer	Wine	Spirit	Total
Canada	\$ 326.4	\$ 207.6	\$ 174.9	\$ 708.8
Newfoundland and Labrador	534.1	116.7	302.0	952.8
Prince Edward Island	355.0	121.6	226.7	703.3
Nova Scotia	382.0	144.4	246.1	772.5
New Brunswick	378.1	120.6	174.7	673.4
Quebec	386.3	307.2	95.0	788.4
Ontario	276.9	174.5	171.2	622.7
Manitoba	287.8	126.0	234.2	648.1
Saskatchewan	332.3	91.1	259.9	683.3
Alberta	326.4	166.0	222.0	714.4
British Columbia	323.4	250.9	217.5	791.8
Yukon	641.7	243.3	386.5	1,271.5
Northwest Territories and Nunavut	\$ 435.4	\$ 132.4	\$ 378.1	\$ 945.9

Statistics Canada, July 5, 2011

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The Inuit Health Survey (2007-8) was conducted with 1710 Nunavummiut over the age of 18.⁵ The survey found that when compared with national averages, Nunavummiut reported drinking less often than other Canadians. In contrast, in 2002 the Nunavut Department of Health reported that alcohol consumption in Nunavut was three times the national average with five (5) drinks per sitting.⁶

"It is feast or famine in our community. When there is no alcohol people are OK but when it is available people become greedy and quickly drink it until it is all gone."
-Participant, Restricted Community

The Inuit Health Survey also identified a significant gender difference with men being more likely to drink than women.

- 59% of respondents (age 18 years and over) reported that they had consumed alcohol in the previous 12 months. Of those who did consume alcohol men (65%) were more likely than women (35%) to report drinking alcohol. This compares to 77.3% of respondents who reported they had consumed alcohol in the same twelve-month period (2008) for the Canadian provinces (CADUMS).

The Survey also reported that heavy drinking in Nunavut is slightly higher than in the rest of Canada.

- The proportion of household population age 12 and older in Nunavut who reported heavy drinking (i.e. drinking five or more drinks on at least one occasion per month in the last 12 months) was 19.7%. This is only slightly higher than the national proportion at 17.2% and is much lower than the other two territories (NWT 31.1%, YT 28.4%).

There are slightly more heavy drinkers in Nunavut than the national average.

2.2 Binge Drinking

The data provides an indication of how much alcohol is consumed in Nunavut but it does not provide us with a clear picture of how people drink. Many Nunavummiut

⁵ Egeland, G.M. International Polar Year Inuit Health Survey. Retrieved from ywww.irc.inuvialuit.com/publications/pdf/ihs-report-final.pdf

⁶ NTI Submission to the Nunavut Legislative Assembly Standing Committee on Government Operations and Services on the Liquor Act, May 6, 2003

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suggest that while the problem with alcohol misuse is very visible in their community, they believe only a relatively small number of people are heavy drinkers. However, during the consultation meetings, community health professionals and social workers raised the concern that many Nunavummiut do not know what constitutes “low risk” drinking. Several community leaders expressed similar fears and warned that drinking to intoxication is the norm for too many people. Frequently, community workers advised the Task Force that binge drinking is a common characteristic of drinking patterns in their community.

In 2010, in its sponsored report “Alcohol: No Ordinary Commodity,” the World Health Organization concluded that the level of alcohol consumption, and how alcohol is consumed, matters for the health and overall social well-being of the community.⁷

“...The predominant pattern of drinking in a population can have a major influence on the extent of damage from extra alcohol consumption. Patterns that seem to add most to the damage are drinking to intoxication and recurrent binge drinking.” (Barbor et al. 2010)

⁷ Babor, T. F., Caetano, R., Casswell, S., Edwards, G., Giesbrecht, N., Graham, K., ... Rossow, I. (2005). Alcohol: No Ordinary Commodity. *Research and Public Policy*. Oxford: Oxford University Press.

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3.0 THE IMPACT OF ALCOHOL MISUSE

The Task Force did not have the data with which to estimate or determine the current cost of alcohol-related harm in Nunavut. However, the Canadian Centre on Substance Abuse (CCSA) reports that in 2002, the cost of alcohol-related harm in Canada totaled \$14.6 billion or \$463 for every living Canadian.⁸ This included \$7.1 billion for lost productivity due to illness and premature death, \$3.3 billion in direct health care costs, and \$3.1 billion in direct law enforcement costs. That same report identified that in 2002, the estimated costs of substance abuse to the Nunavut Government was \$62.7 million.

Harmful drinking is often separated into two realms:

1. The harm related to physical and mental health; and,
2. The harm related to social problems, often referred to as the “forgotten or invisible dimension.”

The Centre for Addiction and Mental Health (CAMH) categorizes the “forgotten dimension” into seven domains including: friendship and social life; financial position; home life and marriage; work, studies, or employment opportunities; legal or crime related problems; difficulty learning; and housing problems.⁹

“When I started to drink I did not know it could do so much harm. Today I know better.”
-Elder, Unrestricted Community

3.1 Physical and Mental Health Harm

Elders often told the Task Force that when they were introduced to alcohol they had no knowledge of its toxic effects partly because prior to European contact the Inuit had no experience with alcohol or other psychoactive substances. Today, most Nunavummiut are aware of the relationship between alcohol and many diseases and conditions. According to the Canadian Public Health Association (CPHA) drinking alcohol increases a person’s risk of developing several types of cancer and other

⁸ Rehm, J., Baliunas, D., Brochu, S., Fischer, B., Granm, W., Patra, J., ... Single, E. (2002). The Costs of Substance Abuse in Canada. Retrieved from koalicija.org/.../CostofsubstanceabuseinCanada

⁹ CHPA Position Paper. Too High a Cost: A Public Health Approach to Alcohol Policy in Canada. , Retrieved from www.cpha.ca/uploads/positions/position-paper-alcohol_e.pdf

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chronic diseases. Long-term alcohol use can lead to type two diabetes and diseases of the central nervous system, cardiovascular system, digestive system, and reproductive system.¹⁰

3.1.1 Alcohol and FASD

The Association also notes that Fetal Alcohol Spectrum Disorder (FASD) is one of the most serious alcohol-related harm to face society. This very preventable condition is caused by alcohol consumption during pregnancy. A fetus exposed to alcohol can have life-long disabilities and health problems. The effects are permanent. Some people with FASD will need a lifetime of extra health care, education, and social services. In Nunavut, health care costs related to FASD are estimated to be about \$1.5 million per child from childhood to adulthood.

"I want to cry when I see a pregnant woman drinking, it is wrong and they should be stopped!"
-Resident, Unrestricted Community

In Canada there are no official statistics on FASD. Experts estimate that FASD occurs in 1-3 per 1000 live births (Tough, 2009).¹¹ The Nunavut Department of Health and Social Services estimated in 2002 that 30% of pregnant women in Nunavut consume alcohol while pregnant and 85% of those children show symptoms of FASD.¹² An Inuit Prenatal Health Survey was conducted with 101 prenatal women.¹³ The Survey identified that:

- 52.6% reported ever drinking alcohol in the first trimester of pregnancy, and this dropped to 13.7% in their third trimester. During the first trimester about half the women consumed alcohol just once or twice. Whereas 2% had consumed alcohol on a daily basis. On average, alcohol was consumed six times during the first trimester.

¹⁰ *ibid.*

¹¹ Tough, Suzanne, Karen Tofflemire, Margaret Clarke, and Christine Newburn-Cook (2006). "Do Women Change Their Drinking Behaviours While Trying to Conceive? An Opportunity for Preconception Counselling." *Clinical Medicine & Research*, v. 4(2), 97-105

¹² Tarnow, N. (2010). *A New Approach to the reduction of Alcohol and Drug Abuse, Suicide, Domestic Violence and Crime in Nunavut: A Specific Strategy for 2010-2013*. Department of Justice, Government of Nunavut.

¹³ The Anaana Project Inuit Prenatal Health Survey, Qikiqtani Region, 2005-7 Source-Government of Nunavut Department of Health

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- The child health section of the IPHS reported 24% as the prevalence of drinking during pregnancy with 8% drinking more than five drinks on one occasion.

Educators and health workers believe FASD is on the rise in Nunavut. One educator advised that over the past decade there has been

*"My sister drank the whole time she was pregnant and my nephew is normal."
-Participant, Unrestricted Community*

an increased awareness of FASD among educators and others. This increased recognition of FASD symptoms is believed to be contributing to a better identification of children with FASD. In discussions with high school students the Task Force was surprised to hear some students discounting the effects of drinking on unborn children. The Task Force did visit one high school where the students were just completing a science unit on alcohol and health. These students appeared well informed about the dangers of drinking while pregnant.

3.1.2 Alcohol, Homicides and Accidental Death

Nunavummiut know alcohol consumption can prove fatal. Alcohol consumption cannot only lead to the death of the drinker, it can also put other people's lives at risk. Nunavut's Chief Coroner gave the Task Force mortality information for the years 1999 to 2007.¹⁴ The reports for this

30% of homicides in Nunavut have drug/alcohol involvement

period indicate that approximately 23% of all accidental deaths involved alcohol. The reports also show that 30% of homicides were associated with drugs and/or alcohol. In compiling the reports the presence of drugs and/or alcohol was determined by the Chief Coroner in instances when warranted, but not in all cases. The Task Force was advised that because of this reporting practice the actual figures could be higher than currently shown.

3.1.3 Alcohol and Suicides

As researcher Jack Hicks has noted, "Suicidal behaviour among young Inuit began to occur much more often among the first generation to be raised in

¹⁴ Chief Coroner for Nunavut. In Correspondence, March 2012

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settled communities. Youth suicides became frequent in the 1980s, and increased in numbers through the 1990s and the 2000s. The rate of death by suicide by Inuit in Nunavut is now 11 times the rate for the country as a whole, and nearly two-thirds of suicide victims are under the age of 24”.¹⁵ The Inuit Health Survey (2007-8) reported that 36% of respondents admitted to having attempted suicide at some point in their lives, and one third of these respondents reported drinking alcohol just before making the suicide attempt.¹⁶

As part of his research, Hicks examined the coronial records for deaths by suicide for the period of April 1, 1999 to March 31, 2009.¹⁷ During that period, there were 275 deaths by suicide by Inuit, including four Inuit who attempted suicide in their home communities and later died in a hospital outside of Nunavut. Of the 271 suicides by Inuit where death occurred in Nunavut, ethanol tests (blood alcohol content) were conducted on 225 (83.0%) cases and cannabinoid (marijuana) tests on 114 (42.1%) cases.

Hicks documented that 25.9% of male suicides and 35.0% of female suicides had alcohol in their body at the time of death. The levels of alcohol ranged from 3.0 to 74.0 mmol/l.

INTOXICANT IN BODY AT TIME OF DEATH	COMMUNITY WHERE DEATH OCCURED		
	UNRESTRICTED	RESTRICTED	PROHIBITED
Alcohol	60.5%	23.2%	9.1%
Marijuana	30.4%	35.8%	25.9%

It should be noted that having alcohol in the body at time of death is a different matter than having a lifetime history of alcohol abuse or dependency.

¹⁵ Hicks, Jack. (2012). “The painful transition: Explaining and preventing suicide by Inuit youth.” Naniiliqpita. 16-23. Retrieved from http://www.tunngavik.com/files/2012/04/9834.20-NTI_Springonline.pdf

¹⁶ Inuit Health Survey 2007-8 source Government of Nunavut, Department of Health (2012)

¹⁷ Hicks, Jack. *The painful transition: The social determinants and political epidemiology of elevated rates of suicidal behaviour by Inuit youth*. (Forthcoming doctoral dissertation). The University of Greenland, Greenland.

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3.2 Alcohol and Crime

In nearly every public consultation meeting participants consistently linked alcohol to crime in their community. Nationally and internationally there is a growing body of research that supports the view that alcohol consumption can lead to an increase in criminal behaviour. Social scientists point out that understanding and estimating the relationship between alcohol and crime is very important for communities. These scientists reason that when communities fully understand the nature and scope of this relationship, the community is in a better position to design effective public policy and to implement appropriate crime intervention programs. Many consultation participants made the same point to the Task Force and they asked for more government support to identify problems and to implement community level alcohol and crime initiatives.

Estimating the role of alcohol in crimes can be difficult. Participants told the Task Force that many crimes in Nunavut remain unreported, and those that are reported often lack specific information about the impact of alcohol consumption on either the offender or the victim. In Nunavut, the RCMP and the Nunavut Department of Justice have collected information that will help communities to better understand, estimate, and address alcohol-related crime.

3.2.1 RCMP Call-Outs

The RCMP has compiled statistics on the number of call-outs where alcohol consumption is believed to be a contributing factor. The data indicates that alcohol was involved in approximately 60% of the call-outs in 2011. However, in meetings with RCMP officers in restricted and unrestricted communities, the front-line officers said that in their opinion between 90% and 95% of call-outs in their community involve alcohol. The Task Force queried the RCMP on the obvious discrepancy between detachment information given to the Task Force, and the official statistics. The RCMP suggested that the discrepancy was a result of coding priorities. In many cases call-outs involving alcohol will be identified by a primary offence such as breaking and entering, and although alcohol played an important factor in the person's behaviour, alcohol consumption is not necessarily identified as a contributing factor to the call-out. Between 1999 and 2010, there was a sharp rise in violations for disturbing the peace and mischief. In 1999, these two categories amounted to 29.1% of violations. In 2010, they amounted to 52.4% of all violations.

RCMP officers say that 90% to 95% of their call-outs involve alcohol.

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RCMP: VIOLATION TO ALCOHOL RELATIONSHIP NUNAVUT TERRITORY						
Community Status	2010 Data			2011 Data		
	RCMP Call-outs	Alcohol-related	%	RCMP Callouts	Alcohol-related	%
Prohibited Communities	1,556	450	28.9	1,593	656	41.2
Restricted Communities	3,972	2,038	51.3	4,099	2,035	49.6
Unrestricted Communities	6,044	4,278	70.8	6,541	4,605	70.4
Total	11,572	6,766	58.5	12,233	7,296	59.6

3.2.2 Alcohol and Violent Crimes

Many research studies have found that the potential for violence increases with alcohol consumption. Young men are more likely to become violent when intoxicated. Excessive alcohol consumption also puts people at greater risk of being victims of violent crimes including sexual assault, rape, physical assault, drunk drivers, and elder abuse. Nunavut justice officials reported that in 2001 six out of seven murders involved alcohol, and 77% of violent incidents against RCMP officers involved alcohol. Reports also show that



sexual assault and common assault were 12 times higher in Inuit communities when compared to the rest of Canada (Nunavut Department of Justice).¹⁸ Similarly, the Homicide Survey conducted by Statistics Canada showed that from 2000 to 2008, 63% of people accused of homicide across Canada had used alcohol and 10% had used drugs but no alcohol. In Inuit Nunangat, 82% of those accused of homicide had used alcohol while only 4% had used drugs but no alcohol.

¹⁸ Tarnow, N. (2010). A New Approach to the reduction of Alcohol and Drug Abuse, Suicide, Domestic Violence and Crime in Nunavut: A Specific Strategy for 2010-2013. Department of Justice, Government of Nunavut.

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In 2002, the Department of Health and Social Services reported that the violent crime rate in Nunavut was over 5 times the national average, sexual assault was 6 times the national average, and an overwhelming majority of these crimes were related to substance abuse.¹⁹ An analysis of criminal record of 1300 inmates at the Baffin Correction Centre between 2008 and 2012 identified that these offenders had committed 228 sexual offences, 889 violent offences, and 183 non-violent offences.²⁰ The Baffin Correctional Centre staff have estimated that 90-95% of the offenders were intoxicated at the time of these crimes were committed.

Intoxication increases the risks of being a victim of a violent crime or committing a violent crime.

In 2008, Professor Darryl Woods undertook a study to determine if restricted communities in Nunavut were less violent than non-restricted communities. He measured violence using community level crime statistics from RCMP offences report for the years 1986 to 2006. Based on his research, Woods concluded that dry isolated communities have less violent crime than restricted or unrestricted isolated communities. For the entire 21 year period, the homicide rate was 3.16 times higher in wet communities than in dry communities, the assault rate was 1.71 times higher in wet communities than in dry communities, and the sexual assault rate was 1.34 times higher in wet communities than in dry communities.²¹

Research indicates that homicides in unrestricted communities are 3.16 times higher than in dry communities.

Wood's research also highlighted the fact that, although safer than wet communities, dry communities reported rates of violence that were higher than national rates, including a serious assault rate that was double the national rate (3.25 per 1,000 vs. 1.44 per 1,000) and a sexual assault rate that was more than seven times higher than the national rate (7.58 per 1,000 vs. 0.88 per 1,000).

¹⁹ NTI Submission to the Nunavut Legislative Assembly Standing Committee on Government Operations and Services on the Liquor Act, May 6, 2003

²⁰ Baffin Correctional Centre. In correspondence March 2012

²¹ Wood, D. (1999). Inuit and Non-Inuit Alcohol Consumption A Comparison of Wet and Dry Communities. Retrieved from www.darrylwood.com/NunavutAlcoholViolence.pdf

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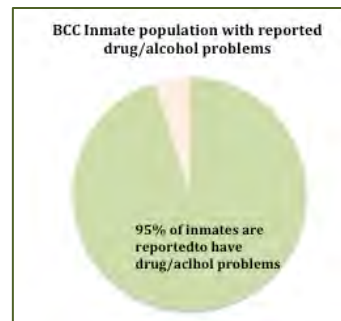
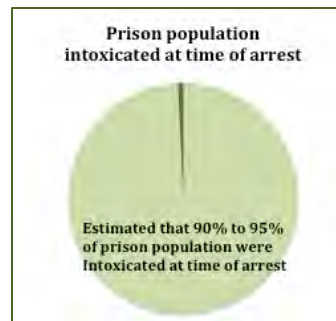
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It is not surprising that, given the obvious link between heavy drinking and violent offending, hamlet representatives frequently told the Task Force that they want to see an increase in resources and strengthened enforcement to address alcohol-related harm in their community.

3.2.3 Alcohol and Incarceration

Data provided by the Baffin Correction Center (BCC) for the period 2008-2012 provides an important insight into the issues of crime and alcohol. Of special note is the estimation that 90-95% of incarcerated persons were intoxicated at the time of the offense. Another noteworthy statistic is the reported number of inmates who have alcohol and drug issues—1243 or 95.6% of individuals incarcerated at the BCC during this period are identified as having alcohol or drug dependency issues.



Consultation participants frequently raised the issue of repeat offenders. The BCC figures noted above confirm a high rate of recidivism among the prison population. Many people said they are disturbed that alcohol is involved in so many offences and yet there is little treatment or

support for an offender to rehabilitate when they return to their community. Advocates for more treatment and rehabilitation programs often identified the high and ongoing cost of enforcement and incarceration, as well as the familial and social costs of not providing effective reintegration and

The profile of 1300 inmates (1257 males and 43 females) of the Baffin Correctional Center during the period of 2008 to February 2012 is as follows:

- *Average age - 31.2 years old*
- *Average Educational Achievement - Grade 9*
- *Type of offences - 228 Sexual Offences, 889 Violent Offence, and 183 Non-violent Offences*
- *Average Previous Arrests - 17*
- *Average Previous Convictions - 21*
- *Average Previous Incarcerations - 4*
- *Number of Inmates With Alcohol or Drug Issues - 1243 or 95.6%*
- *Number of offenders intoxicated at the time of their offence - 90-95%*

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treatment programs. Others pointed out that unless the underlying social causes of alcohol abuse are addressed, such as poverty and cultural alienation, offenders will continue to re-offend.

Youth justice workers also provided the Task Force with some disturbing statistics and anecdotal information. According to workers:

- 40-60% of youth going through the youth justice system ‘graduate’ into the correctional justice system.
- Nearly all youth within the programs use drugs and alcohol. Their drug of choice is usually marijuana. However, youth frequently talk about sniffing propane.
- The youth coming into the juvenile system have a constellation of personal issues. Many of the youth talk about smoking pot and drinking with their parents. Others talk about the lack of parental controls and their ability to come and go as they please.
- The majority of the youth are behind where they should be in their educational achievements because they are usually banned from school or are not made to go by their guardians.

Many other participants drew the Task Force's attention to similar concerns for youth who are not in the justice system. The lack of parental control, poor adult role modeling, and poor educational achievement are common concerns for youth across Nunavut.

3.2.4 Bootlegging

Bootlegging was identified as a major concern in all Nunavut communities. Bootleggers ranged from residents that bring back a number of bottles when they travel outside of Nunavut and sell them to generate additional income to the bootleggers who are well-organized and have high-volume sales.

The Nunavut Liquor Commission estimates that approximately 50% of the spirits sold by the Commission are resold illegally. This represents approximately 33,500 1140ml bottles of hard liquor. At an average bootleg-price of \$300 per bottle, the economic value of bootlegging in Nunavut is in excess of \$10,000,000 per year.

The Nunavut Liquor Commission based its estimate on a review of the volume and purchasing patterns of their clientele only. The estimate does

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not include spirits purchased from other jurisdictions and transported directly to Nunavut or shipped through a sealift or through another mode of transportation.

3.3 Harm to Families and Communities

Alcohol abuse can affect families in many ways. It can impact social networks, bring about financial problems, and interfere with normal family functioning. Family break-ups and economic hardships are typical outcomes of alcohol misuse. In every community individuals spoke about the effects of their own alcohol abuse on their personal relationships and especially the impacts of abuse on their families, friends, and co-workers. Many times, family members spoke of their own ordeals because of someone else's excessive drinking. The CADUMS survey reported that 16% of respondents had someone in their household with an alcohol problem and 16% also reported that they had lost a close personal relationship because of their drinking. A total of 28% of respondents reported that often or sometimes someone in their childhood home had a problem with alcohol (Inuit Health Survey 2007-8).

*"I am scared of my own children when they drink."
-Participant, Restricted Community*

3.3.1 The Impact of Alcohol on Children

Nunavummiut repeatedly expressed considerable concern for children who are dealing with family members with alcohol dependency problems. Child welfare workers have indicated that "nearly all"

*"Too many children in this community are afraid to go home. I want a place for them to go where they will feel safe."
-Participant, Restricted Community*

children in care have at least one parent or caregiver with a substance abuse problem, most often including alcohol (Department of Health and Social Services). They also say that, typically, approximately 90% of child protection cases are related to alcohol abuse.

It is well documented that alcohol use can lead to verbal and/or physical violence in the home. This violence is shown to have detrimental effects on children's health. Several consultation participants provided the Task Force with examples of how alcohol use in the home was affecting the overall well-being and safety of children living in the home.

The concern of Nunavummiut for children living in homes where substance abuse is prevalent is well founded. Psychological studies report that many of

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the children coming from families where there is alcohol abuse have problems such as low self-esteem, loneliness, guilt, feelings of helplessness, fears of abandonment, and chronic depression. Children of alcoholics in some cases even feel responsible for the problems of the alcoholics and may think that they created the problem (Hanson, 2012).²²

3.3.2 Underage Drinking

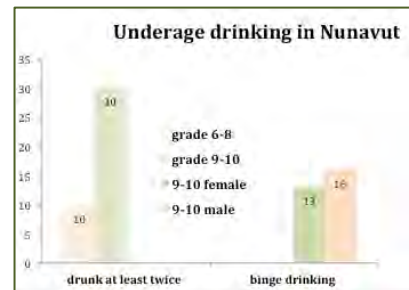
Underage drinking was a specific concern of elders, educators, youth workers, and other Nunavummiut. At one meeting, the Task Force

“Young people walk down the street drunk at all times of the day and night. They should be in school and where are their parents?”

-Elder. Unrestricted Community

members heard the elders' concern that more and more of the young people in their community are drinking. Several of these elders told the Task Force that, over the past few years, youth seem to start drinking at an earlier age. The elders blamed this situation on parents who do not appear to care and who misuse alcohol themselves. They also blamed the local bootleggers who they say encourage the young children to drink.

According to the survey on Health Behaviour in School-aged Children, almost 10% of students in Grade 6 to 8 report having been really drunk at least twice.²³ The number increases to about one third for Grades 9-10. There is little difference between males and females. The numbers for Nunavut are similar to the rest of the country for Grades 6-8 and slightly lower than the rest of the country for the Grade 9-10 group.



The proportion of Grade 9 and 10 students having five or more drinks (or four or more for females) more than once a month, i.e. binge drinking, was

²² Hanson, D. (2012). Alcohol Problems and Solutions. Retrieved from <http://www2.potsdam.edu/hansondj/index.html>

²³ Health Behaviour in School Age Children. Health Canada. Retrieved from www.hc-sc.gc.ca

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16% for males and 13% for females. This is very slightly lower than the rest of the country.

One person asked the Task Force “Why do young people drink?” In turn the Task Force asked high school students why their peers drink. Several students offered different reasons, with the most common answers being:

- *Peer pressure;*
- *Impressing friends with how much they can drink;*
- *Because everyone else does;*
- *Because it’s fun; and,*
- *Because there is nothing else to do.*

Some students said they have no interest in drinking but alcohol is always around if they want it.

3.4 Alcohol and Productivity

During the consultation, business owners and agency workers raised concerns about the impact of alcohol on their business or agency. These concerns usually focused on loss of productivity, unequal workloads, and unhealthy workplace relationships. The Task Force did not have access to any relevant statistical information on alcohol impacts in the workplace. The members were told that alcohol-related absenteeism is quite high in some worksites. Educators also told the Task Force that alcohol-related absenteeism is common among some high school students in some communities.

Several consultation participants spoke about how they had lost employment or dropped out of school because of alcohol abuse. Some praised the support they had received through employee assistance programs helping them once again to become productive workers and valuable employees.

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TASK FORCE COMMENTS

The Task Force had the opportunity to listen to many accounts of how alcohol is harming Nunavummiut and our communities. The research data has helped the Task Force gain a better understanding of the scope and depth of the alcohol-related problems in Nunavut.

The Task Force recognizes that alcohol is one substance that can be controlled and the related harm minimized through public policy interventions.

The members believe that effective alcohol specific laws and public policies that take into account the dual cause and effect role of alcohol use will contribute significantly to a healthier and safer society.

While there is significant and deserved focus on the harmful effects of alcohol in Nunavut, the Task Force believes that a large proportion of Nunavummiut consume alcohol responsibly.

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PART TWO: CHANGING THE DRINKING CONTEXT

In this part of the report we discuss the current Liquor Act and the policy approaches that have the potential to reduce alcohol-related harm. We consider:

- *Nunavummiut views about the effectiveness of the current Act;*
- *The costs and benefits of alcohol in the Territory;*
- *Who is accountable for decisions about alcohol use;*
- *The current Act, and identify its strengths and weaknesses; and,*
- *The policy approaches used in other jurisdictions and their applicability to Nunavut.*

4.0 INTRODUCTION

Without question, one of the most significant concerns for Nunavummiut is addressing the alcohol-related harm they see occurring every day in their communities. Therefore, a fundamental question for the Task Force was in what ways the current Act contributes to this harm, and whether changes to the *Act* could minimize or remove this harm. While considering this question, the Task Force also had to keep in mind its given mandate “***to examine and report on suggestions and ways the Act can be used as a vehicle to positively promote the responsible use of alcohol.***” Accordingly, the Task Force also considered the central issue of whether or not the current *Act* successfully manages a balance between minimizing harm and promoting the responsible use of alcohol by consumers.

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4.1 A Call for Change

Many people in the general public have already taken a position on the effectiveness of the *Act* in minimizing harm and balancing consumer interests. A large number of consultation participants believe that the current *Act* contributes to alcohol-related harm, and they stated clearly that they hold the government accountable for many of these problems. For example, countless people took the position that the government encourages the sale of alcohol and benefits significantly from the revenues, and yet does not provide enough treatment centers to help people suffering from alcohol dependency and other related problems. Some of these people went further and suggested that the government's only purpose in undertaking a review of the *Act* is simply to legitimize the removal of alcohol restrictions throughout Nunavut. It is important to note that this is not the case. Minister Peterson emphasized to the Task Force his desire to have a robust and open discussion of all possibilities. The Task Force was asked to ***"...make meaningful recommendations for changes to the Nunavut Liquor Act that will reflect the dynamic needs of Nunavummiut."*** The Task Force members understand this to mean that the government is seeking ways to better regulate the supply and control of alcohol in consideration of the aspirations of all Nunavummiut.

Other participants suggested that the *Act* does not recognize the true nature of alcohol, particularly its ability to impair judgment, and its long-term negative effect on the health, economic and social well-being of vulnerable populations. Many participants believe that the current *Act* is simply focused on controlling supply, and that it ignores the pressing need for public education. Again, participants blamed government for not recognizing that selling alcohol comes with a moral obligation on the part of all sellers to adopt a proactive and socially responsible approach. Some people, sharing similar sentiments, believe that the recognition and adoption of Inuit values into the *Liquor Act* will be a good step toward recognizing government's responsibility to the broader community.

"The Act does need to be replaced. The laws and regulations do more harm than good."
-Participant, Unrestricted Community

The majority of participants believe that the current supply control provisions of the *Act* are antiquated and inadequate. However, there are differing perspectives. Those representing consumers feel that the *Act* penalizes responsible drinkers by adding unnecessary costs through bureaucratic inefficiencies and poor processes. Still, there are others who feel the *Act* needs to strengthen control mechanisms and alcohol restriction provisions. Many believe that the current supply processes, which

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sometimes result in a feast and famine cycle of supply, actually contribute to heavy drinking and binge-drinking practices.

“Bootleggers don’t care about the people. They just want to make money.”

-Participant, Restricted Community

During the consultation bootleggers were universally vilified, and the government’s regulations, policies and practices were identified as a leading contributor to the broad scope of the bootlegging problem that is affecting every community in Nunavut. The majority of submitters commented that the current import permit system works in favour of bootleggers, allowing them to purchase alcohol products legally and unhindered. Still others believe that the community empowerment provisions of the *Act* intended to help control alcohol at the community level are inadequate and, in reality, not supported by government.

One person, summing up the views of many said, “Community empowerment is a joke, it’s there to make the politicians feel good but in reality there is no support. Government transfers responsibility to the community without resources and without resources communities can’t do anything.” -Participant, Prohibited Community

There can be no doubt that the majority of consultation participants are calling for a new approach to the sale and supply of alcohol in Nunavut: an approach that is cost effective and efficient, guided by Inuit values, and driven by the intent to minimize harm. Very few people, with the exception of expert interveners, identified specific changes they wanted to see to any one of the 260 sections of the *Act* and its Regulations. Invariably community discussions about changes to the *Act* focused on the philosophical principles underpinning the current laws and government policies.

4.2 Government, Individual, and Societal Responsibility

“The Act does not cause the problems with alcohol. People cause the problem with alcohol.”

-Participant, Unrestricted Community

Although there was much finger pointing at government for the perceived failures of the current *Act*, there was also a general recognition that the problems and issues contributing to alcohol-related harm are complex. People understand that changing laws and regulations is only one step in bringing about positive change. During the consultation meetings most people agreed that a constructive change to the drinking culture would require more than government intervention. Many presenters pointed out that there are a myriad of other factors, outside the *Act* and outside of government’s immediate control that will need to be addressed.

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Nunavummiut are sending a clear message to the government that changes to the Act should address the following:

1) Minimize Harm:

- a. Target and stop bootlegging and illegal distribution of alcohol;*
- b. Strengthen community capacity and involvement in addressing harm;*
- c. Protect, educate, and inform (target vulnerable populations)*
- d. Recognize and address the harm alcohol abuse has, and can cause.*

2) Improve systems and practices for the legal sale supply and distribution of alcohol:

- a. Strengthen the community control and involvement over legal alcohol sale and distribution;*
- b. Provide communities with the capacity and support to properly monitor and control their local option (prohibition/restricted/unrestricted status); and,*
- c. Address complexities and redundancies in the current control and distribution systems.*

The What We Heard Report presents a synopsis of the discussions and participant recommendations. Please see Appendix 1 of this report.

Some argue that significant change will occur within Nunavut's drinking environment only when more people take greater responsibility for their own actions. Proponents of this view believe that drinking can be self-regulated and drinking to intoxication is a personal choice. Nonetheless, there are many people who believe that, for some in Nunavut, challenging personal circumstances make rational decisions about drinking difficult. They point out that for some Nunavummiut alcohol is the drug of choice that helps them escape from difficulties in their lives. According to community mental health workers and addiction counselors, these difficulties often include a need to cope with lack of employment, family break-up, or physical and sexual abuse, coupled with poor self-esteem, limited education, lack of purpose, or a sense of hopelessness or victimization. Social workers and health professionals contend that in these situations treatment is often the only route towards developing a greater sense of personal responsibility, and improving an individual's ability to make informed decisions about the use of alcohol.

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Participants also pointed out that drinking responsibly is a learned behaviour and that parents and society at large have an obligation to instill in young people the need for personal responsibility, and respect of others.

Elders often emphasized this point. In discussions with high school students we heard that adults regularly supply youth with alcohol, and also that youth are frequently invited to party with adults.

“We feel sorry for our young people. They do not know who they are, and they have no respect for themselves or for others; all they do for fun is drink. We need more opportunities to teach them about their heritage and Inuit ways.” –Elder, Restricted Community

Hospitality industry representatives also spoke about the need for greater personal responsibility. They suggested that the current regulations are unfair and inadequate because they make the licensee overly accountable for the personal choices of their patrons. They say that under the current *Act*, licensees face penalties for over serving while the person who is drinking usually does so with impunity. Licensees also point out the common practice of some customers who continue drinking after hours, courtesy of the local bootleggers.

TASK FORCE COMMENTS

It is the position of the Task Force that the Nunavut Liquor Act cannot address all the causes or be held accountable for all the harm linked to the irresponsible consumption of alcohol. However the Task Force believes there is room for government to strengthen its social and corporate responsibility.

The Task Force contends that the law should reflect societal values and goals of Nunavummiut, and strongly supports the public’s call for an Act that has as one of its objectives the reduction of alcohol-related harm.

The Task Force firmly believes that certain laws and regulations, if changed, will encourage more individuals to make informed and responsible decisions about alcohol. In addition, changes can be made that will provide increased support for communities in their quest for improved public safety and community well-being.

4.3 Weighing the Costs and Benefits of Alcohol

Many participants identified themselves as moderate drinkers who believe that drinking can provide both physical and social benefits. Several people stated that they

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believe there is sufficient evidence from medical studies to show that the moderate consumption of alcohol can reduce mortality rates and protect against heart disease.

Others said that alcohol plays an important role in their family and social settings, allowing them to relax, enjoy companionship, and celebrate special events. Usually these participants were advocating for more liberalized laws and changes to improve the cost effectiveness and efficiency of government ordering and distribution policies and practices.

In many Canadian jurisdictions alcohol is a significant source of revenues for the government. Statistics Canada reported that in the fiscal year ending 2011 over \$20.3 billion of alcoholic beverages had been sold. The following table highlights the net income of provincial and territorial liquor authorities from the sale of alcoholic beverages.

	2010r	2011p	2010/11
	thousands of dollars		% change
Canada	5,558,867	5,872,693	5.6
Newfoundland /Labrador	132,115	133,101	0.7
Prince Edward Island	30,976	31,639	2.1
Nova Scotia	220,951	224,868	1.8
New Brunswick	159,482	161,461	1.2
Quebec	1,034,810	1,086,806	5.0
Ontario	1,901,072	2,145,475	12.9
Manitoba	235,278	252,009	7.1
Saskatchewan	205,293	214,989	4.7
Alberta	715,805	683,521	-4.5
British Columbia	887,128	899,532	1.4
Yukon	10,939	12,652	15.7
Northwest Territories	23,935	24,957	4.3
Nunavut	1,083	1,683	55.4

Table 1- Statistics Canada

There is a common misconception that the Government of Nunavut makes considerable revenues from the sale of alcohol. This is not correct. According to the Government of Nunavut 2012-2013 Main Estimates, the Nunavut Liquor Commission had an operating surplus of approximately \$1.9M. This amount differs slightly from the preliminary amount reported by Statistics Canada for the same year.

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Nunavut hospitality industry representatives pointed out the economic benefits of supporting the tourism and hospitality industry. They identify jobs and visitor spending as important contributors to the Nunavut economy.

"Many victims of alcohol harm are non-drinkers." - Nunavut Social Worker

There are many people who argued that the benefits of alcohol pale in comparison with the harm caused by alcohol misuse. People holding this view often contend that there are no trade-offs between the benefits and the costs of alcohol. Among this group are health and social workers, law enforcement officers and justice workers. They pointed out that often victims of alcohol misuse are not those who drink but others, including unborn children, family members, friends, co-workers and strangers. These people are seeking changes to the *Act* that will help to bring about a change in irresponsible drinking attitudes and harmful behaviour.

TASK FORCE COMMENTS

The Task Force recognizes that alcohol consumption is an accepted social and cultural practice of many Nunavummiut. It is the view of the Task Force that for some people alcohol, in moderation, can bring health and social benefits. The Task Force also acknowledges the studies and statistics presented throughout the consultation process. Many of these studies demonstrate that harmful drinking practices have not only become commonplace in Nunavut, but are on the increase.

The Task Force also shares the concern that irresponsible drinking has in some ways become an acceptable or tolerated practice for many Nunavummiut. The Task Force fears that this is particularly true for young people who purposefully drink to get drunk as part of their social interactions. The Task Force believes that steps must be taken to reverse these trends and address the harm, while adequately accommodating the needs of the responsible consumer.

Of special note to the Task Force are the concerns raised in many communities that increasing restrictions on alcohol will force high-risk drinkers and others to turn to other more dangerous and habit forming substances such as crystal methamphetamine, gas sniffing, and cocaine.

The Task Force readily acknowledges that the current level of revenues from the sale of alcohol is not sufficient to offset the costs of alcohol-related harm.

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5.0 EVALUATING THE NUNAVUT LIQUOR ACT

Considering the strong public calls for change, the Task Force began their deliberations with a careful review of the current *Nunavut Liquor Act*.

5.1 A Look Back

The *Nunavut Liquor Act* is a territorial act that deals with the supply and distribution of alcohol. It regulates who can buy and sell alcohol, and where and when it can be bought, sold, and consumed. As in all other Canadian jurisdictions, the genesis of the *Act* can be traced back to the Temperance Movement and the Prohibition Era. In Canada, temperance societies were formed in the Maritime Provinces in the early 1800s. These societies began as movements to control excessive or harmful alcohol consumption within their community. Society members believed that alcohol

Early prohibitionist believed society, not individuals, should determine whether people could drink alcohol.

consumption was a significant contributing factor to increased poverty and social upheaval. They also believed strongly in personal responsibility and the need for

self-discipline. Followers of the movement attempted to educate, encourage, and sometimes embarrass individuals into limiting their consumption of alcohol, usually to beer or wine, or to abstain completely. Prohibition grew out of the temperance movement. Prohibitionists argued that leaving choices about alcohol consumption to individuals was not effective enough. They pointed out that excessive and irresponsible drinking was harming society at large. Prohibitionists wanted to take the decision to drink away from the individual, and put the decision in the hands of the community.

During the early part of the 20th Century, prohibition was widespread across Canada. At this time, the Canadian government controlled

In Canada, bootlegging flourished during the Prohibition Era.

the manufacturing and trading of liquor. The federal government made its liquor available only for industrial, scientific, sacramental, artistic, and medicinal uses through authorized dispensaries. Provinces and territories had the power to prohibit the retail sale of alcohol through a plebiscite process. Between 1900 and 1920 most jurisdictions had held plebiscites resulting in the forced closure of legal drinking establishments. This tight legislative control on alcohol resulted in a proliferation of illegal drinking establishments, and the illegal manufacturing of alcohol. It also resulted in a very profitable and dynamic bootlegging industry.

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By the late 1920s the temperance movement was losing popularity even though statistics showed that alcohol-related crimes and public disturbances were in decline. In 1928, the federal government passed the *Importation of Intoxicating Liquors Act* (IILA). This *Act* was introduced as a means to stop bootlegging. It also began the devolution of federal responsibilities for alcohol to the territories and provinces. Over time, many jurisdictions have implemented liquor law reforms intended to make the manufacturing, selling, and buying of alcohol less restrictive. The liberalization of liquor laws is continuing. Some provinces have increased the number of liquor outlets and privatized liquor stores. British Columbia and Manitoba are now allowing alcoholic beverages to be served in some movie theatres. In May, the BC legislature introduced amendments to the liquor licensing legislation to allow caterers to provide liquor at offsite events. The federal government has now introduced Bill C-311, a private members bill to amend the 1928 *Importation of Intoxicating Liquors Act*. Bill C-311 has now passed second reading. If passed at third reading it will allow direct-to-consumer shipments of limited quantities of wine. The provinces and territories will be responsible for establishing the personal exemption limits that wineries can ship within their respective jurisdiction.

In recent years several provinces have liberalized their liquor laws.

The IILA does not apply to the importation, sending, taking or transportation of intoxicating liquor into Nunavut (Section 26, Nunavut Act, S.C. 1993, c. 28). Under the Nunavut Act, the Nunavut Legislature may make laws respecting the importation of intoxicants into Nunavut from any other place in Canada (See Appendix I - Legal Research and Interpretation, page 155).

5.2 Nunavut Liquor Act

The current *Nunavut Liquor Act* was adopted from the Government of Northwest Territory (GNWT) at the time of division in 1999. *The NWT Act* was almost fifteen years old in 1999, and while the GNWT had undertaken numerous studies in the 1990s to identify and address a number of issues and discrepancies within the *Act*, very few changes were made. This meant that Nunavut inherited an act that was already viewed as problematic and outdated.²⁴

²⁴ Whiteworks. (2005). Improving Liquor Legislation in the NWT, Final Report of the 2005 Liquor Act Review.

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As early as 2001 the Nunavut Liquor Licensing Board called on the government to make a number of changes to the *Nunavut Liquor Act*. Over the following decade concerns about the *Nunavut Liquor Act* continued to grow. There were some minor amendments made, most notably the 2003 increase in penalties for bootlegging. Since that time, individuals and groups have continued to press the government for changes to its alcohol policies and regulations.

The NLLB believed that that the cost and complexity of buying alcohol in Nunavut was causing “the popularity of bootlegging to soar.” The Board asked the government to amend legislation so “that Nunavummiut can have a more liberal access to alcohol.”

5.3 Addressing Harm

The current *Act* is not without provisions for minimizing harm. The “Local Options” (Sec. 41-51) provide the power for communities to prohibit, restrict, or allow alcohol in their community. This provision is intended to control the availability of

The existing Act does contain laws and regulations that are intended to reduce alcohol-related harm.

alcohol at the local level for the benefit of the population as a whole. It is a strategy that is strongly supported across Nunavut. Other population-based strategies can be found throughout the *Act*. The Licences and Permits (Sec. 30-34) section includes provisions controlling the responsible and safe operation of licensed establishments. Again, these provisions are designed to reflect the interests of the broader community, to support public order, and to protect the safety of the general public.

In addition to broad-based strategies, the *Act* also includes targeted strategies for harm reduction. Targeted strategies put constraints or controls on certain segments of the population who are considered susceptible to alcohol-related harm. Section 72, “Persons Eligible to Buy Liquor” is an example of a targeted strategy. Throughout the consultation Nunavummiut repeatedly expressed support for restrictions intended to protect vulnerable populations. Speaking to this point and similar issues, several participants appealed to the government to continue and to enhance harm reduction strategies for the youth of Nunavut. As anticipated, no adult participants asked for the removal of age restrictions.

Examples of strategies to target individuals from becoming irresponsible or harmful consumers can be found in the Offence and Penalty section of the *Act* (Sec. 113-130). These strategies are intended to deter individuals from committing acts that could

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put themselves or others in harm's way. Many Nunavummiut recognize these as essential harm reduction strategies.

The Task Force often heard many arguments for more restrictions. Stopping pregnant women from drinking was a very common request. Another concerned the inability of third parties or even family members to intervene in problem

"My friend is drinking himself to death, and no one can stop him. The social worker says we cannot help because of privacy issues."

-Participant, Restricted Community

situations because of an individual's right to privacy. This is a significant concern of many Inuit participants, particularly elders. They explained that this policy of non-intervention is at odds with their cultural values and approach. Entreaties for new restrictions, or increased intervention powers that respect Inuit tradition and values usually raised the debate about the right of government to target certain populations against the rights of individuals afforded by the *Canadian Charter of Rights and Freedoms*.

A similar debate often arose over the right of the RCMP to search people and seize alcohol. Many people asked why the RCMP could not simply search people coming into restricted and prohibited communities. They reasoned that seizing alcohol at the airports would be an important step in limiting the alcohol-related harm in the community. Frequently, participants also brought up the perceived complicity of the airlines, Post Office, freight shippers, and southern providers in the illegal transportation of alcohol into Nunavut communities. Community members questioned the rights and responsibilities of individuals and transportation companies with respect to search and seizure authorities, protocol, and practices.

Many participants suggested that changes to the *Act* should include increased search and seizure powers for the RCMP and other enforcement officials. Some people also want to force transportation companies to search for and seize illegal alcohol shipments. During these discussions, many participants said they are not satisfied with the status quo and will continue to press government for a closer review of these issues.

5.4 The Canadian Charter of Rights and Freedoms

Following the consultation the Task Force commissioned some legal research into the questions of:

1. The individual's "right to drink" vs. society's right to prohibit and restrict; and,

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2. The rights of individuals to transport alcohol.

The following section contains excerpts from the legal research papers, the complete research reports can be found in Appendix I on page 155.

The Charter applies to Parliament, the provincial and territorial legislatures and anybody exercising statutory authority, such as municipalities and administrative tribunals. The Charter does not regulate relations between private persons (Hogg, supra, Sec. 34-12 to 34-25).

At issue is the limit, imposed by society in the pursuit of collective goals, on civil liberties and individual freedom. Some civil liberties are guaranteed by the *Charter of Rights and Freedoms* (the *Charter*). However, even with those civil liberties guaranteed by the *Charter*, the *Charter's* values do not always take precedence over non-*Charter* values. Courts are often called upon to undertake the difficult task of determining the compromise between these conflicting values.

The *Charter* came into force in 1982. It forms part of Canada's Constitution. The Constitution is the supreme law of Canada and any law that is inconsistent with the provisions of the Constitution (including the *Charter*) is, to the extent of the inconsistency, of no force and effect.

"The *Charter* guarantees a set of civil liberties that are regarded as so important that they should receive immunity, or at least special protection, from state action."²⁵ If *Charter* rights and freedoms are breached without justification, the *Charter* provides certain remedies.

Judicial review of legislation under the *Charter* is a two-step process. The first step is to determine whether the challenged law violates a *Charter* right. If it does not, the law must be upheld. If the law violates a *Charter* right, a court must decide whether the law is justified under Section 1 of the *Charter* as a reasonable limit that can be "demonstrably justified in a free and democratic society." The Court must decide whether the government has made an appropriate compromise between civil liberties and the social or economic objectives of the law.

²⁵ Hogg, P.W., Constitutional Law of Canada.

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The *Charter* provisions, which are most relevant to *Nunavut's Liquor Act* and Regulations, are Sections 7, 8, 12 and 15(1).

5.4.1 The individual's "right to drink" vs. society's right to prohibit and restrict

5.4.1.1 *Section 7: Right to Liberty and Security of the Person*

Section 7 is the *Charter* provision, which is most relevant to a review of the *Liquor Act*.

"Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."

No case law was found dealing specifically with an individual's "right to drink," based on Section 7. It should be pointed out that alcohol prohibition in Canada is rare, especially since the enactment of the *Charter*.

5.4.1.2 *The Liquor Act and the Right to Liberty and Security of the Person*

Where an individual's liberty is at stake, such as where an individual has been convicted of possession of alcohol in a prohibited community, and sentenced to imprisonment, it is possible that Section 7 of the *Charter* could be triggered. The issue would then be whether the risk to the individual's liberty has been deprived in a manner that complied with the principles of fundamental justice.

There have not been any cases in Nunavut dealing specifically with the issue of whether the Liquor Act violates an individual's rights, under Section 7 of the Charter, to Liberty and Security of the Person. The (purely speculative) reasons for this could include:

- 1. No penalties of imprisonment have been imposed upon individuals under the regulations;***
- 2. It is simply too expensive to contest the seizure of liquor; and,***
- 3. The RCMP objective in getting the alcohol 'off the street' can be met by simply seizing alcohol, and issuing a warning.***

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5.4.1.3 *Section 8: Right to be Secure Against Unreasonable Search or Seizure*

Section 8 is relevant with respect to the manner in which the *Liquor Act* is enforced.

“Everyone has the right to be secure against unreasonable search or seizure.”

Section 8 gives everyone the right to be secure against unreasonable search or seizure. It affects the laws that permit the police to search homes or places of business, vehicles, or even individuals, in certain circumstances. Section 8 protects property if there is a reasonable expectation of privacy. Before police can search or seize, they must have a good reason to do so.

The Supreme Court of Canada has held that under section 8, individuals are not to be subject to unreasonable interference with their reasonable expectations of privacy.

5.4.1.4 *Right Not to be Subjected to Cruel and Unusual Treatment or Punishment*

Section 12 protects individuals against cruel and unusual treatment or punishment, and may also be relevant to a review of the *Liquor Act*.

“Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.”

No cases were found regarding the *Liquor Act* and Section 12 of the *Charter*.

5.4.1.5 *The Liquor Act and the Right Not to be Subjected to Cruel and Unusual Treatment or Punishment*

Where the *Liquor Act* and Regulations provide for a term of imprisonment, the issue will be whether there has been a violation of the principle against gross disproportionality. For example, under the *Liquor Act*, an individual may be sentenced to imprisonment for a term of 7 days for providing alcohol to a person whose eligibility to consume alcohol has been withdrawn by an Alcohol Education

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Committee. The possibility that an individual may be sentenced for to up to 6 months in jail for possessing liquor which has been brought or imported into the community in contravention of the regulations is another example of a provision which could give rise to a Section 12 challenge.

5.4.1.6 Equality

Section 15(1) of the *Charter* sets out Equality Rights.

“Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.”

Before the enactment of the *Charter*, the Supreme Court of Canada dealt with equality under the Canadian Bill of Rights in *The Queen v. Drybones* ([1970] S.C.R. 282). Mr. Drybones was convicted by a magistrate of being intoxicated off a reserve in the Northwest Territories, contrary to s. 94(b) of the *Indian Act* (R.S.C. 1952, c. 149). In a split decision, the Supreme Court of Canada decided that Mr. Drybones was denied equality before the law and Mr. Drybones was acquitted. The Federal Government could not punish an individual at law, on account of his race, for him doing something which his fellow Canadians are free to do without having committed any offence or having been made subject to any penalty. Section 94(b) of the *Indian Act* was a law that created such an offence, and it could only be construed in such manner that its application would operate so as to abrogate, abridge, or infringe one of the rights declared and recognized by the Canadian Bill of Rights.

5.4.1.7 The Liquor Act and Equality

The provision of the *Indian Act* in *The Queen v. Drybones* is distinguished from the

No recent cases were found regarding legislative liquor control and equality rights under the Charter.

provisions of the *Liquor Act* since the *Liquor Act* theoretically applies to everyone in Nunavut equally, regardless of race. Based on the Supreme Court of Canada’s reasoning in *R. v. Marmo-Levine* and *R. v.*

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Caine (quoted above), it would be difficult for anyone to challenge the *Liquor Act* based on s. 15.

5.4.1.8 Equality - Nunavut Human Rights Act (S.Nu. 2003, c. 12)

Section 12 of the *Nunavut Human Rights Act* provides that no person may deny any individual, on the basis of a prohibited ground of discrimination, any goods that are customarily available to the public or discriminate against any individual or class of individuals with respect to any goods that are customarily available to the public.

Section 7 of the *Nunavut Human Rights Act* sets out the prohibited grounds of discrimination: race, colour, ancestry, ethnic origin, citizenship, place of origin, creed, religion, age, disability, sex, sexual orientation, marital status, family status, pregnancy, lawful source of income, and a conviction for which a pardon has been granted.

No challenges to the Nunavut Liquor Act and Regulations have, understandably, been made, since it would be difficult to argue that the denial of goods (alcohol) is based on a prohibited ground of discrimination.

5.4.1.9 Reasonable Limits on Charter Rights - Section 1

The *Charter* and the Courts recognize that governments can make laws in the broader public interest, even if a law violates a *Charter* right or freedom. In such a case, a court will consider if the government can justify the violation under Section 1.

"The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."

A court may permit a violation of a *Charter* right if the government can meet this section 1 test. The limits on rights and freedoms set out in the *Liquor Act* meet the first test (prescribed by law). The issue really is whether the limits are justified in a free and democratic society. To decide that, the Courts will look at several things, including whether the government has an important objective and, if so, whether the government acted reasonably in achieving this objective.

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Generally, if the law's objective is important to society and the violation of *Charter* rights is minimal, the law will be 'saved' by section 1. The more severe the violation, the more difficult it will be for government to justify it under section 1.

Courts have accepted a wide variety of legislative objectives as justifications under section 1. Professor Hogg summarized as follows the criteria to be met to demonstrate that the law is justifiable under section 1:

1. Sufficiently important objective: The law must pursue an objective that is sufficiently important to justify limiting a *Charter* right.
2. Rational Connection: The law must be rationally connected to the objective.
3. Least drastic means: The law must impair the right no more than is necessary to accomplish the objective.
4. Proportionate effect: The law must not have a disproportionately severe effect on the persons to whom it applies.

5.4.1.10 *The Liquor Act and Section 1*

Courts will usually assume that the law itself reveals its objective. The *Liquor Act's* general objectives, although not clearly stated, would not be difficult for a court to ascertain for the purposes of dealing with a *Charter* challenge. It would be up to the Courts to determine whether the objectives are "sufficiently important" and whether certain provisions of the *Liquor Act* impair *Charter* rights no more than is necessary to accomplish the objective."

Even if the *Liquor Act* or the Regulations violate a *Charter* right or freedom, a court will consider if the government can justify the violation under section 1. *Charter* rights and freedoms are subject to reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. A court may permit a violation of a *Charter* right if the government can meet this section 1 test.

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5.4.1.11 Remedies if Charter rights violated

A court may exclude evidence if it was obtained in a way that interfered with a *Charter* right, and if using the evidence would bring the administration of justice into disrepute. Section 52(1) of the *Constitution Act, 1982*, provides that any law inconsistent with the Constitution is of no force and effect. A court may declare that a law is unconstitutional.

Section 24 of the Charter allows persons whose rights have been violated to apply to a court for a remedy that the court considers appropriate and just in the circumstances.

5.4.2 The rights of individuals to transport alcohol

This issue is related to the above discussion of *Charter* issues. If the legislation is constitutionally valid, then the individual's right to transport alcohol into Nunavut is curtailed. The question then becomes whether the searches and seizures are legal, and whether they violate an individual's Section 8 *Charter* right to be "Secure Against Unreasonable Search or Seizure."

5.4.2.1 The Liquor Act

Sections 107 and following of the *Liquor Act* provide police with the powers of search and seizure. Section 111 of the *Liquor Act* states that "a peace officer may arrest without a warrant a person he or she finds committing an offence under this *Act* or the Regulations."

5.4.2.2 The Right to be Secure Against Unreasonable Search or Seizure - Section 8

A search without a warrant is, on its face, unreasonable and a violation of an individual's *Charter* rights (*R. v. Caslake* (1998), 131 C.C.C. (3rd) 97 (S.C.C.)). A search will be reasonable only if:

1. It is authorized by law; and,
2. It is carried out in a reasonable manner (*R. v. Collins* (1987), 56 C.R. 3rd 193).

Police also have the power to detain an individual and conduct a search if they have reasonable grounds to suspect that the person is connected to a particular crime and detention is necessary to investigate that crime.

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If a search is unreasonable, the second step is showing that because of the breach of s. 8, evidence should be excluded because its admission could bring the administration of justice into disrepute.

Section 8 protects “reasonable expectations of privacy” (*Hunter v. Southam* [1984 2 S.C.R. 145]). Whether there is a reasonable expectation of privacy will be decided based on all of the circumstances.

R. v. Panaktolak (2011, NWTTC 19), is one of the few cases dealing with the *Liquor Act* (NWT) and *Charter* rights.

Interestingly, the Northwest Territories Territorial Court did not question the validity of the *Liquor Act* Regulations. In fact, the Court confirmed that the community had the right to restrict the import of alcohol. The Court focused on the issue of the limits of search and seizure of alcohol. In the end, the search of Mr. Panaktolak’s luggage, based on an anonymous tip, was found to be unreasonable. The RCMP should have either requested Mr. Panaktolak’s consent to the search, or obtained a search warrant. Therefore, the evidence (alcohol) could not be used to convict Mr. Panaktolak, under the Tuktoyaktuk Liquor Restriction Regulations, for bringing into the community more than the allowable quantity of liquor.

Travelers have a reasonable expectation of privacy in luggage in their possession and a search without a warrant is a breach of Section 8.

The search of Mr. Panaktolak’s luggage was a breach of his Section 8 *Charter* right. Despite the search being unreasonable, the alcohol in question was not returned to Mr. Panaktolak, the Court having decided that it was inappropriate to do so, and the alcohol was ordered to be disposed of by the RCMP.

Where individuals are charged with an offence under the Liquor Act, the arrest provisions of the Liquor Act are applicable, to the exclusion of the arrest provisions of the Criminal Code.

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5.4.2.3 *Responsibilities of transportation companies (airlines, ships)*

Transportation companies are caught in the difficult situation where they must balance their clients' right to privacy with 'social' responsibilities. Some airlines cooperate closely with the RCMP.

The Liquor Act and Regulations do not contain any specific requirements for transportation companies.

The *Act* has only general search and seizure provisions. Section 107(1) (a) allows the RCMP to enter and search any vehicle (the RCMP includes aircraft within the definition of 'vehicle'), without a warrant if they have reasonable grounds to believe that liquor is unlawfully kept or had.

5.4.2.4 *The Right to Privacy - Airlines*

As discussed above, Section 8 of the *Charter* protects the "Reasonable Expectation of Privacy." Furthermore, transportation and supply companies are required to comply with privacy of information legislation.

Special rules seem to apply to luggage of a person travelling by air. A reasonable expectation of privacy is arguably not available, due to security concerns (R. v. Creelman, 2055 NSSC 353).

The Nunavut Court of Justice dealt with Section 8 and cargo in *R. v. Naglingniq* (2006 NUCJ 3). In this case, Isacky Naglingniq applied for return of \$7,950 seized from First Air Cargo, and alleged that his Section 8 *Charter* rights had been breached. The police, with the permission of First Air, looked at the package. The Judge stated: "The police handling of the parcel handed over to the airline is a search and is unreasonable. The police did not have reliable grounds, or even strong suspicion to request access to the parcel. There were no exigent or emergency circumstances." The Judge held that although there were *Charter* breaches, Mr. Naglingniq's application for return of the money was dismissed since he had not been able to prove a proprietary interest in the money.

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5.4.2.5 Suppliers

According to the RCMP, suppliers, such as Marché Turenne, have become strict about requiring permits prior to completing orders from Nunavut. According to the Nunavut Liquor Commission, other Liquor Commissions, such as the LCBO and the SAQ also provide “great cooperation” in ensuring that the required permits are provided prior to completing orders.

5.4.2.6 Canada Post

Under the Canada Post “Postal Guide”, liquor may not be mailed by a supplier or by an individual to a Nunavut resident, unless the supplier is the Nunavut Liquor Commission.

5.5 The Act and the Transportation of Alcohol

The discussions surrounding transportation companies and search and seizure powers invariably led to other questions from participants concerning transportation companies and the existing *Act*. The most frequently asked questions included:

1. What are the applicable laws regulating the transportation of alcohol into and within Nunavut?
2. Can the Nunavut Government, through the *Liquor Act*, impose a positive duty on airlines regarding the illegal transportation of alcohol into Nunavut communities?
3. Can an airline deny access to travel or refuse to ship cargo:
 - a. Where a passenger or a shipper is transporting alcohol in contravention of the *Nunavut Liquor Act*; or,
 - b. If the passenger refuses to consent to a search of his or her luggage or cargo?
4. Can the Nunavut Government, through the *Liquor Act*, impose a positive duty on shipping companies, to report the illegal transportation of alcohol into Nunavut communities?

The Task Force posed these questions to the legal researcher. Their report can be found in Appendix I on page 155. The following section provides excerpts from the report.

The questions posed regarding the obligations of airlines and shipping companies raise constitutional division of powers (territorial/federal) issues and there is no clear authority setting out a definitive answer.

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5.5.1 Transportation of Alcohol into and within Nunavut

What are the applicable laws regulating the transportation of alcohol into and within Nunavut?

Under the *Nunavut Liquor Act*, the transportation of liquor is prohibited, unless authorized by the *Liquor Act*. Under the *Nunavut Act*, the Nunavut Legislature may make laws respecting the importation of intoxicants into Nunavut from any other place in Canada. No case law or authorities were found dealing with the obligations of airlines to ensure that transportation of alcohol across provincial and territorial borders complies with either the *Illegal Importation of Liquor Act* (1928) or the Nunavut Liquor Act.

5.5.2 Legal Duty of Airlines on Transportation of Alcohol

Can the Nunavut Government, through the Liquor Act, impose a positive duty on airlines regarding the illegal transportation of alcohol into Nunavut communities?

There is a potential Constitutional issue. Transportation by air is subject to federal legislative jurisdiction. Airlines are federally regulated. The question is therefore the degree to which territorial legislation is precluded.

5.5.3 Authority of Airlines to enforce the *Liquor Act*

Can an airline deny access to travel or refuse to ship cargo where a passenger or a shipper is transporting alcohol in contravention of the Nunavut Liquor Act, or if the passenger refuses to consent to a search of his or her luggage or cargo?

No relevant authorities were found on this issue. In practice, one airline serving Nunavut takes the position that it may deny access to travel where a passenger intends to illegally transport alcohol into Nunavut, and informs passengers accordingly. However, the airline does not have any written policy regarding transportation of alcohol. This airline cooperates closely with the RCMP and the community it serves. No passengers have made a complaint to date. However, the airline representative noted that the passengers couldn't be searched 'on their person'. Another airline serving the same prohibited community, co-operates informally with the RCMP, but does not discuss the transportation of alcohol with its passengers.

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5.5.4 Obligations of Sealift Companies on Transportation of Alcohol

What are the marine transportation companies' obligations with respect to the illegal transportation of alcohol into Nunavut communities?

Ships with a continuous and regular trade to the ports of more than one province are within federal jurisdiction. As with air transportation, the question is therefore the degree to which territorial or provincial legislation applies to marine transportation. Nonetheless in a recent BC case the Court ruled that: *"The Province of British Columbia can legally regulate the sale of liquor on vessels in the waters around Greater Vancouver notwithstanding that shipping and navigation is a matter of federal jurisdiction. Furthermore, the appellant's carol ship was within the territorial waters of the Province of British Columbia and, accordingly the provincial Liquor Act applies to its operations."*²⁶

SUMMARY

- *The Nunavut Liquor Act applies to the transportation of liquor in Nunavut.*
- *The federal Importation of Intoxicating Liquors Act restricts the transport or shipment of alcohol across provincial borders, but does not apply to Nunavut.*
- *Transportation by sea and transportation by air are matters that are subject to federal jurisdiction.*
- *The degree to which territorial legislation, including the Liquor Act, applies to transportation by sea and transportation by air is a difficult constitutional issue, which depends on whether the territorial legislation encroaches upon the federal powers over shipping and aeronautics.*
- *Airlines and shipping companies cannot inspect cargo or baggage beyond what is required for security purposes without express, informed consent of the shipper/traveler.*

²⁶ R. v. Williams (2000 BCSC 0449)

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TASK FORCE COMMENTS

To be effective, we believe the government's approach to harm reduction must include the use of both population-based strategies and targeted strategies. These strategies must be well integrated and mutually supportive. Assisting a community in becoming a restricted community but then setting individual alcohol consumption levels that surpass responsible drinking standards is not an example of integrated and mutually supportive strategies.

The Task Force acknowledges the legal limitations and challenges for government in proceeding with some of the changes sought by some Nunavummiut.

Finally, the words of a hamlet councilor ring true for the Task Force: "Everyone wants government to do something and solve the problems. But we cannot move ahead, and our children cannot achieve their potential until we start working together. It is up to all of us to play a part in stopping the hurt from alcohol."

5.6 Controlling the Supply and Sale of Alcohol

Many of the individuals and groups calling for change offer conflicting arguments on the kind of changes the government should enact. At one end of the spectrum are those people who strongly believe that the high costs of alcohol-related harm outweigh any individual or social and economic benefit. A number of these people are calling for prohibition, not only in their home communities but also across the territory. They argue that increased availability to alcohol results in increased levels of consumption, which in turn leads to increased levels of alcohol-related harm. Many believe that irresponsible consumption has already reached a level where the right of the individual to drink is secondary to the overall well-being of the community. They believe that control of alcohol availability must be a societal decision.

*"Bringing in more alcohol means more problems for the community."
-Participant, Unrestricted Community*

*"Prohibition is impossible to enforce. It's up to individuals to make responsible choices."
-Participant, Prohibited Community*

At the other end of the spectrum are those who want to see government institute more liberalized liquor laws, believing that a more open approach will diminish the bootlegging problems, reduce the binge drinking practices, and address the inefficiencies in the current distribution system. Often, supporters

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of more liberalized laws believe prohibition is impossible to implement and enforce. Proponents of liberalization often assert that alcohol consumption is subject to too much government control and regulation.

Many other Nunavummiut have a more temperate or moderate view. They told the Task Force that they recognize alcohol is a special commodity requiring some form of control over how it is sold and supplied. Moderates usually expressed support for legislation that will reduce alcohol-related harm while allowing reasonable access to alcohol for responsible drinkers.

Controlling the availability of alcohol is a central tenet of the *Nunavut Liquor Act*. The object of the *Act* is not specifically stated. However, it is generally understood to be the establishment of a responsible system of control over the sale of liquor that will result in less alcohol consumption and less alcohol-related harm. The existing *Act* achieves control through several different provisions including licensing authorities, Alcohol Education Control Committees (AEC), liquor licences, permits, and community plebiscites.

“The current system punishes the responsible drinker, and treats us like children.”
-Participant, Restricted Community

5.6.1 Licensing Authorities

Nunavut Liquor Licensing Board (NLLB)

The Nunavut Liquor Licensing Board deals with liquor licensing issues. The Board considers applications for liquor licences and special permits. The Board holds public hearings on new licence applications, and show cause hearings to determine the appropriate sanctions for violation by licensees of the *Nunavut Liquor Act*.

Nunavut Liquor Commission (NLC)

The Nunavut Liquor Commission is responsible for the purchase, warehousing, sale, and distribution of alcohol products in Nunavut. From its warehouses in Iqaluit and Rankin, the Commission stores and ships alcohol throughout the territory to licensees and individual permit holders. The Commission is also responsible for issuing Liquor Import Permits. These Import Permits allow the permit holder to bring alcohol products into Nunavut from other provinces and territories. Alcohol cannot be brought into, sold, or consumed in prohibited communities.

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Liquor Enforcement and Inspections Division (LEID)

The Liquor Enforcement and Inspections Division is responsible for the enforcement of the *Liquor Act* and its Regulations. Liquor Inspectors appointed by the Minister of Finance carry out inspections on licensed liquor establishments and special occasion events involving alcohol. The Division is responsible for the implementation of the Nunavut Liquor Licensing Board's decisions and directives.

Alcohol Education Committee (AEC)

An Alcohol Education Committee is a group of locally elected members, created by regulation, to give community members a legal or official way to educate their community on how to prevent alcohol abuse and also control alcohol in their community.

5.6.2 Liquor Licences

The Liquor Licensing Board has the power to issue liquor licences. A liquor licence allows an eligible person to purchase, sell, possess, and use alcohol. The *Act* identifies who is eligible and who is ineligible to obtain a licence. When issuing a licence, the Board will identify and include in the licence certain terms and conditions such as hours of operation, and the quantity and types of alcohol that can be sold. The licensee must comply with these terms and conditions.

The *Act* provides for twelve (12) different classes of licences, though not all classes are in use. The classification system is intended to provide standards and control over who, where, and how alcohol can be sold. Each class specifically identifies who can sell the alcohol, where alcohol can be sold, to whom, and any special conditions that might apply. In determining the class of licence to issue, the Liquor Board will consider such factors as the primary purpose of the premises or venue, how the alcohol is to be sold, the type of alcohol to be sold, the variety and type of food available, and the type of entertainment offered.

5.6.3 Permits

A Liquor Permit allows the permit holder to purchase, possess, and use alcohol. The permit holder must comply with the terms and conditions of the permit or risk having the permit cancelled. Liquor Import Permits, Wine Permits, and Special Occasion Permits can be issued following submission of

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an application to the appropriate authority, and payment of the applicable fee.

The function of the Special Occasion Permit is to allow the serving of alcohol at special events that only occur infrequently. Their function is clearly not to allow any group to regularly serve or sell alcohol without a proper licence. Holders of Special Occasion Permits are allowed to purchase their alcohol supplies from the Nunavut Liquor Commission. As in the case of all other types of liquor licences, individuals or groups serving or selling alcohol under the provision of Special Occasion Permits are subject to routine liquor inspections and to any restrictions on alcohol sales that may be in force in a given community.

There are two types of Special Occasion Permits: the regular permit under which alcohol can be served but not sold at a special event such as a wedding reception or graduation party, and the resale permit under which alcohol can be sold at events such as those offered by local service clubs to raise funds for their regular activities or at events such as annual trade shows. For functionality, the Minister can authorize various designated officials to issue Special Occasion Permits for one-day events. All requests for Special Occasion Permits for events longer than one day must be referred to the Board.

A person who is eligible to purchase and consume alcohol in Nunavut is allowed to import 1140ml of spirit or wine or 12-355ml containers of beer from other Canadian jurisdictions. An Import Permit is required to import quantities greater than these amounts. The Nunavut Liquor Commission levies a small fee for issuing the permits; however the profit margin on the sale of the alcoholic products accrues to the jurisdiction from whom the alcohol is purchased.

5.6.4 Customer Purchase Orders

The Purchase Order is used by Nunavummiut who do not reside in a prohibited community to order alcoholic products from one of the Nunavut Liquor Commission warehouses. For residents of unrestricted communities, the purchaser sends the Purchase Order directly to the designated warehouse serving their community. The Customer Purchase Order from residents of restricted communities must be accompanied by an approval form from the local Alcohol Education Committee.

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There is not a common approval form used by all AECs to approve the individual alcohol purchases. Some Committees indicate their approval on the Customer Purchase Order form while others have developed their own approval form. Still other Committees have opted to use the Import Permit Request Form as their approval form for Customer Purchase Orders. This latter option often creates confusion over the intended use of the Import Permits.

5.6.5 Liquor Stores

There are no liquor stores in Nunavut. However, the Minister has the power to establish liquor stores for the purpose of selling liquor to eligible persons. The *Act* defines who can act as a vendor and who can work in a liquor store.

5.7 Community Control

The *Act* recognizes that communities may have differing views on whether or not alcohol should be consumed, possessed, purchased, distributed, or transported within their community. The *Act* provides communities with the power to prohibit, restrict, or allow alcohol in their community. This control is exercised through a community plebiscite.

5.7.1 Plebiscites

A liquor plebiscite takes place when the Minister responsible for the *Liquor Act* gives his/her consent to a petition signed by 20 or more eligible voters in a community. The *Act* prescribes the duties and roles of those involved in the plebiscite, and the processes that must be followed. The *Act* requires sixty percent of the qualified voters to support the plebiscite question for it to pass. If the plebiscite question does not have 60% support, then no further plebiscite asking the same or similar question can be held for three years. The *Act* makes provisions for three kinds of plebiscites:

1. Plebiscites before the Liquor Licensing Board can issue a licence in a class for the first time in a community;
2. Plebiscites concerning the closing of licensed premises or changing the hours of operation; and,
3. Plebiscites concerning restrictions or prohibitions.

5.7.2 Special Prohibitions (Bans)

There are provisions within the *Act* for communities to request, on occasion, a special prohibition. The *Act* prescribes the application and approval

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process as well as limitations on the frequency and length of time during which alcohol will be prohibited.

5.8 Protecting the Vulnerable

Throughout the *Act* there are references, provisions, and sanctions related to the sale, supply, and consumption of alcohol involving children and under-age youth. These provisions and sanctions are intended to protect children and youth from potential alcohol misuse and related harm.

5.9 Offences and Punishment

The final section of the *Act* deals with the offences and punishment for those who violate the *Act* and its Regulations. There are numerous offences identified throughout the *Act* including selling liquor without a licence, underage drinking, illegally transporting liquor, and supplying alcohol to people in prohibited communities, people banned from drinking or people who are intoxicated. Punishment can range from a warning, to imprisonment depending on the severity, and the circumstances surrounding the commitment of the offence. The maximum penalty for an individual is a \$20,000 fine and/or two years in prison. The maximum penalty for a Corporation is \$50,000. The *Act* also identifies areas where a person or corporation can be found personally liable for violations to the *Act*. In addition, the *Act* makes provisions for the forfeiture of vehicles or articles seized in relation to the commitment of an offence.

TASK FORCE COMMENTS

The Task Force recognizes that alcohol is a very special commodity that cannot be treated like many other goods. Alcohol laws must reflect the values and principles of the society.

While there is a general understanding of the purpose of the Act, the Task Force believes that the new Act should clearly state its purpose and objectives.

Where possible, the Task Force supports strengthening the provisions for the protection of vulnerable populations.

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6.0 KEY WEAKNESSES OF THE *NUNAVUT LIQUOR ACT*

Many of the laws regulating alcohol are well accepted by Nunavummiut. The fact that someone should be licensed to sell alcohol, or that there should be a minimum age limit for the purchase of alcohol, or that bootleggers should be penalized, are all examples of laws that people strongly support. In many instances it is apparent that people are really rallying against the application and implementation of some of these laws, and not the actual law per se. In the consultation process, the Task Force did identify a number of commonly perceived weaknesses in the *Act*. Some of these weaknesses are summarized below:

6.1 The Act

- A lack of harm reduction objectives and principles is viewed as a primary weakness of the current *Act*;
- Many feel that the *Act* is a reflection of western and not Inuit values;
- Stakeholders believe there are too many inconsistencies and inaccuracies throughout the *Act* that lead to confusion; and
- Some participants complained that the *Act* is difficult to understand because of the myriad of cross-references and complex grammatical structures.

6.2 Controlling the Supply and Sale of Alcohol

- The Import Permit provisions within the *Act* support the legal acquisition of alcohol for illegal resale. This is a significant concern of Nunavummiut;
- The processes to prevent impulse buying are penalizing low-risk drinkers but do not stop high-risk drinking;
- Nunavut consumers state that the provisions and regulations for the delivery of alcohol within Nunavut are inefficient, and add unnecessary cost to the consumer and to government. Many admit that they view these imposed inefficiencies as justification for illegally importing alcohol into Nunavut;
- The liquor control system is annoying to some, and easily subverted. Many people admit to a laissez-faire attitude to breaking alcohol restriction laws. Individuals disclosed that when travelling they return with more than the allowable quota strictly for personal use with no intent to sell;
- High transportation costs encourage the acquisition of high content alcohol beverages (hard liquor) over lower content (wine and beer);

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- Alcohol Education Committees point out that the *Act* and its Regulations specify the powers of the committee, but is silent on financial resources to support the operation of Alcohol Education Committees; and,
- Industry stakeholders find the existing classes of licences inadequate and confusing.

6.3 Community Control

- The intent of the community control provisions are well received but generally considered weak. Stakeholders often view these laws as “downloading” without a transfer of appropriate powers and resources;
- There were many negative comments about plebiscites and special prohibitions. However, the weaknesses do not appear to be in the legislation but in the implementation policies and practices. In several communities people were speaking about past experiences with plebiscites, and they were unaware that in very recent plebiscites the Department of Finance had already implemented some changes that mirrored the public’s suggestions; and,
- Alcohol Education Committees are currently only established in those communities with a restricted status. All communities, regardless of status, said they would like to see a local group with a mandate to educate their community on how to prevent and address alcohol abuse.

6.4 Protecting the Vulnerable

- While the *Act* contains various provisions for the protection of vulnerable populations, people want to see a much stronger emphasis placed on protecting vulnerable populations from alcohol-related harm; and,
- People claim a significant weakness of the *Act* is the lack of provision for using alcohol sales revenues to support education and treatment programs.

6.5 Enforcement, Penalties and Sanctions

- Laws concerning the identification, pursuit and prosecution of illegal alcohol sales are viewed as weak. People want to see more rigorous laws against bootlegging including heavier fines and penalties, and stronger and broader search, seizure, and forfeiture laws;

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- With the exception of bootlegging, most people believe current penalties are adequate but they are calling on government to institute more rigorous enforcement measures; and,
- There is a perception that some penalties and sanctions for minor offences under the *Act* are difficult to collect. In some cases people believe the offenders, particular young people, do not take prosecution seriously. In other cases there is a concern that offenders do not have the resources or the ability to properly satisfy the Court's requirements. Considering these circumstances, many believe the *Act* should provide for more alternative sentencing options.

TASK FORCE COMMENTS

The Task Force recognizes that many of the problems in the current legislation are inherited, and are a reflection of the Act's vintage.

The Task Force agrees with Nunavummiut's assessments of the major weaknesses of the existing Act and will seek to address these weaknesses through its recommendations.

The Task Force members share a strong common belief that one of the major weakness of the present Act is in the areas of enforcement, penalties, and sanctions especially as it pertains to bootlegging.

In the opinion of the Task Force, the new Act must provide law enforcement with stronger provisions, including search and seizure powers to shut down the bootleggers.

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7.0 ALCOHOL AVAILABILITY – WHAT THE EXPERTS TELL US

“The fastest way to stop alcohol problems is to ban alcohol from Nunavut” -Participant, Restricted Community

“Prohibition does not get rid of alcohol problems. All it does is make the bootleggers rich” -Participant, Prohibited Community

During the consultation process the debate over the physical availability of alcohol and harmful consumption was repeated in every community. Each side of the debate presented evidence to demonstrate a relationship, or lack of relationship between alcohol availability and harm. For the Task Force, understanding how the availability of alcohol impacts Nunavummiut is essential to forming our recommendations. To this end, the Task Force examined the national and international research evidence with the intent of gaining a greater understanding of the linkages between alcohol availability and alcohol-related harm. In addition the Task Force wanted to investigate the impact of changing laws on the level of alcohol-related harm.

Nunavut is not the only jurisdiction trying to gain a greater understanding of the relationship between alcohol availability, consumption, and harmful outcomes and then use this informed understanding to develop public policy. Researchers in Canada, United States, United Kingdom, European Union, New Zealand, and Australia have studied the impact of supply control measures and alcohol-related harm. Researchers have identified a number of common strategies that various governments have implemented over the past twenty years.²⁷

The approaches most often utilized to effect beneficial outcomes include:

1. Instituting government retail monopolies on the sale of alcohol;
2. Prohibition;
3. Restrictions at population and individual levels;
 - a. Reduction of the hours that off-sale outlets are open;

²⁷ International Center for Alcohol Policies. An Integrative Approach to Alcohol Policies. ICAP Blue Book. Retrieved from www.icap.org/Publications/ICAPReports/tabid/75/Default.aspx

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- b. Establishing certain days or periods of time when it is illegal to sell alcohol;
 - c. Requiring that alcohol sales be stopped within a specific amount of time prior to the closing of a licensed establishment;
 - d. Restricting where alcohol sales may occur (zoning);
4. Raising the legal purchasing age;
 5. Increasing prices and taxation;
 6. Server liability;
 7. Strengthening penalties against licensees or individuals who sell to minors, interdicted individuals, or other high-risk groups;
 8. Regulating alcohol content - making available and promoting beverages of low alcohol content, thereby reducing the level of absolute alcohol consumed;
 9. Drinking and driving countermeasures;
 10. Community mobilization;
 11. Regulating alcohol promotion;
 12. Implementing prevention and intervention strategies including:
 - a. Education and persuasion
 - b. Treatment and early preventions

The findings of alcohol research studies suggest that much of the harm attributed to alcohol can be addressed through well-designed coordinated and enforced public policies. The Task Force reviewed many of these studies and considered the transferability and applicability of the policy implications within the Nunavut context.

The following section reviews these government strategies and then considers them within the Nunavut context.

7.1 Government Monopolies

Research indicates that a government monopoly over alcohol distribution is one of the most effective ways of minimizing alcohol-related harm.

Under a government monopoly the sale of alcoholic beverages is controlled by the state. The World Health Organizations (WHO) cites government monopolies as a good approach to reducing alcohol consumption levels and related harm.²⁸ A

²⁸ World Health Organization. Global strategy to reduce the harmful use of alcohol, Department of Mental Health and Substance Abuse, Geneva 2004 Retrieved from www.who.int/substance_abuse/msbalcstragegy.pdf

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number of recent studies suggest that government run organizations are less likely to aggressively promote the sale of alcohol than their private counterparts who are usually highly motivated by profit. In addition, public monopolies are more likely to ensure that alcohol is not sold to underage or intoxicated consumers.²⁹

International studies also indicate that a privatized system, without strong government intervention, leads to increased consumption and more alcohol-related harm. In Canada each of the provinces and territories has a liquor authority that is responsible for the control and sale of alcoholic beverages within their jurisdiction. In most provinces, these liquor authorities manage retail stores and licence agency stores. Agency stores are privately owned and operate under licence from the liquor authorities, usually to provide services to residents of small or remote communities.

There are two jurisdictions that have privatized liquor sales; Alberta privatized liquor outlets in 1993, and British Columbia began privatizing in 2002. British Columbia now has a mix of government-owned and private liquor outlets. In 2001 the Ontario government rejected a government panel's recommendation to privatize.³⁰ Studies completed by the Centre for Addiction and Mental Health (CAMH) and the Consumers Association of Canada report that privatization has led to an increase in liquor outlets, longer operating hours, and higher consumer costs.³¹ The CAMH study also identified an increase in consumption levels and criminal offences.

In Quebec, the provincial government maintains a monopoly over hard liquor but allows beer and wine to be sold in grocery stores. A study of Quebec's system showed there was no measurable impact on the total alcohol sales, or on beer and liquor sales. There was an initial rise in wine sales but this increase in sales eventually went flat. In Newfoundland and Labrador, locally brewed beer is sold in grocery stores and convenience stores as well as in the government liquor stores. In

²⁹ Anderson, P. & Baumberg, B. (2006) *Alcohol in Europe*. London: Institute of Alcohol Studies.

³⁰ Rehm, J. (2005). *Proposed Changes in Alcohol Retailing in Ontario: An Estimate of Social and Health Costs of Several Scenarios*. Presentation at the Ontario Public Health Association Meeting on "Alcohol: No Ordinary Commodity II." Retrieved from www.fin.gov.on.ca/en/consultations...

³¹ Robert E. Mann, Jürgen T. Rehm, Norman Giesbrecht, Robin Room, Edward Adlaf, Gerhard Gmel, Kate Graham, Esa Österberg, Reginald Smart and Michael Roerecke, *Alcohol Distribution, Alcohol Retailing and Social Responsibility: A Report Submitted to the Beverage Alcohol System Review Panel*. Toronto: Centre for Addiction and Mental Health, 2005.

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Manitoba, Saskatchewan, Alberta, British Columbia, Yukon, and Northwest Territories, licensed establishments can sell liquor for consumption off the premises. In some provinces, wineries, breweries, and microbreweries are allowed to sell domestic wine and beer at the retail level under licence from the liquor authorities. In the past few years, "brew-on-premises" operations have opened in Ontario, British Columbia, Saskatchewan, and the Yukon for the production of both wine and beer.

The International Center for Alcohol Policies (ICAP), a non-profit organization supported by major alcohol beverage producers, points to models that have been run predicting the likely impact of privatization in Canada (1998) and Sweden (2006). They note that these models estimated that privatization would lead to increased consumption (up to 27%) and, consequently, result in significant social and economic harm. ICAP maintains that these predictions have not come to pass.³²

7.1.1 Government Monopolies: Policy Implication for Nunavut

Government Monopolies	
<i>Experts Say</i>	<ul style="list-style-type: none"> • <i>A government retail monopoly over alcohol distribution is one of the most effective ways of minimizing alcohol-related harm.</i> • <i>Some jurisdictions that have moved toward privatization have seen an increase in alcohol-related harm.</i> • <i>Strong government intervention is required to minimize the harm associated with privatization.</i>
<i>Nunavut Context</i>	<ul style="list-style-type: none"> • <i>The Nunavut government regulates alcohol sales and distribution.</i> • <i>The imports permit process significantly erodes the government's power and control through unintended outcomes.</i> • <i>A GN monopoly on alcohol retail can generate</i>

³² Physical Availability of Beverage Alcohol: Monopolies, Licensing, and Outlet Density. International Center for Alcohol Policies. ICAP Policy Tools Series, Retrieved from www.icap.org/LinkClick.aspx?fileticket=4DNXueiHmac%3D...92

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Government Monopolies	
	<p><i>significant additional revenues for the Nunavut Liquor Commission. A review of the Import Permits undertaken by the Task Force jointly with the Nunavut Liquor Commission demonstrated that for the years 2009 and 2010, the use of Import Permits resulted in a loss of net revenues of \$2.3M per year. Most of that profit accrued to the jurisdictions from which the alcohol was ordered.</i></p>
Nunavummiut Say (Consultation Participants)	<ul style="list-style-type: none"> • <i>There is strong support for government to strengthen its monopoly and control over alcohol.</i> • <i>Many believe that the current controls and systems are inadequate and contribute to harm by providing a legal supply of alcohol to bootleggers.</i> • <i>Privatization was never discussed during consultation meetings or considered during the Task Force deliberations.</i> • <i>The majority of participants believe that government regulations and policies will be improved with the inclusion of Inuit values and social responsibility aims.</i>
Task Force Comments	<ul style="list-style-type: none"> • <i>The Task Force strongly supports the continuation and strengthening of the Government of Nunavut's monopoly and control over alcohol sales and distribution.</i> • <i>The members believe the Import Permit system should be abolished and that all alcohol should be purchased through a Nunavut government liquor authority.</i> • <i>The Task Force is of the opinion that all necessary steps must be taken to shut down the bootleggers, or they will continue to derail any efforts to reduce harm.</i> • <i>The Task Force supports the calls for the development of government regulations to reflect social responsibility and Inuit values.</i>

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7.2 Prohibition

In most jurisdictions prohibition is considered poor public policy because of the unintended and harmful outcomes such as an increase in criminal behaviour and growth in the illicit sale and distribution of alcohol. However in some remote communities prohibition has resulted in safer and healthier communities.

Prohibition has been the object of considerable study, particularly within the North American context. Many findings demonstrate that during the early part of the twentieth century prohibition was not successful in controlling alcohol consumption or in reducing alcohol-related harm in North America. On the contrary, these studies indicate that per-capita consumption rose during prohibition (Levine & Reinerman, 2004).³³ In addition, these studies conclude that prohibition resulted in the growth of criminal enterprises including bootlegging and the operation of unregulated drinking establishments. The studies also identify high enforcement costs for governments and a significant loss of tax revenues normally generated through the legal sale and distribution of alcohol.

It is important to note that while many among the general public believe organized crime was the controlling force in alcohol distribution during prohibition, this was not the case. Most of the illegal alcohol production in Canada and the US occurred on a small scale, and involved many ordinary people. Families made their own wine, some individuals and families produced alcohol in backyard stills, and others transported alcohol across county, provincial, and international borders. Levine et al. suggests that much of this illicit trade was undertaken as a way to supplement family incomes during difficult economic times (Williams, 1989; Murphy, Waldorf, & Reinerman, 1991).³⁴

Most comparison studies between prohibition era and post prohibition era policies, reviewed by the Task Force, show that alcohol regulation control measures implemented after prohibition were far more effective in reducing alcohol

³³ Levine, H. G., & Reinerman, C. (2004). Alcohol prohibition and drug prohibition. Lessons from alcohol policy for drug policy. Amsterdam: CEDRO. Retrieved from www.cedro-uva.org/lib/levine.alcohol.html

³⁴ Levine, H.G., & Reinerman, Craig. (1991). From Prohibition To Regulation: Lessons From Alcohol Policy For Drug Policy. Retrieved from www.mega.nu/ampp/drugtext/craig102.htm

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consumption and alcohol-related harm. During the early twentieth century, Britain and Australia did not implement prohibition but did institute very rigorous alcohol regulations. In a study comparing Australia, Britain, and the US, findings show that Britain and Australia had more success in minimizing consumption and alcohol-related harm.

The consensus among many scholars is that prohibition is bad public policy. However some researchers suggest that there were some positive outcomes of prohibition including a recorded drop in mortality rates due to acute alcohol overdose and cirrhosis of the liver (Room & Mosher, 1979).³⁵ The panel on Alternative Policies Affecting the Prevention of Alcohol Abuse and Alcoholism takes the position that prohibition, while being a government policy failure, did show that reducing the availability and increasing the price of alcohol resulted in less heavy drinking and fewer arrests for public drunkenness in the early days of prohibition (NRC, Washington, 1981). The panel identified three lessons of prohibition policy:

- It is beyond the capacity of governments to eradicate the consumer demand for alcoholic beverages;
- A criminal supply network will emerge, and the success of law enforcement efforts to combat criminal enterprise depends on public support and the resources provided to law enforcement agencies; and,
- The quantity of alcohol consumed can be influenced by price and reduction in the ease of availability.³⁶

Recent news reports of the impact of First Nations' prohibition practices in some US states indicate that reservations with prohibition status frequently report high rates of alcohol-related harm among their residents. Similar news reports can be found for First Nations reserves across Canada. These reports often highlight the fact that while the reservation is designated "dry," other towns in close proximity are not, and bootlegging is flourishing. In stark contrast, Wood and Gruenewald's 2006 study of isolated, prohibited native villages in Alaska demonstrates that residents in these communities experience less alcohol-related harm and are safer when they prohibit

³⁵ Room, R., and Mosher, J. (1979) A role for regulatory agencies in the prevention of alcohol problems. *Alcohol and Health Research World* 4(2):11-18

³⁶ Gernstien, D. (1981). *Alcohol and Public Policy: Beyond the Shadow of Prohibition*. National Research Council. Panel on Alternative Policies Affecting the Prevention of Alcohol Abuse and Alcoholism.

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alcohol.³⁷ Most importantly, a study of wet and dry communities in Nunavut concluded, “As elsewhere in the Arctic, communities in Nunavut that prohibited alcohol were less violent than those that allowed alcohol importation. Even with prohibition, dry communities recorded rates of violence much greater than the national average” (Wood, 2010).³⁸

7.2.1 Prohibition: Policy Implications for Nunavut

Prohibition	
Experts Say	<ul style="list-style-type: none"> • <i>In most jurisdictions prohibition is considered poor public policy because of unintended and harmful outcomes such as an increase in criminal behaviour and growth in the illicit sale and distribution of alcohol.</i> • <i>There are exceptions. It has been demonstrated that in remote and isolated communities prohibition has resulted in safer and healthier communities.</i> • <i>Enforcement is often difficult and costly.</i>
Nunavut Context	<ul style="list-style-type: none"> • <i>Prohibition is decided by a community plebiscite.</i> • <i>Communities with prohibition have difficulty in keeping illicit alcohol out of the community.</i> • <i>Prohibited (dry) communities report lower levels of alcohol-related harm when compared to other Nunavut communities.</i>
Nunavummiut Say (Consultation Participants)	<ul style="list-style-type: none"> • <i>In Nunavut, the merits of prohibition are a matter of much debate.</i> • <i>Participants strongly support the right of the community to choose its alcohol status.</i>

³⁷ Wood DS, Gruenewald PJ. Local alcohol prohibition, police presence, and serious injury in isolated Alaska Native villages. *Addiction*. 2006;101(3):393–403.

³⁸ Wood, D.S. (2010). Alcohol Control and Violence in Nunavut. Retrieved from journals.sfu.ca/coaction/index.php/ijch/article/download/.../20284

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Prohibition	
	<ul style="list-style-type: none">• <i>The plebiscite process is widely supported but needs to be improved for clarity and fairness.</i>• <i>Voters need more education on the potential outcomes of a plebiscite.</i>• <i>If a community changes status, there should be a plan in place for an orderly transition, especially when there will be an increased access to alcohol.</i>• <i>Residents of prohibited communities feel they do not get enough support and resources from the government or other groups (e.g. transportation companies) to effectively implement and control prohibition.</i>• <i>Some communities expressed a grave concern that to totally stem the flow of alcohol will lead some of their residents toward more damaging and addictive substances.</i>
Task Force Comments	<ul style="list-style-type: none">• <i>The Task Force believes that communities should maintain the right to determine their alcohol status.</i>• <i>Within Nunavut, there is no escaping the reality that a comparison of prohibited, restricted, and unrestricted communities clearly demonstrates that prohibited communities experience less alcohol-related harm than the restricted and unrestricted communities.</i>• <i>The Task Force believes that absolute prohibition cannot be successfully implemented in Nunavut's communities, especially in larger communities, or in communities located in close proximity to communities where alcohol is available on a retail basis such as Churchill and Yellowknife.</i>• <i>The members recognize that through a dedicated and sustained effort by law enforcement, consistently applied legal penalties, and strong community support and mobilization, prohibition can achieve some level of success. However experts and residents warned that, in such conditions, other more harmful</i>

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Prohibition

drugs would quickly replace alcohol.

- *The Task Force is also of the view that the new Liquor Act must provide police with the necessary powers to facilitate the enforcement of the Act.*

7.3 Community Bans and Restrictions

Controlling the supply of alcohol has helped to mitigate a number of alcohol-related harm but it has not addressed the underlying alcohol problems.

Community level restrictions range from general population bans on alcohol at specific events or in specific places to restricting the alcohol consumption of certain individuals or groups. The 2004 WHO Global Status Report indicates that research in this area is limited.³⁹ The Task Force did consider a study of Aboriginal communities in Australia where stringent community level alcohol restrictions have been implemented (Hudson, 2011).⁴⁰ In this study, the author reasons that controlling the supply of alcohol has helped to mitigate alcohol-related harm but it has not addressed the underlying alcohol problems. Hudson points out that problem-drinkers continue to obtain alcohol, while others have transferred their alcohol dependency from alcohol to other drugs.

The Australian research indicates that in the subject communities the restrictions initially had a positive effect but that over time these benefits have begun to erode. The author suggests that this erosion in benefits occurs because restrictions have been introduced without a concerted effort to address the social and economic context that makes some communities susceptible to alcohol-related harm: *“Unfortunately, in all the states and territories where alcohol restrictions have been introduced, government has failed, or been slow to deliver on promised rehabilitation programs and on real and substantive reforms to education, employment, and housing”* (Hudson, 2011).

³⁹ Wood, D.S. (2010). Alcohol Control and Violence in Nunavut. Retrieved from journals.sfu.ca/coaction/index.php/ijch/article/download/.../20284

⁴⁰ Hudson, S. (2011). Alcohol Restrictions in Indigenous Communities and Frontier Towns. The Centre for Independent Studies. National Library of Australia, On-line.

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7.3.1 Community Bans and Restrictions: Policy Implications for Nunavut

Community Bans and Restrictions	
Experts Say	<ul style="list-style-type: none"> • <i>Controlling the supply of alcohol has helped to mitigate alcohol-related harm.</i> • <i>Controls do not address the underlying alcohol problems leading to high-risk drinking behaviours.</i>
Nunavut Context	<ul style="list-style-type: none"> • <i>The Nunavut Liquor Act allows the Minister and communities to enact bans and community-wide restrictions.</i> • <i>Communities that institute total bans during specific periods or events often report a decrease in alcohol-related harm.</i> • <i>In restricted communities alcohol consumption levels are set through the AEC. These levels vary widely from community to community.</i>
Nunavummiut Say (Consultation Participants)	<ul style="list-style-type: none"> • <i>Community-wide restrictions are difficult to control.</i> • <i>In most restricted communities the sale and supply of illicit alcohol is rampant.</i> • <i>In some restricted communities the monthly limits are very permissive and allow for unsafe alcohol consumption levels.</i> • <i>Community restrictions on the quantity of alcohol that can be purchased at one time, or total bans for specified periods of time (e.g. Christmas) are often derailed by bootleggers.</i> • <i>Community leaders would like more streamlined options to institute bans.</i>
Task Force Comments	<ul style="list-style-type: none"> • <i>The Task Force feels that for some communities, bans and restrictions play an important role in mitigating alcohol-related harm.</i> • <i>The Task Force believes that the law should provide communities with the power to take an active role in</i>

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determining the type and extent of restrictions for their own community. A caveat to this position is the requirement for communities to be fully informed on what constitutes safe drinking levels and the establishment of a uniform maximum consumption level set for all restricted communities.

- *The Task Force believes that community bans and restrictions will continue to be undermined by bootleggers unless they are shut down.*
- *The members recognize that, in the long term, bans and restrictions do not alter harmful drinking behaviours for those who regularly abuse alcohol.*

7.4 Restrictions on Hours and Day of Retail Sales

Increases in hours of sales have been linked to an increase in number of assaults, instances of drunk driving, and driving accidents.

Swedish and Australian studies report that extending trading hours significantly increased alcohol sales.⁴¹ In Ontario and Sweden an increase in late night hours has been linked to an increase in drunk driving and assaults.⁴² A study in New Mexico found that the repeal of the ban on Sunday alcohol sales resulted in more alcohol-related deaths. However, the study also indicated that 14 other states that repealed the Sunday ban did not report an increase in alcohol-related deaths.⁴³

The well-known research scientist, Professor P.J. Gruenewald, contends that international studies demonstrate that an increase in homicides, assaults, and alcohol-involved emergencies can be linked to later trading hours. However, Gruenewald also points out that “Unlike policies whose effects are difficult to avoid, such as changes in alcoholic-beverage taxes and outlet densities, reductions in hours

⁴¹ Giesbrecht, Norman. Patra, Jayadeep and Popova Svetlana, (2008) Changes in Access to Alcohol and Impacts on Alcohol Consumption and Damage, Report prepared for Addiction Services, Department of Health Promotion and Protection, Halifax, Nova Scotia

⁴² Ibid

⁴³ Ibid

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and days of sale may be rendered ineffective if drinkers displace their drinking to other days or times.”⁴⁴

Recent studies in Britain and New Zealand found that people, are “pre-loading” before going to late night licensed establishment.⁴⁵ Pre-loading is the term for consuming privately purchased, and usually less expensive, alcohol before entering a licensed establishment. Police report pre-loading as a significant contributor to high levels of intoxication and anti-social behaviour, especially among young adults. Some researchers suggest that it is the “pre-loading” and not the hours of operation of licensed establishments that is contributing to an increase in anti-social behaviour.

7.4.1 Restrictions Hours/Day of Sale: Policy Implications for Nunavut

Restrictions on Hours and Days of Sales	
Experts Say	<ul style="list-style-type: none"> Increases in hours of sales have been linked to an increase in number of assaults, instances of drunk driving, and driving accidents.
Nunavut Context	<ul style="list-style-type: none"> In Nunavut the hours and days of retail sale are controlled and enforced by the Nunavut Liquor Licensing Board. Compared to other jurisdictions, Nunavut has one of the strictest regimes for hours and days of sale. Alcohol cannot be purchased to take away from off-licences or licensed establishments. Bootleggers are always open. They observe no restrictions and take advantage of community-imposed restrictions to increase the amount and cost of the alcohol they sell.

⁴⁴ Gruenewald, P.J. (2011). Regulating Availability: How Access to Alcohol Affects Drinking and Problems in Youth and Adults. *Alcohol Research & Health*, 34.2. Retrieved from <http://pubs.niaaa.nih.gov/publications/arh342/248-256.htm>

⁴⁵ MacNaughton. Petrina, Gillan, Evelyn, Rethinking Alcohol Licensing, (2011), Report Prepared for Scottish Health Action on Alcohol Problems

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Restrictions on Hours and Days of Sales	
<i>Nunavummiut Say (Consultation Participants)</i>	<ul style="list-style-type: none"><i>There was very little concern expressed over the current hours and days of sale.</i><i>Nunavummiut expressed considerable concern regarding bootleggers selling to intoxicated people following the closing of the bars in Iqaluit, Rankin Inlet and Cambridge Bay.</i>
<i>Task Force Comments</i>	<ul style="list-style-type: none"><i>The Task Force supports the government's continued policy of tight restrictions and control on the hours and days of sale.</i>

7.5 Restrictions on Density of Outlets

Studies report that restrictions on the density of outlets, or on the placement of outlets in specific areas such as schools and hospitals, can reduce consumption and alcohol-related harm.

Studies indicate that increasing the number of outlets in any given area will result in increased levels of consumption and more alcohol-related harm. Evidence indicates that areas with a higher density of liquor outlets report higher increased drunkenness and vandalism when compared to areas of lower density. These areas also register a higher proportion of underage drinking.⁴⁶

Some policy makers suggest that by spreading out the location of outlets, consumers must spend more time and effort to obtain alcohol. They believe that this will influence consumers' buying patterns and limit impulse buying. In Canada, the common practice is to implement zoning restrictions on the number of licensed premises. Factors normally taken into consideration when issuing a licence include the type, location, and the number of existing premises. Most jurisdictions put special restrictions on the issuance of licences close to schools, hospitals, and other public institutions.

⁴⁶ *ibid.*

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Some researchers have disputed the cause and effect associations of increased density and harm. They point out that higher outlet density is often found in inner city or entertainment neighbourhoods. These areas are often degraded by poor socio-economic conditions. Researchers suggest that residents in these areas may already be more susceptible to alcohol-related harm because of existing environmental factors such as poverty, gangs, and inadequate civil infrastructure. A US study showed alcohol density impacted consumption levels and related harm in Louisiana, but not California.⁴⁷ A Canadian study (Giesbrecht et al., 2008) found no significant correlation between alcohol density and an increase in harm in four Canadian jurisdictions.⁴⁸

7.5.1 Restrictions in Density of Outlets: Policy Implications for Nunavut

Restrictions on Sales Outlet Density	
Experts Say	<ul style="list-style-type: none"> Restrictions on the density of outlets in specific areas such as schools and hospitals can reduce consumption and alcohol-related harm.
Nunavut Context	<ul style="list-style-type: none"> Density is not an issue; there are only three communities in Nunavut with licensed establishments. There are no liquor stores in Nunavut. The Nunavut Liquor Licensing Board controls issuing of licences.
Nunavummiut Say (Consultation Participants)	<ul style="list-style-type: none"> Density of outlets was not raised as a concern.
Task Force Comments	<ul style="list-style-type: none"> The Task Force did not consider issues pertaining to the density of outlets.

⁴⁷ Wagenaar, A. C., Toomey, T. L., & Lenk, K. M. (2004-5) Environmental Influences on Young Adult Drinking. *Alcohol Research & Health*, 28.4. Retrieved from pubs.niaaa.nih.gov/publications/arh284/230-235.htm

⁴⁸ Giesbrecht, Norman. (2008). Centre for Addiction and Mental Health. Alcohol as a Risk Factor for Chronic Disease: Policies and Local Action. Retrieved from www.apolnet.ca/.../ForumGuide-RecommendationsDoc-2010.pdf

7.6 Age Restrictions for Individuals Purchasing Alcohol

Many studies indicate that restricting the age at which people can drink can substantially reduce alcohol-related harm among young people.

Manitoba, Alberta, and Quebec have established 18 as the legal drinking age. In all other provinces and territories a person must be 19 to drink legally. During the past decade some countries like New Zealand have lowered the legal drinking age. In New Zealand lowering the drinking age from 20 to 18 has resulted in a significant increase in alcohol-related harm among young people. This includes a noticeable increase in car accidents involving underage drinkers, and hospital visits for severe intoxication.

Studies in the US indicate that the higher the minimum drinking age, the more difficult it is for underage drinkers to purchase alcohol. Over a thirty-year period comparative evidence shows that in US states where the minimum drinking age is 21, there is a lower reported incidence of drinking among underage youth, and lower consumption among of-age youth.

There is considerable debate over the right drinking age. The US is one of only four countries in the world that sets the minimum drinking age at 21. In the US, the non-profit group the Amethyst Initiative, led by college and university presidents and chancellors, is calling for the minimum age to be dropped to 18. The group argues that lowering the age will take the sneakiness out of drinking, making it less appealing. Advocates of the Amethyst Initiative argue that young people can learn to drink moderately in safe drinking environments.⁴⁹ They contend that allowing young people to drink in publically regulated environments will also reduce excessive and binge drinking practices among young people.

⁴⁹ Sullivan, Daniel F. Amethyst Initiative: College & University Presidents Lead in Reducing Alcohol Abuse. Retrieved from www2.potsdam.edu/hansondj/youthissues/20081009124838.html

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7.6.1 Age Restrictions: Policy Implications for Nunavut

Age Restrictions	
Experts Say	<ul style="list-style-type: none"> • <i>Restricting the age at which people can drink can substantially reduce alcohol-related harm among young people.</i> • <i>Underage drinkers have generally high rates of harmful drinking behaviour.</i> • <i>Lowering the allowable drinking age can take the mystique away from alcohol.</i>
Nunavut Context	<ul style="list-style-type: none"> • <i>The legal drinking age in Nunavut is 19.</i> • <i>Underage drinking is widespread in Nunavut.</i>
Nunavummiut Say (Consultation Participants)	<ul style="list-style-type: none"> • <i>Participants are extremely concerned about underage drinking in Nunavut and the harm it is causing individuals, families, and communities.</i> • <i>Very few people suggested increasing the drinking age to 21.</i> • <i>Relatives, friends, and bootleggers are considered the primary source of alcohol for underage drinkers.</i> • <i>More education and preventative programs are needed to help youth make better choices.</i> • <i>More treatment programs are required targeting youth.</i>
Task Force Comments	<ul style="list-style-type: none"> • <i>Underage drinking is a significant problem that must be addressed. It not only impacts an individual's potential, but also has serious implications for Nunavut's future growth and Tamapta aspirations.</i>

7.7 Regulating beverage availability according to alcohol content

While research in this area is still fairly new, some of the evidence suggests that regulating the amount of absolute alcohol consumed may reduce alcohol-related harm.

Recently, many countries have started to encourage the consumption of lower-alcohol beverages by increasing their relative availability and by taxing alcoholic beverages according to the amount of alcohol they contain. This policy is predicated on the belief that drinking lower alcohol content beverages will reduce alcohol-related harm. Advocates of regulating beverage availability according to alcohol content suggest that such moves will help to change the drinking culture. While many people agree that it may work as a strategy for the general population, others argue that such a policy will not significantly impact high-risk and harmful drinkers.

The American Council on Science and Health cautions that a 12-oz. can of beer, a 5-oz. glass of wine, and a mixed drink containing 1.5 oz. of 80-proof liquor all contain approximately the same amount of pure alcohol.⁵⁰ That means that each of these drinks has the same effect on the drinker's judgment, coordination, and health. In their online guide, Mothers Against Drunk Driving (MADD) debunk two myths about drinking, (1) "You'll get drunk a lot quicker with hard liquor than with a beer or wine cooler" and (2) "Switching between beer, wine, and liquor will make you more drunk than sticking to one type of alcohol." According to MADD, "Your blood alcohol content is what determines how drunk you are, not the flavours you selected. Alcohol is alcohol."⁵¹

⁵⁰ Meister, K. (1999). Alcohol Consumption and Health, The American Council on Science and Health. Retrieved from www.acsh.org/docLib/20040402_Alcohol_Consumption1999.pdf

⁵¹ Mothers Against Drunk Drivers. Life 24/7. Classroom Project. Retrieved from www.thesevenproject.org/downloads/7guides.pdf

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7.7.1 Regulating Alcohol Content: Policy Implications for Nunavut

Regulating Alcohol Content	
Experts Say	<ul style="list-style-type: none"> • <i>Regulating the amount of absolute alcohol consumed may reduce alcohol-related harm.</i> • <i>In all likelihood, such a policy will not significantly impact the drinking habits of high-risk drinkers.</i>
Nunavut Context	<ul style="list-style-type: none"> • <i>Nunavut does not regulate the availability of alcohol by its alcohol content.</i> • <i>In Nunavut, the high cost of transportation is resulting in higher alcohol content products, such as vodka, to be preferred over lower alcohol content products such as beer and wine.</i>
Nunavummiut Say (Consultation Participants)	<ul style="list-style-type: none"> • <i>Many participants said they would like to see wine and beer become a more affordable choice than beverages with high alcohol content.</i> • <i>Participants often quoted Greenland as a model that should be followed in Nunavut. Greenland significantly restricts the availability of hard alcohol in favour of beer and wine.</i>
Task Force Comments	<ul style="list-style-type: none"> • <i>The Task Force supports the concept of encouraging the consumption of lower alcohol beverages as part of a moderation strategy.</i>

7.8 Alcohol Price and Taxation

Evidence shows that a reduction in price tends to stimulate consumption, and an increase in price tends to deflate overall consumption.

Over the past decade there has been considerable research investigating the relationship between the price of alcohol and harmful consumption levels with

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drinking patterns. Some of these studies demonstrate that increased prices and higher taxes lead to reductions in the levels and frequency of drinking and harmful drinking among youth (Coates et al., 1988).⁵² Other studies show a decrease in traffic accidents, workplace injuries, alcohol-related deaths, and violent crimes (Cook, 1993).⁵³

While research suggests that for many middle-income earners an increase in price will lead to less consumption, other studies suggests that heavy drinkers will not significantly reduce their consumption levels. Studies indicate that heavy drinkers are more likely to switch to a cheaper brand in response to price increases. Of particular note is one study that found heavy drinkers who were unaware of the adverse health consequences of their drinking were less responsive to price changes than either moderate drinkers or better-informed heavy drinkers (Kenkel, 1996).⁵⁴

In Canada, the consumer price of alcohol is affected by the addition of three different kinds of taxes: (1) federal excise taxes, (2) provincial mark-ups and environmental taxes, and (3) federal and provincial sales taxes. In addition, some provinces apply volume levies and cost-of-service charges. Between 1990 and 1998 nearly all the Canadian provinces instituted a minimum pricing policy on alcoholic beverages. A research study in the early 1990s indicated that consumption growth in provinces with minimum pricing was significantly less than for those provinces that had not yet adopted pricing policies.⁵⁵

Consumers in Nunavut have a different price structure. Nunavummiut currently have the option of either ordering from the Nunavut Liquor Commission or obtaining an Import Permit and placing their order with a supplier from another jurisdiction. The Nunavut Liquor Commission has provided the Task Force with the following comparison for an 1140 ml bottle of Smirnoff Vodka delivered to Rankin Inlet. It is assumed that the purchaser used an Import Permit and ordered from Churchill, Manitoba.

⁵² Coate, D., & Grossman, M. (1988). Effects of alcoholic beverage prices and legal drinking ages on youth alcohol use. *Journal of Law and Economics*, 31:145–171.

⁵³ Cook, P.J., Moore, M.J. Drinking and schooling. *Journal of Health Economics* 12:411–429, 1993b.

⁵⁴ Kenkel, D.S., & Manning, W.G. (1996). Perspectives on alcohol taxation. *Alcohol Health & Research World*, 20.4: 230–238.

⁵⁵ Chaloupka, F.J.; Grossman, M.; and Saffer, H. The effects of price on alcohol consumption and alcohol-related problems. *Alcohol Research & Health* 26(1):22–34, 2002.

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Component	NLC Warehouse	Import Permit
Cost of Bottle⁵⁶	\$96.10	\$63.98
Import Permit	-	9.56
Local Cartage	3.00	19.00
Freight⁵⁷	45.00	45.00
Total⁵⁸	\$144.10	\$137.54

7.8.1 Alcohol Price and Taxation: Policy Implications for Nunavut

Alcohol Price and Taxation	
Experts Say	<ul style="list-style-type: none"> • <i>A reduction in the price of alcohol tends to stimulate consumption, and an increase in price tends to deflate overall consumption.</i> • <i>Harmful drinking patterns remain high even in countries that have raised taxes.</i> • <i>An increase in price normally results in the middle-income earners selecting a lower priced product but consuming the same amount.</i>
Nunavut Context	<ul style="list-style-type: none"> • <i>The cost of shipping alcohol in Nunavut makes the price of liquor high in comparison with the costs in provinces.</i> • <i>Bootleggers charge on average \$300 for an 1140 ml bottle of vodka. In some communities, the bootleg price can be as high as \$500. The same bottle can be purchased for approximately \$140 through NLC. This would indicate that the price point for a bottle of liquor has little effect on some buyers.</i>

⁵⁶ The retail cost of the bottle ordered from the NLC warehouse includes the costs of the product, freight, mark-up, and administration fee. The cost of the bottle ordered from Churchill includes the cost of the product and Manitoba liquor taxes.

⁵⁷ The freight for the order placed with NLC is the cost of shipping the bottle from the Iqaluit warehouse to Rankin Inlet. The freight for the bottle purchased from Churchill is the shipping cost from Churchill to Rankin Inlet.

⁵⁸ An order placed by a resident of a restricted community may also have additional processing charges related to placing the order through the Alcohol Education Committee.

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Alcohol Price and Taxation	
<i>Nunavummiut Say (Consultation Participants)</i>	<ul style="list-style-type: none"> • <i>People that abuse alcohol are not deterred by price.</i> • <i>The alcohol prices in Nunavut are already very high compared to the prices in other jurisdictions.</i> • <i>There are already some totally unnecessary programmed inefficiencies built into the delivery system that add significantly to the cost of alcohol and benefit only the airlines.</i>
<i>Task Force Comments</i>	<ul style="list-style-type: none"> • <i>The Task Force is of the view that increasing the price of alcohol in Nunavut will have no significant effects on harmful drinking practices.</i> • <i>The members believe that the delivery system must be rationalized and designed in a manner that will support the overall objectives of reducing harm. This includes stringent measures to eliminate the illegal importation of alcohol.</i>

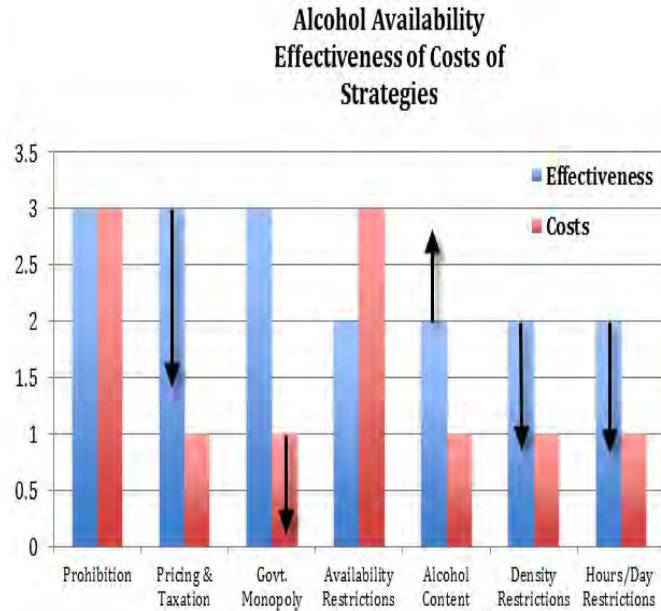
7.9 Effectiveness of Government Strategies

The following chart is adapted from a presentation by J. Rehm of CAMH.⁵⁹ The chart illustrates the findings of a study to evaluate the cost and effectiveness of harm prevention and intervention strategies worldwide. The Task Force recognizes that there are significant geographical, cultural, and market place considerations that makes the Nunavut situation unique. The Task Force analyzed these best practices and assessed their applicability to Nunavut.

⁵⁹ Rehm, J. (2005). Proposed Changes in Alcohol Retailing in Ontario: An Estimate of Social and Health Costs of Several Scenarios. Presentation at the Ontario Public Health Association Meeting on "Alcohol – No Ordinary Commodity II". Toronto, Canada. Retrieved from www.fin.gov.on.ca/en/consultations...

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The blue columns in the chart illustrate the effectiveness of the listed strategies in changing the drinking environment, while the red columns indicate the relative cost of each initiative. The arrows included within some of the columns indicate the “best-guess” opinion of the Task Force on the potential costs and effectiveness of these strategies in the Nunavut context. Arrows pointing up indicate that the Task



Force is of the view that the effectiveness or the cost of the initiative will be greater in Nunavut. Arrows pointing down indicate the opposite. In the absence of data, the best-guess trends are formed on anecdotal comments from government workers, community leaders, and others.

8.0 CHANGING THE DRINKING ENVIRONMENT - WHAT THE EXPERTS TELL US

Many jurisdictions around the world are seeking to minimize alcohol-related harm by implementing policies intended to alter the drinking environment. As in Canada, most of these jurisdictions are placing a strong emphasis on encouraging and establishing a culture of moderation, and are focusing prevention and intervention policies on youth and other vulnerable populations.

8.1 Server Liability

Server liability has a real potential for reducing alcohol-involved problems.

There is much discussion, particularly among licence holders, about the merits, duty, and fairness of server liability regulations. In Canada, licensed establishments are required by legislation and common law to exercise care and judgment in serving alcoholic beverages. In all provinces and territories liquor licensing laws specifically forbid serving alcohol to customers who are, or appear to be in a state of intoxication. These laws make it possible to hold the server legally liable for the actions of their intoxicated clients. Server liability provisions usually require the server to monitor and moderate the amount of alcohol served to clients. The server is expected to make reasonable assumptions about the level of the customer's impairment. The server is also required to ensure that the client does not put himself, herself, or others at risk, because of intoxication, when they leave the premises. In 1973, the Supreme Court of Canada held that a commercial host owes a duty of care to a patron who becomes intoxicated and is unable to look after him/herself (*Jordon House Ltd. v. Menow*, 1973). Since this ruling, restaurants, bars, and clubs, including the Canadian Legion and the Kinsmen Club, have been found liable for incidents involving customers that were determined to be "over served."

There is limited research available on server liability effectiveness. One research study assessed the effectiveness of potential server liability on alcohol-related car accidents. The researchers reported that in their Texas study, fatal traffic crashes

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decreased 6.5 % after the filing of a major server-liability court case in 1983, and decreased an additional 5.3 % after a 1984 case was filed (NIAAA).⁶⁰

In another project, an expert legal panel was used to identify and rate the major legal factors contributing to server liability. The panel highlighted the fact that the States that ranked highest in server liability have more publicity about server liability. Researchers believe that increased awareness has heightened the concerns among licensed establishment owners and managers. Different serving practices can be found between states with high liability and those with the lowest liability exposure. The panel concluded that server liability has a real potential for reducing alcohol-involved problems, but they also note that additional research is needed.⁶¹

European studies indicate that, while servers will intervene with customers who are creating a disturbance or are in need of assistance, they generally will not intervene solely on the amount a person has drunk. These studies find that server liability is greatly enhanced when there is active, ongoing enforcement of laws prohibiting the sale of alcohol to intoxicated customers.⁶²

8.1.1 Server Liability: Policy Implications for Nunavut

Server Liability	
Experts Say	<ul style="list-style-type: none">• <i>The effectiveness of server liability is dependent on stringent enforcement measures and broad public awareness.</i>• <i>The effectiveness of the training at the individual server level diminishes over time.</i>
Nunavut Context	<ul style="list-style-type: none">• <i>In Nunavut, server training has recently been made mandatory by directive of the NLLB.</i>

⁶⁰ Preventing Alcohol Abuse and Related Problems. (1996). *National Institute on Alcohol Abuse and Alcoholism*, 34. Retrieved from niaaa.nih.gov/publications/aa34.htm

⁶¹ Holder, H. D., Janes, K., Mosher, J., Saltz, R.F., Spurr, S., & Wagenaar, A. C. (1993). Alcoholic beverage server liability and the reduction of alcohol-involved problems. *Journal of Studies on Alcohol*, 54, 23-26.

⁶² Ibid

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Server Liability	
	<ul style="list-style-type: none"> • <i>There is continual effective enforcement for all licensee requirements, including over serving.</i>
Nunavummiut Say (Consultation Participants)	<ul style="list-style-type: none"> • <i>Some consultation participants stated that licensees often over-serve.</i> • <i>Licensees stated that most establishments don't over-serve.</i> • <i>One Iqaluit licensee has instituted an employee reward program to encourage their employees to maintain a high level of compliance with the licence requirements.</i>
Task Force Comments	<ul style="list-style-type: none"> • <i>The Task Force strongly endorses mandatory server training.</i>

8.2 Strengthening Penalties against those who sell to Minors, Interdicted Individuals, or Other High-Risk Groups

The younger a person begins to drink, the more likely they are to develop addiction problems later in life.

Countless studies demonstrate that alcohol is a major contributor to injury, death, and criminal activity among young people. Research is also showing that the younger a person starts to drink, the higher the risk for chronic alcohol addiction in later life (Grant & Dawson, 1997).⁶³ Minors often obtain alcohol from legal outlets by using false identification. They also get alcohol from a variety of other sources

⁶³ Grant, B.F., & Dawson, D.A. (1997). Age at onset of alcohol use and its association with DSM-IV alcohol abuse and dependence: Results from the National Longitudinal Alcohol Epidemiologic Survey. *Journal of Substance Abuse*, 9: 103–110.

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including parents, adult acquaintances, friends, and even strangers. These other sources are often difficult to monitor, enforce, and prosecute.

The literature indicates there are a number of proven strategies to reduce youth access to alcohol and minimize harm. One strategy requires the imposition of strict administrative penalties for violations of laws concerning the provision of alcohol to minors. A best practice review of this strategy indicates that to be successful the strategy requires community support, effective enforcement, penalties, and aggressive public awareness campaigns.

8.2.1 Strengthening Penalties against those who sell to Minors, Interdicted Individuals, or Other High-Risk Groups: Policy Implications for Nunavut

Strengthening Penalties against Selling to Minors, and Interdicted	
Experts Say	<ul style="list-style-type: none"> • <i>Youth are highly susceptible to alcohol-related harm.</i> • <i>Underage youths obtain alcohol from a variety of illicit sources.</i> • <i>Enforcement actions against people providing youth with alcohol are difficult.</i>
Nunavut Context	<ul style="list-style-type: none"> • <i>Underage drinking is prevalent in Nunavut.</i> • <i>Nunavut youths have little difficulty acquiring alcohol. Their main suppliers include family, friends, and bootleggers.</i> • <i>There is no central interdiction list.</i> • <i>Police told the Task Force that prosecution of sale of alcohol to youths is difficult because youths won't identify their suppliers.</i>
Task Force Comments	<ul style="list-style-type: none"> • <i>The Task Force strongly supports actions to cut off the supply of alcohol to youths and to people who are interdicted from acquiring or consuming alcohol.</i> • <i>The Task Force believes that a central system is required to facilitate the enforcement of an interdiction list.</i> • <i>It is the opinion of the Task Force that reducing the minimum drinking age for Nunavut will have little</i>

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Strengthening Penalties against Selling to Minors, and Interdicted

effect until bootleggers are shut down and adults fully understand the negative implications of providing alcohol to youths.

8.3 Drinking Driving Counter Measures

Drinking driving policies and countermeasures are very effective in reducing accidents and are common around the world.

According to the WHO, research clearly demonstrates that there is a very strong relationship between the level of alcohol in a driver's blood (called the blood alcohol concentration, or BAC) and the risk of vehicle crashes. Young drivers are at particular risk of death from alcohol-related traffic accidents. In response, many countries have lowered the BAC for new and young drivers. Most European countries have set a BAC of .05%.

In Canada, the criminal code sets the BAC at .08%. However, British Columbia has recently set it at .05%. In addition, BC gave increased powers to law enforcement to suspend driver's licences at the roadside, and to impound vehicles. While some feel these measures are violations of the Charter of Rights and Freedoms, others note the effectiveness of the law. According to the Province, lowering the limit has resulted in a 40% drop in alcohol-related crashes.

Studies by the WHO and the EU have identified the following best practices in reducing alcohol-related collisions and fatalities:

- 1) Random breath testing (RBT) and sobriety checkpoints by police;
- 2) Driving licence suspension for a driver caught with a positive BAC;
- 3) The use of an ignition interlock, a mechanical device which does not allow a car to be driven by a driver with a BAC above a low level; and,
- 4) Mandatory treatment of repeat offenders.

Experts note that for drinking driving policies and counter measures to be effective there must be consistent enforcement and severe penalties imposed on drivers

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caught operating vehicles over the legal limit (HEIDI).⁶⁴

8.3.1 Drinking Driving Counter Measures: Policy Implications for Nunavut

Drinking Driving Counter Measures	
Experts Say	<ul style="list-style-type: none"> • <i>Drinking and driving counter measures are very effective in reducing alcohol-related accidents.</i>
Nunavut Context	<ul style="list-style-type: none"> • <i>In most communities the preferred mode of transportation are quads, snow machines, and boats.</i> • <i>Use of these forms of transportation while under the influence of alcohol is a growing concern in Nunavut.</i>
Nunavummiut Say (Consultation Participants)	<ul style="list-style-type: none"> • <i>People often spoke of alcohol-related accidents on the land involving quads, snow mobiles and boats.</i> • <i>Many participants were not aware of the drinking and driving laws as they apply to quads, watercraft, and other similar vehicles.</i>
Task Force Comments	<ul style="list-style-type: none"> • <i>The Task Force believes that drinking and driving counter measures are effective, and should be applied to all forms of transportation.</i> • <i>The Task Force is of the opinion that public awareness initiatives are required to promote the safe and substance free operation of all vehicles.</i>

⁶⁴ European Commission, Alcohol and Health Forum. Retrieved from http://ec.europa.eu/health/alcohol/forum/index_en.htm

8.4 Community Mobilization

Community mobilization can effectively reduce the harm of alcohol.

While there is limited scientific research available on the effects of community mobilization, many experts agree that community action can effectively reduce the harmful use of alcohol.

Community mobilization programs usually rely on a number of stakeholders coming together to identify and address alcohol-related harm at the community level. There are many different examples of community action groups, but in general the stakeholder groups include volunteer representatives of local agencies including police, social workers, municipal government officials, industry representatives and non-profit community groups.

The strength of the stakeholder group lies in their ability to form partnerships, facilitate networking, and raise public awareness of the harm associated with alcohol use. Common aims and actions of community mobilization groups include:

- Reducing the acceptability of alcohol misuse;
- Providing care and support for individuals affected by alcohol;
- Mobilizing the community against bootlegging and the local manufacturing of potentially dangerous alcoholic beverages; and,
- Leading or supporting policy initiatives such as education and awareness programs.

A review of evaluation studies in Canada and Australia conducted on behalf of WHO reveals that community action can be an important tool in places where alcohol consumption is high, and there is a high level of public drunkenness, mistreatment of children and family violence.⁶⁵ Studies of grassroots groups in Australia demonstrate that to be successful, community mobilization must be supported by effective law enforcement of the applicable liquor laws.⁶⁶

⁶⁵ Babor, T., Caetano, R., & Casswell, S. (2003). *Alcohol: No Ordinary Commodity: Research and Public Policy*. Oxford: Oxford University Press.

⁶⁶ Centre For Addictions Research of BC. (2006). *Following the Evidence: Preventing Harms From Substance For The British Columbia Ministry Of Health*. Retrieved from www.health.gov.bc.ca/library/.../year/2006/followingtheevidence.pdf

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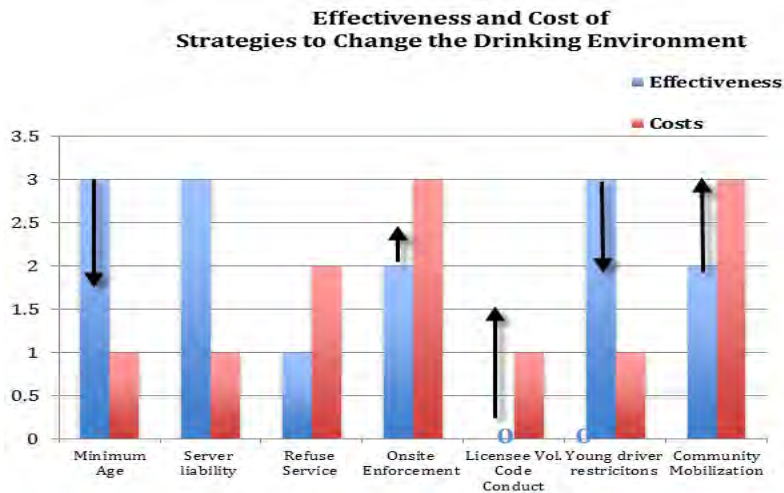
8.4.1 Community Mobilization: Policy Implications for Nunavut

Community Mobilization	
Experts Say	<ul style="list-style-type: none"> • <i>Community mobilization can improve the public health and safety within a community.</i> • <i>To be effective, community strategies must be strongly supported by residents and law enforcement.</i>
Nunavut Context	<ul style="list-style-type: none"> • <i>Alcohol Education Committees in some communities have been very active and effective in community mobilization.</i> • <i>Some communities have developed strong networks between relevant agencies to address alcohol-related harm.</i>
Nunavummiut Say (Consultation Participants)	<ul style="list-style-type: none"> • <i>All communities requested a group that would champion initiatives to address alcohol abuse and its effects in the community.</i> • <i>Government must support and resource local groups such as Alcohol Education Committees.</i>
Task Force Comments	<ul style="list-style-type: none"> • <i>The Task Force believes that community mobilization is required to combat the current levels of alcohol-related harm.</i> • <i>Communities must be resourced to develop a community strategy against alcohol-related harm, and be given the tools to implement these strategies.</i>

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8.5 Effectiveness and Costs of Changes to the Drinking Environment

The following chart summarizes the analysis of the various strategies aimed at changing the drinking environment. It is adapted from a presentation by J. Rehm of CAMH. The blue columns in the chart illustrate the effectiveness of the listed strategies in changing the drinking environment, while the red columns indicate the relative cost of each initiative. The arrows included within some of the columns indicate the opinion of the Task Force on the potential costs and effectiveness of these strategies in the Nunavut context. Arrows pointing up indicate that the Task Force is of the view that the effectiveness or the cost of the initiative will be greater in Nunavut. Arrows pointing down indicate the opposite.



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9.0 EDUCATION & INFORMATION PROGRAMS – WHAT THE EXPERTS TELL US

Public education and information programs about alcohol are usually intended to directly influence the drinking patterns of individuals, and to reinforce society's expectations about what is considered desirable conduct. While politicians and the general public support the use of social media campaigns, research findings are inconclusive about the effectiveness of these practices.

9.1 Public Service Messages

There are mixed results about the effectiveness of public service messages.

Public service messages are frequently used to inform the public about the dangers of alcohol misuse. Health Canada, in its publication *Recommendations for a National Alcohol Strategy* (National Alcohol Strategy Working Group, 2007) recommends a social marketing campaign to promote national low-risk drinking guidelines.⁶⁷

Many governments have invested in media campaigns to promote safe drinking guidelines. Nonetheless, the research shows mixed results about the benefits of such campaigns. One study points out that well-designed media campaigns can increase awareness and may deter some high-risk behaviours (Loxely, et al., 2006).⁶⁸ On the other hand, Babor et al. (2003), having reviewed the literature from many countries, concluded that there is no evidence of effectiveness for public service message campaigns.⁶⁹

⁶⁷ National Alcohol Strategy Working Group. (2007). Reducing Alcohol-Related Harm in Canada: Toward a Culture of Moderation. Canadian Centre on Substance Abuse. Retrieved from www.ccsa.ca/2007%20CCSA%20Documents/ccsa-023876-2007.pdf

⁶⁸ Loxley, W., Toumbourou, J., Stockwell, T., Haines, B., Scott, K., Godfrey, C., et al. (2004). The prevention of substance use, risk and harm in Australia: A review of the evidence. Perth and Melbourne: National Drug Research Institute and Centre for Adolescent Health

⁶⁹ Babor, T. F., Caetano, R., Casswell, S., Edwards, G., Giesbrecht, N., Graham, K., et al. (2003). Alcohol: No ordinary commodity. Research and public policy. Oxford: Oxford University Press.

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9.1.1 Public Service Messages: Policy Implications for Nunavut

Public Service Messages	
Experts Say	<ul style="list-style-type: none"> • <i>Unlike tobacco public service messages, messages about drinking have limited effects on harmful drinking behaviours.</i>
Nunavut Context	<ul style="list-style-type: none"> • <i>There are several public and non-profit agencies that have active anti-drugs and alcohol programs and campaigns.</i>
Nunavummiut Say (Consultation Participants)	<ul style="list-style-type: none"> • <i>Participants support public service message programs and view them as effective in their communities.</i> • <i>People asked that such messages be culturally sensitive, offered in the appropriate language and delivered through appropriate media.</i>
Task Force Comments	<ul style="list-style-type: none"> • <i>The Task Force believes that, contrary to the experience of other jurisdictions, these types of programs are effective in the Nunavut context.</i> • <i>The Task Force recognizes the need for public service messages for Nunavummiut on improving knowledge and understanding of safe alcohol consumption levels.</i>

9.2 Alcohol Advertising and Public Warning Labels

Controlling alcohol advertising is considered good public policy. Warning labels do not change harmful drinking behaviours.

In North America, alcohol advertising actively promotes the sale and consumption of alcohol. Advertisers usually portray drinking as a socially acceptable and even a necessary practice, while they ignore any reference to the dangers of high-risk drinking. This point is substantiated by research findings that advertising encourages positive perceptions about drinking and can increase consumption

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levels especially among young people (Snyder et al., 2006).⁷⁰

In Canada, most provinces and territories have regulations or guidelines related to alcohol advertising. At the national level, the Canadian Radio, Television and Telecommunications Commission (CRTC) regulates alcohol advertising. The CRTC publishes guidelines for alcohol advertisers.

Rehm, et al. suggest that controlling alcohol advertising is a good public policy measure when part of a comprehensive alcohol reduction strategy. However, they also find that such measures have limited sustained impact.⁷¹ Other studies concede that, while information and education campaigns are important in raising awareness and imparting knowledge about the harmful effects of alcohol misuse, they are generally ineffective against more widespread industry advertising (Babor et al., 2003).⁷²

Warning labels on alcoholic beverage containers are intended to inform and remind drinkers about the negative consequences of alcohol consumption. The labels include warnings about potential birth defects and a notice that drinking can interfere with a person's ability to drive a car or operate machinery. They also warn consumers about potential health problems caused by alcohol consumption.

Several countries, including the US, have legislated mandatory labeling of alcoholic products. Since the 1990s, many groups in Canada have been advocating warning labels. Several of these groups have petitioned the federal government to encourage the use of warning labels. Between 1995 and 2007, MP Paul Szabo attempted to persuade the government to introduce mandatory labeling of alcohol containers. His private member's bills requiring warning labels on alcohol packaging—C-206 and C-251, *An Act to Amend the Food and Drugs Act*—were defeated. In general those opposing the bill argued that it was too expensive to implement and maintain. In Canada, only Yukon and NWT require warning labels on alcoholic beverages.

⁷⁰ Snyder, L.B., Fleming-Milici, F., & Slater, M. (2006). Effects of alcohol advertising exposure on drinking among youth. *Arch Pediatric Adolescent Med*, 160: 18-24.

⁷¹ Rehn, N., Room, R., & Edwards, G. (2001). Alcohol in the European Region - Consumption, Harm and Policies. Copenhagen, WHO Regional Office for Europe. Retrieved from www.euro.who.int/document/e87347.pdf

⁷² Babor, T., Caetano, R., & Casswell, S. (2003). Alcohol: No Ordinary Commodity: Research and Public Policy. Oxford: Oxford University Press.

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In 2011, the Council of University Women (CUFW) continued the quest for warning labels. The association passed a resolution urging “the Government of Canada to legislate labeling requirements on all alcoholic beverage containers indicating the potential teratogenic effects of alcohol on sperm and egg cells as well as on the developing fetus.”⁷³

While the general public supports warning labels, the research suggests that the labels have not had an effect on dangerous drinking behaviours. According to researchers, they do increase awareness of health hazards but do not change behaviour. This is in contrast to tobacco labeling which is considered highly effective. However, one recent study of pregnant women found that after the warning label appeared, alcohol consumption declined among lighter drinkers but not among those who drank more heavily.⁷⁴

9.2.1 Alcohol Advertising and Public Warning Labels: Policy Implications for Nunavut

Alcohol Advertising and Warning Labels	
Experts Say	<ul style="list-style-type: none">• <i>Controlling alcohol advertising is good public policy when part of a comprehensive alcohol reduction strategy.</i>• <i>Warning labels do not deter high-risk drinking.</i>
Nunavut Context	<ul style="list-style-type: none">• <i>Nunavummiut are exposed to alcohol advertising through the Internet and television.</i>• <i>There is very little alcohol promotion at the community level, with the exception of some special events and alcohol television commercials aimed at the general Canadian population.</i>

⁷³ Canadian Federation of University Women. (2011). Policy Book. Retrieved from www.cfuw.org/Portals/0/Advocacy/.../Policy_Book_2011.pdf

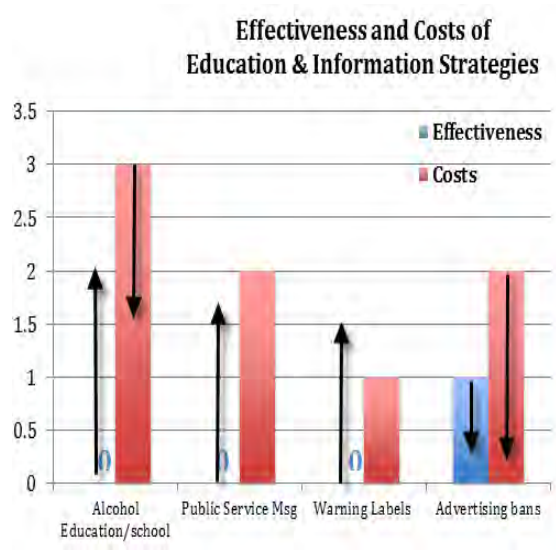
⁷⁴ Preventing Alcohol Abuse and Related Problems. (1996). *National Institute on Alcohol Abuse and Alcoholism*, 34: 370. Retrieved from niaaa.nih.gov/publications/aa34.htm

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Alcohol Advertising and Warning Labels	
<i>Nunavummiut Say (Consultation Participants)</i>	<ul style="list-style-type: none"> • <i>Participants did not discuss alcohol advertising during the consultation.</i> • <i>Some people requested labels on alcohol products specifically targeting pregnant women.</i>
<i>Task Force Comments</i>	<ul style="list-style-type: none"> • <i>The Task Force did not discuss alcohol media advertising during its deliberations.</i> • <i>Members support the public request for labeling targeted to pregnant women.</i> • <i>The Task Force believes that labeling can also serve to identify legally acquired alcohol products from those that are imported illegally.</i>

9.3 Effectiveness and Costs of Education and Information Strategies

The following chart summarizes the analysis of various education and information strategies. It is adapted from a presentation by J. Rehm of CAMH. The blue columns in the chart illustrate the effectiveness of the listed strategies in changing the drinking environment, while the red columns indicate the relative cost of each initiative. The arrows included within some of the columns indicate the opinion of the Task Force on the potential costs and effectiveness of these strategies in the Nunavut context. Arrows pointing up indicate that the Task Force is of the view that the effectiveness or the cost of the initiative will be greater in Nunavut. Arrows pointing down indicate the opposite.



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10.0 TREATMENT & PREVENTION – WHAT THE EXPERTS TELL US

Specialized treatment can be very effective for people with alcohol-use disorders, but it is a very expensive public policy option.

There are a number of specialized medical, psychiatric, and social services available for individuals with alcohol-use disorders. Treatment frequently requires a range of services from diagnostic assessment to therapeutic interventions and continuing care. Some programs include opportunities for integration with other types of services, such as mental health, drug dependence treatment, and mutual help organizations.

The World Health Organization (2004) undertook a study to determine the availability and effectiveness of these treatment and prevention programs worldwide. The researchers found that in nearly every country surveyed there were considerable gaps between the people requiring treatment and people receiving treatment.⁷⁵ These gaps have been identified as a serious problem for people with alcohol-use disorders, especially people without the resources or support to get help and those who come into contact with the justice and correctional systems.

10.1 Early and Brief Intervention and Treatment

Researchers report that early intervention strategies and treatment are limited in their effectiveness as alcohol control measures (WHO, 2004). They point out that this is because treatment programs are targeted to a small percentage of the population and, therefore, the overall effect on drinking is limited.

In the treatment of non-dependent high-risk drinkers, some researchers believe that brief interventions can be highly effective and cost-effective in changing drinking habits and reducing alcohol-related problems (Babor et al., 2003).⁷⁶ These brief

⁷⁵ WHO, Global Status Report on Alcohol

⁷⁶ Babor, T. F., Caetano, R., Casswell, S., Edwards, G., Giesbrecht, N., Graham, K., et al. (2003). Alcohol: No ordinary commodity. Research and public policy. Oxford: Oxford University Press.
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interventions are intended to change an individual's consumption before their drinking causes significant problems.

There is also evidence that suggests some forms of prevention and intervention programs can be particularly effective in tackling alcohol abuse among youth and young adults. Researchers identified family-based prevention programs as effective approaches to reducing alcohol and substance abuse among young people. Family-based programs focus on not only the youth, but on improving parental child management and improving interpersonal relationships (Velleman, 2009).⁷⁷

Studies on mutual help societies indicate that these groups can have an incremental effect especially when combined with other forms of treatment. Alcoholics Anonymous (AA) is an example of a mutual help society. Researchers have suggested that AA attendance alone may be better than no intervention at all (Babor 2003).⁷⁸

10.1.1 Treatment and Prevention: Policy Implications for Nunavut

Treatment and Prevention	
Experts Say	<ul style="list-style-type: none">• <i>Specialized treatment can be effective but it is resource intensive and expensive.</i>• <i>Integrated treatment programs usually have a higher level of effectiveness.</i>• <i>Brief interventions are effective for less severe drinking problems.</i>
Nunavut Context	<ul style="list-style-type: none">• <i>There are very limited treatment options available at the community level.</i>

⁷⁶ Velleman, R. (2009). Alcohol Prevention Programmes: A review of the literature for the Joseph Rowntree Foundation (part two). Retrieved from www.jrf.org.uk/sites/files/jrf/alcohol-prevention-progs-parttwo.pdf

⁷⁷ Velleman, R. (2009). Alcohol Prevention Programmes: A review of the literature for the Joseph Rowntree Foundation (part two). Retrieved from www.jrf.org.uk/sites/files/jrf/alcohol-prevention-progs-parttwo.pdf

⁷⁸ Babor et al (2003). Alcohol: No Ordinary Commodity

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Treatment and Prevention	
	<ul style="list-style-type: none"> • <i>All specialized treatment options occur outside of Nunavut.</i> • <i>Some communities have mutual help groups.</i> • <i>Alcohol Education Committees have authority under the Act to offer counseling services for people who abuse alcohol. However, they don't have any dedicated resources and very little capacity if any.</i>
<i>Nunavummiut Say (Consultation Participants)</i>	<ul style="list-style-type: none"> • <i>Nunavummiut want to see treatment facilities established in each region.</i> • <i>Participants want to improve the coordination of identifying and treating alcoholics.</i> • <i>Some people requested more culturally sensitive approaches for treatment including allowing elders to help in the treatment programs.</i> • <i>People commented that there is currently a high rate of failure with the few existing treatment options.</i>
<i>Task Force Comments</i>	<ul style="list-style-type: none"> • <i>The Task Force recognized that treatment options are very expensive.</i> • <i>Members are of the opinion that treatment options are not within the purview of the Liquor Act. However, the Task Force supports all coordinated efforts at providing more effective treatment.</i>

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11.0 SUMMARY

The research material provided to the Task Force indicates a strong link between increased availability of alcohol and alcohol-related harm. Nevertheless, the Task Force acknowledges the cautionary notes raised by many researchers. They point out that frequently, the findings of social science research must be qualified because they are not derived from controlled experiments that can clearly establish that a certain factor or variable causes or influences a specific outcome. Researchers point out that alcohol consumption is influenced by many factors and variables, including differences in demographics, socio-economic conditions, and cultural values. These variables can make direct comparisons between regions and studies difficult and unreliable. Some researchers also note that the type and depth of harm is also dependent on how changes are implemented. Experience demonstrates that changes implemented over a longer period of time were shown to have less effect than sudden and multiple changes.

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PART THREE: MAKING IT HAPPEN

In these final chapters of the report we present our recommendations. We begin by identifying the “ideal situation”, as described by many participants in the Task Force’s public consultation, and the principles that guided our discussions and decision-making. Our recommendations are organized and presented under five headings:

- 1) A new *Act*;
- 2) Target bootlegging and the illegal distribution of alcohol;
- 3) Strengthen community empowerment;
- 4) Changing the drinking culture; and,
- 5) Improving the alcohol control and supply system.

Task Force Members have unanimously agreed to these recommendations.

12.0 INTRODUCTION

We began this report by providing a picture of alcohol consumption in Nunavut. We believe this picture is a fair reflection of what we heard during the consultation process. It contains the comments, views, and experiences of many Nunavummiut, and the input, insight, and advice of Nunavut professionals. In Part One we identified the highly visible harm of alcohol misuse such as increased crime, family violence, and elder abuse. We also identified the sometimes hidden harm of alcohol abuse such as loss of economic opportunities and poor health. The Task Force acknowledges the root causes of alcohol problems and the sad fact that, intentionally or unintentionally, harmful drinking impacts everyone.

In Part Two of this report we introduced some opportunities to change the drinking context within Nunavut. The opportunities are based on the knowledge of national and international experts, coupled with a review of the best practices in other jurisdictions. In considering this material, the Task Force members were very aware that simply

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transplanting actions and processes found to be successful in other jurisdictions might not be effective in Nunavut. We believe that solutions must bear in mind Nunavut's historical, social, economic, and geographic realities, and respect its unique cultural context. In addition, we also believe that “one size fits all” solutions do not work well in Nunavut; solutions must be designed to acknowledge and reflect local aspirations and conditions.

In this final section of the report we present the Task Force's key recommendations. Central to our recommendations is the goal of reducing alcohol-related harm. This was the number one message from Nunavummiut: “Alcohol is a terrible problem and something must be done to address the harm it has caused and continues to cause” (See pg. 2, *What We Heard*). While we emphasize minimizing harm, we also accept that many Nunavummiut are low to moderate drinkers who wish to have legitimate and reasonable access to alcohol. Finding a proper balance between reducing harm and meeting the needs of low-risk consumers is not easily achieved. For this reason, we have chosen to focus our recommendations on changes to the legislation that will address excessive and illegal consumption of alcohol and the strengthening of the government's control over the sale and supply of alcohol. Our recommendations are not intended to penalize responsible consumers; they are intended to facilitate a culture of moderation.

12.1 The Ideal

When Nunavummiut were asked to describe the “ideal situation” or what should be the goals of any new liquor laws, they invariably said they wanted their communities to be healthier and safer places. They frequently described a healthy and safe community as one where the drinking culture has changed, and alcohol-related harm has been significantly reduced because:

- a) Bootleggers have been shut down;
- b) Communities have meaningful input an effective control over local decisions;
- c) Well-resourced Alcohol Education Committees in every community are providing effective leadership support on alcohol-related matters;
- d) There is an effective and efficient alcohol control and distribution system in place;
- e) Penalties and deterrents are working; and,
- f) Appropriate and resourced education and treatment programs are readily available in Nunavut.

Further information and discussion on the characteristics of the ideal situation can be found in the Task Force report *What We Heard* (2012).

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12.2 A New Direction

To achieve the ideal, Nunavummiut are asking for a new approach to the sale and distribution of alcohol, an approach that has at its core the goal of harm reduction. To achieve this new approach consultation participants have identified four essential strategies. These strategies are:

- a) Target bootlegging and the illegal distribution of alcohol;
- b) Strengthen community empowerment;
- c) Make changes to moderate the drinking context and culture; and,
- d) Improve the efficiency of the alcohol control and supply system.

Many Nunavummiut believe that the adverse impacts of alcohol are far reaching, and they recognize that there are no quick fixes. The proposed strategies and accompanying recommendations are intended to lay the foundation for effective policy interventions that accurately reflect the values, aspirations, and realities of Nunavut society. Each of these strategies cannot stand alone. To be effective the Task Force believes the strategies must be well integrated, comprehensive, and complimentary. The strategies are interwoven and evident throughout the Task Force's recommendations, but we have no illusions that the adoption of these recommendations will be a simple matter or that they will produce immediate results. It will take productive partnerships outside of government, and dedicated resources to implement the broad range of recommended regulatory changes, and to support education and treatment interventions that can bring positive change to high-risk drinking environments.

12.3 Guiding Principles

Prior to formulating our recommendations, the Task Force adopted a set of guiding principles. These principles are grounded in what Nunavummiut told the Task Force in the consultation, and in what we learned from the research review. These principles helped to establish a context and a point of focus for the Task Force deliberations and ultimately they served as a benchmark against which the Task Force measured the value of the recommendations.

1. Reducing alcohol-related harm is critical to the health and well-being of all Nunavummiut;
2. The harmful use of alcohol can be modified by changing certain aspects of the law;

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3. Responsible consumption of alcohol can be part of a healthy community as long as it is respectful of the rights of others;
4. Community residents are in the best position to determine how to achieve a healthy community;
5. Harm reduction requires support from tough rules, rigorous enforcement, and enhanced sentencing provisions;
6. Reorientation of the market place will contribute to achieving responsible alcohol consumption, and aid in preventing bootlegging;
7. Education will provide the tools for Nunavummiut (young and old) to enable them to make healthy choices for themselves and their communities; and,
8. There are significant opportunities to improve efficiencies, effectiveness, and accountability of the current alcohol supply, control, and distribution systems while improving their responsiveness to community aspirations, and contributing to community social and economic well-being.

12.4 Moving to the Recommendations

The Task Force's mandate is to make recommendations on the *Act* and identify how the law can be changed to better reflect Nunavummiut needs, and to facilitate a positive change to more moderate and responsible drinking behaviours. When developing the recommendations the Task Force was very cognizant of the fact that the law has limitations. To be successful, laws must reflect society's attitudes and values, be reasonable, fair, equitable, and enforceable. To be effective laws must also rely on the acceptance of individual and community responsibility, and a common respect for the rights of others. With these factors in mind the Task Force considered a variety of measures aimed at achieving a new direction toward harm reduction. The following chapters present the Task Force's key recommendations for changes to the *Act*. The chapters also include supplementary recommendations. During the early stages of the consultation process, it became apparent that many Nunavummiut wanted to raise issues related to alcohol that are normally outside the purview of the *Act*. Minister Peterson asked the Task Force to pay attention to these issues, and to make recommendations to him on these types of issues when the Task Force deemed it appropriate. In this section of the report these recommendations are labeled "Supplementary Recommendations".

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13.0 A NEW ACT

It was very clear throughout the consultation that Nunavummiut are calling for a new direction in the sale and supply of alcohol, one that incorporates the goal of harm reduction. To achieve this goal a new approach is required, and in order to deliver a new approach the Task Force believes a new statute is necessary. Our recommendations for a new Act are informed by the comments and submissions from the general public, and from people such as lawyers, enforcement officers, justice workers, and industry representatives who rely on the *Act* for direction in their daily work.

Throughout the consultation there was a constant chorus for the following actions:

1. Replace the current *Nunavut Liquor Act* with one that is not misleading and is easily understood by all;
2. Ensure the *Act* has a focus on harm reduction;
3. Ensure any changes to the *Act* are made quickly reflecting the integrated and interdependent nature of the recommendations; and,
4. Develop a layperson's guide to the *Act*.

13.1 Replace the Existing *Nunavut Liquor Act*

The existing *Nunavut Liquor Act* was adopted from the Government of the NWT when Nunavut was established in 1999. This *Act* was originally promulgated in the NWT in 1988, but many sections of the *NWT Liquor Act* and its associated Regulations dated back several decades prior to the 1988 revisions and consolidation. Since its adoption from the NWT in 1999, the *Nunavut Liquor Act* has been subject to further amendments in addition to the many already made to the NWT legislation over the years. Today the *Liquor Act* and Regulations contain over 260 Sections and appendices.

While modern legislation usually includes a set of objectives that clearly identify the purpose of the legislation, the *NWT Liquor Act* did not, and since adoption, none have been identified and included in the *Nunavut Act*.

The process of repeatedly amending legislation in order to update or improve it is common practice in most jurisdictions, but there is a problem inherent in this process. Legislation that is repeatedly amended over a period of time quickly loses its coherence and its accessibility to the layperson. With each successive amendment, the language becomes increasingly complex. As more clauses and sub-clauses are added, the relationships between sections of a given piece of legislation and corresponding sections of the associated regulations become increasingly

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obscure and difficult to understand or interpret for the majority of potential users. This is the situation with the *Nunavut Liquor Act* as it currently exists.

13.1.1 Issues Identified during the Consultation

From the vast amount of feedback that the Task Force received, it is clear that among Nunavummiut there is very little understanding of the current *Nunavut Liquor Act*. Most people, including those who have a reason to refer to the Act in the course of their work or business activities, such as liquor enforcement officers and licensees, say that they find it confusing and difficult to use. The public's attitude to the current *Liquor Act* was summarized succinctly by one commentator who told the Task Force that "the Act is only for lawyers: no one else can understand it."

13.1.2 Key Concerns

- The Act is perceived as archaic, overly complex, and dysfunctional;
- The overall tone of the Act is patronizing and out of date;
- Users often stated that the complex and legalistic language found in the Act makes it difficult to understand;
- The past practice of updating the legislation by repeatedly amending it has resulted in a significant degree of obfuscation of the Act's objectives and purpose, and awkward sequencing of sections in both the *Liquor Act* and Regulations;
- Those stakeholders who need to use the Act, such as the AEC or local hamlet councils, often have difficulty interpreting sections of the Act and therefore sometimes have problems in applying the Act;
- The Act is biased, e.g. Part III of the Act is designed to create a general prohibition against anyone consuming liquor. It then, as an exception, allows certain people the privilege of consuming liquor; and,
- Participants pointed out that the *Nunavut Liquor Act* lacks a clear set of harm reduction objectives and principles through which to control and regulate the supply and use of alcohol in Nunavut.

(For more details see What We Heard pages 15-19)

13.2 Recommendations: Replace the Existing Act

Through its work, the Task Force became very familiar with the *Nunavut Liquor Act* and the members readily agree with the many participants who said that the *Act* is often unclear and difficult to follow. The Task Force believes that there is a need for a new *Liquor Act* set out with clear objectives, written in a style and format that is easily understandable to the lay user, and that reflects the environment in which liquor is sold, distributed, and consumed in Nunavut today.

Key Recommendations

The Task Force recommends that the Government of Nunavut:

- a) Replace the current *Nunavut Liquor Act* with one that is not misleading and is easily understood by all;
- b) Ensure the *Act* has a focus on harm reduction;
- c) Ensure any changes to the *Act* are made quickly reflecting the integrated and interdependent nature of the recommendations; and,
- d) Develop a layperson's guide to the *Act*.

13.2.1 Repeal and Replace the *Nunavut Liquor Act*

The Task Force believes that the simplest way to redress the problems with the current *Act* and to develop clear and coherent legislation is to draft new legislation, not to make a series of further amendments. The Task Force was cautioned that making amendments on amendments would only exacerbate the current problems, making the *Act* more obscure than before by potentially increasing the number of inconsistencies and contradictions. Furthermore, some of the Task Force recommendations, if accepted, call for a substantial restructuring of the current alcohol supply and control system. Amending the *Act* to accommodate these changes will be a highly complex and arduous task, and it is the Task Force's opinion that many in the general public will not easily understand or engage in the process. Also, from the practical legal perspective of several lawyers with experience in the process of preparing new legislation who met with the Task Force, writing new legislation is a much simpler process than amending existing legislation. The Task Force received some recommendation submitted by the Nunavut Liquor Licensing Board on measures to simplify and modernize the *Act*. The NLLB, often supported by their legal counsel, regularly consider and apply

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the *Act*. They have a unique vantage point on the weaknesses of the current *Act*. Their recommendations can be found on page 16 of the *What We Heard* report. The Task Force strongly recommends that the Government consider the recommendations of the Nunavut Liquor Licensing Board when drafting the new legislation.

13.2.2 Ensure a Focus on Harm Reduction

Nunavummiut made it very clear to the Task Force that the *Liquor Act* must be an instrument capable of facilitating alcohol harm reduction across the territory. With this resounding message echoing throughout our deliberations, the members agreed that the identification and inclusion of harm reduction objectives is critical to the public's acceptance of any new legislation. Many individuals and groups provided examples of objectives. In summary, these participants are suggesting that the object of the *Liquor Act* should be to establish a system for the safe and legal supply, sale, licensing, distribution, and consumption of alcohol for the benefit of Nunavut as a whole. They also suggest the object of the *Act* should include specific references to harm reduction strategies such as protecting vulnerable populations, encouraging low-risk drinking, and protecting and improving public safety. These suggestions and others can be found in *What We Heard* (pages 16-17). The Task Force recommends that the GN identify and include a set of harm reduction objectives in the *Nunavut Liquor Act*.

13.2.3 Ensure Changes to the Act are Made Quickly

Most participants in the consultation stressed the necessity for quick action on behalf of the Government to change the *Act*. Most felt that the alcohol-related harm within their community is increasing over time, and that definitive measures are required soon to begin the process of addressing these issues.

13.2.4 Develop a Layman's Guide to the Act

Several participants suggested that they would find a layman's guide to the *Act* helpful. They felt that the guide should be written using basic words and terms that would be understood by many people. The Task Force recommends that a guide be developed as part of an educational and awareness strategy, and in the promotion of low-risk drinking behaviours.

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14.0 TARGET BOOTLEGGING

The term “bootlegging” refers to the illegal production, transportation, sale, and distribution of alcohol. Under the *Liquor Act* it is illegal for anyone to sell or distribute alcohol if they have not been appointed a liquor agent by the Minister or have a valid liquor licence issued by the Nunavut Liquor Licensing Board.

In Nunavut, bootlegging activities occur in every community. Throughout the consultation the Task Force heard stories about the damaging impacts of bootlegging on individuals, families, and communities. People spoke passionately about the importance of shutting down the bootleggers, and changing the conditions that allow bootleggers to profit at the expense of significant harm to some other members of the community. Discussions with participants clearly identified three areas of focus:

1. Interfere with the bootleggers’ markets;
2. Shut down the bootleggers’ supplies; and,
3. Strengthen enforcement and penalties.

14.1 Interfere with the Bootleggers’ Markets

When compared to other jurisdictions in Canada, buying alcohol in Nunavut has been described as a “unique experience.” While the *Act* allows the Minister to establish liquor stores and appoint agents to sell liquor, there are no liquor stores in the Territory. Buying alcohol requires some pre-planning. Alcohol for private consumption must be ordered and brought in by plane or on sealift, which means additional shipping costs and in some cases, Import Permit fees. This process can take several days or more, and in some instances delays and the timing of orders can result in large quantities of alcohol arriving in a community at one time. The length of time required to legally purchase alcohol and the complexity of the process was often given as a reason for buying alcohol from bootleggers. This is particularly true for people who regularly abuse alcohol.

14.1.1 Issues Identified during the Consultation

According to many participants the unique situation described above creates a very profitable environment for bootlegging operations in Nunavut. In every community, the Task Force was told that the Territory is a haven for bootleggers. Some people explained that in their opinion restricting legal access to alcohol has made bootlegging very difficult to control and has

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made bootleggers rich. These participants pointed out that bootleggers are open 24/7 and that they will sell to anyone. Bootleggers do not care about the harm their actions may cause individuals or communities. Bootleggers were often described as out of control and operating with impunity.

A collective message of advice to the government from many participants is to take full control of alcohol sales and distribution and take away the bootleggers' customers. Participants suggested that one approach to interfere with the bootleggers' markets is to liberalize the liquor laws and allow for the establishment of beer and wine stores. It should be noted that this suggestion was not universally supported. There were also many participants who argued against liberalization, and some of these participants asked for the GN to declare prohibition across the Territory. These participants made it clear that they do not support the opening of liquor stores in their community, or other communities in Nunavut.

The Task Force members fully understand that a bottle of beer, a glass of wine, or a mixed drink containing 45ml of 80-proof liquor all contain approximately the same amount of pure alcohol. It is also understood that drinking beer and wine to excess will get a person just as drunk as drinking the equivalent amount of pure alcohol through mixed drinks. RCMP and community workers have informed the Task Force that in Nunavut a person who acquired a bottle of vodka from a bootlegger will have paid in excess of \$300 for this bottle, and much more in some communities. The tendency is for that person to binge drink that bottle before someone else does. As a result, the person will consume a large amount of alcohol in a very short period of time.

14.1.2 Key Concerns

- The opening of liquor stores in some communities will result in an increase in the amount of the alcohol circulating in restricted and prohibited communities which will lead to an increase in alcohol-related problems;
- The establishment of a liquor store must be a community decision; and,
- Under the current system responsible drinkers are penalized by the actions of those who abuse alcohol.

(For more details see What We Heard pages 36-39)

14.2 Recommendations: Interfere with the Bootleggers' Markets

In this section, we are making recommendations on measures intended to disrupt the market advantages of bootleggers over the designated government liquor outlets.

Key Recommendations

The Task Force recommends that the Government of Nunavut:

- a) Where approved by the community, open a government run or licensed beer and wine outlet;
- b) Liberalize access to beer and wine and restrict the access to hard liquor; and,
- c) Standardize shipping costs for all communities.

14.2.1 Where Approved by the Community, Open a Government Run or Licensed Beer and Wine Outlet

The Task Force expects that this recommendation will generate considerable debate among Nunavummiut; however it is viewed as a cornerstone to the strategy that will lead to shutting down bootleggers and allowing communities to begin addressing alcohol-related harm. We believe that the experiences of other jurisdictions, Greenland in particular, have demonstrated that significantly restricting hard liquor while liberalizing the availability of lower alcohol by volume products have, over time, drastically reduced the incidences of serious crimes in the communities. In Nunavut, RCMP officers also frequently commented that in their experience, people intoxicated on hard liquor have consumed a large quantity of alcohol very quickly. They are often combative and out of control. In their experience people intoxicated on beer and wine have consumed less alcohol and it takes them longer to get out of control. This view was echoed by an Iqaluit licensee who told the Task Force that one time his establishment ran out of beer and only had hard liquor to serve to patrons; there were so many problems that they stopped serving and closed down the bar.

The Greenland experience also shows that the significant drop in serious crimes following the liberalization of beer and wine sales was also accompanied by a spike in petty crimes. This situation leveled off after a

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period of time due to the coordinated efforts of the community agencies. In section 15.2.7, we are recommending that Community Alcohol Strategies be developed and implemented, especially in those communities where beer and wine outlets will be opened.

14.2.2 Liberalized Access to Beer and Wine

The Task Force recommends that significant restrictions be imposed on the availability of distilled alcoholic products (spirit or liqueurs) containing more than 20% alcohol by volume. We recommend that orders be limited to one 1140 milliliter bottle per month per person.

We further recommend that undistilled or fermented alcoholic products such as beer, wine, and cider be made more accessible. In communities where there is a beer and wine outlet we recommend that daily limits per person be set at twelve (12) beers or ciders and one (1) 750ml bottle of wine (12%), or 2 bottles of wine to a maximum of 1500ml. In communities where there is no beer and wine store, the maximum limit per person per week should be twice the daily volume for communities with a beer and wine store, that is: twenty-four (24) beers or ciders or four (4) bottles of wine per person per week.

It should be noted that the maximum quantities outlined above are for unrestricted communities. For restricted communities, the community will be able to further reduce these order quantities. Obviously, no alcohol will be allowed in those communities that are designated “Prohibited”.

14.2.3 Standardized Shipping Costs for All Communities

The Task Force recommends that the Government change its pricing policies for alcohol to include into the price of the products the shipping cost from the government warehouse to the end consumer. We further recommend that shipping prices be standardized for all communities in such a manner that a case of beer, for example, will cost the same regardless of which community it is shipped to.

The objective of this recommendation is to remove all economic advantages for someone travelling through a Nunavut community with a beer and wine store to stock up. The price of the product will be the same regardless of where it is delivered. We also acknowledge that residents of communities with a beer and wine outlet will pay a bit more for their products to equalize

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the shipping costs of the products to other communities. However, this additional cost will be much less than the transportation costs incurred in the present distribution system.

An additional advantage of including the transportation cost to the end consumer into the price of the product is that the authorized government alcohol outlet will be able to work with the shipping company, or the organization paying for the shipping, to regulate the timing of delivery and the flow of alcohol arriving in a particular community at the same time.

14.3 Shut Down the Bootleggers' Supplies

It is common practice in Nunavut for bootleggers to acquire their supply of alcohol through legal means, and then turn around and sell the alcohol illegally. According to the employees of the Nunavut Liquor Commission, the majority of the alcohol that is sold illegally in Nunavut is acquired legally through the commission or through the use of legal Import Permits. Under the present law, it is not an offence for a resident of an unrestricted community to order large amounts of alcohol, much in excess of what can be used for personal consumption. The Nunavut Liquor Commission estimates that approximately 50% of the alcohol purchased from it is resold illegally.

14.3.1 Issues Identified during the Consultation

Bootleggers are known to contribute to social harm in communities by charging exorbitant prices for alcohol, tampering with the quality of the products, and selling alcohol at all times of the day and night to individuals regardless of the person's age or mental and physical condition. Many consultation participants are of the opinion that Nunavut's alcohol restriction laws contribute to a profitable climate for bootlegging operations.

The Task Force often heard that the current Import Permit system is contributing to the bootlegging problem. In many communities people commented on the general lack of checks and balances in the system, such as suppliers needing to receive the original copy of the permit before filling the order, permits without expiry dates or serial numbers resulted in the same import permits being used to order alcohol from multiple sources. People often commented on the widespread use of Import Permits by known bootleggers to legally import alcohol into Nunavut for illegal resale. It should also be noted that representatives of the GN and law enforcement said that

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some of the alcohol sold by the Nunavut Liquor Commission and transported to communities is also being used in the illegal bootlegging business.

In meetings across the Territory, the participants highlighted the fact that in many cases the bootleggers are buying the alcohol legally through the Nunavut Liquor Commission or from outside of Nunavut through the current Import Permit system. Participants usually classified bootlegging operations as belonging to one of two categories:

1. An established ongoing operation that is very profitable, well organized, well stocked, and commonly supported by a network of suppliers from other areas; or,
2. Individuals who are opportunistic, who sell small quantities of alcohol often to offset the cost of their own alcohol purchases, or on occasion sell alcohol to make some extra cash to supplement other sources of income.

The majority of participants said they were exceedingly frustrated with the apparent inability of the RCMP and others to apprehend bootleggers and stop the illegal flow of alcohol into communities. Several people said they feel the policies and inactions of the transportation companies and Canada Post are significantly contributing to the bootlegging problem.

14.3.2 Key Concerns

- Bootlegging in Nunavut is an extremely profitable venture with no substantial penalties to stop people from becoming bootleggers;
- Current enforcement actions are not enough to stop bootlegging;
- While stopping bootlegging is important to the health and safety of the communities, very few people are willing to become involved by identifying, turning in, or testifying against bootleggers;
- Transportation companies are often indifferent to the alcohol status of the community and do little to assist the communities in their attempts to stop bootlegging; and,
- The current territorial alcohol sale and distribution system makes Nunavut a fertile ground for bootlegging. For example, the current Import Permit system can easily be usurped and multiple orders made under the same permit.

(For more details see What We Heard pages 51-53)

14.4 Recommendations: Shutting Down Bootleggers’ Supplies

Participants in the consultation process are unanimous in their condemnation of bootlegging. They are asking the government to take whatever steps are necessary to stop the illegal sale and distribution of alcohol. In light of the depth and scope of the bootlegging problem, and the strong public outcry for action, the Task Force carefully considered in what ways laws and regulations should be changed to reduce bootlegging. The Task Force recognizes that it will be difficult to completely stamp out bootlegging. However, we offer a number of recommendations that we believe will lead to a reduction in the harm stemming from bootlegging operations. These recommendations, if accepted, will have significant ramifications on Nunavut’s alcohol supply and distribution system, and will change the way Nunavummiut purchase alcohol products. The recommendations below do not apply to licensees or holders of Special Occasion Permits.

Key Recommendations

The Task Force recommends that:

- a) The GN establishes a monopoly over the importation, sale, and distribution of alcohol in the Territory;
- b) Under the new Liquor Act, alcohol is prohibited throughout Nunavut unless designated otherwise—current community designations will apply;
- c) The GN establish a Territory wide maximum on the amount of alcohol that can be purchased by an individual within a specified period;
- d) The GN establish a maximum possession limit for alcohol, and that anyone in possession of alcohol over the allowed maximum be deemed to be in possession of alcohol for the purpose of bootlegging;
- e) The new Act contains mandatory disclosure of information to the RCMP of the amount of alcohol purchased and by whom; and,
- f) Special identification tags should be used to identify alcohol legally acquired through the GN sale and distribution system.

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14.4.1 Establish a GN Monopoly over the Sale and Distribution of Alcohol

In order to address the deficiencies in the current import system the Task Force strongly recommends that the GN take sole and complete control over the importation, sale, and distribution of alcohol. The members also recommend that the current alcohol Import Permit system be abolished. Under this new system, consumers will only be able to purchase alcohol from designated government liquor outlets, or from licensed establishments. Nunavummiut will not be able to buy alcohol from other jurisdictions and import it into Nunavut. We recognize that some consumers will wish to buy specialty products that are not readily available in Nunavut. To meet the needs of these consumers, we recommend that provisions be made for the processing of special orders at competitive rates through a special order function of the Nunavut Liquor Commission.

We acknowledge that one outcome of this recommendation, (combined with Recommendation 13.2.1 above) will be to make it illegal for any travelers to personally transport or arrange for the transportation of liquor into Nunavut. Currently, eligible Nunavummiut may bring into the Territory 1,140 ml of spirits or wine or 12-335 ml of containers of beer without an Import Permit. It is common practice for consumers of alcohol to transport alcohol in their luggage. This practice would no longer be permissible.

The Task Force members realize that such a recommendation is counter to the intent of the recently passed Bill C-311, an *Act to Amend the Importation of Intoxicating Liquors Act*. This amendment removes the federal prohibition and will allow Canadians to shop for wines online and make it legal to ship or transport them across provincial and territorial borders, up to the maximum limit established by the jurisdiction into which the wine is imported. The Task Force members note that the *Importation of Intoxicating Liquors Act* was originally introduced to help combat bootlegging. While this problem has been largely resolved in the Provinces, it continues to be a major problem in Nunavut. The severity of the bootlegging problem in Nunavut requires drastic measures, and thus the recommendations to disallow all importation of alcoholic beverages other than through the authorized GN system.

There is also a financial benefit for the Nunavut Liquor Commission for eliminating the Import Permits. While the Commission collects a small fee

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for issuing Import Permits, this fee is substantially less than the profit the Commission would make if it sold the liquor directly to the consumers. The Commission estimated that the net lost revenues resulting from the use of Import Permits for the years 2008-09 and 2009-10 was \$2,289,514 and \$2,389,271 respectively. The Commission also stated that the current warehouse space would be sufficient to handle this additional volume.

14.4.2 All Nunavut Is Prohibited Unless Designated Otherwise – Current Designations Apply

Often participants asked if it was illegal to drink on the land or just outside a community boundary regardless of the community's alcohol status. The Task Force believes that all land in Nunavut outside of community boundaries should be designated prohibited, unless otherwise identified by the Minister or through a community plebiscite. This will resolve some of the public's uncertainties concerning where alcohol is or is not allowed. It is our hope that it will also support enforcement actions against individuals illegally transporting alcohol between communities.

14.4.3 The GN Establishes a Territorial Wide Maximum on the Amount of Alcohol That Can Be Purchased in a Specified Period

According to many Nunavummiut, bootleggers are acquiring their stock legally through frequent use of alcohol Import Permits. Records from the RCMP and the Nunavut Liquor Commission provided evidence that this is indeed the case. These records also show that in some cases, the amount purchased over a period of time is often far in excess of what would be considered reasonable for individual consumption.

In addition, AEC members, residents, and community health and social workers spoke to the Task Force about a common lack of understanding among Nunavummiut about safe consumption levels for alcohol. We were advised that in some restricted communities, the local AEC approves alcohol orders that could easily lead to high-risk drinking. Residents in restricted and prohibited communities also voiced concerns that some individuals bring into the community excessive amounts of alcohol purchased in unrestricted communities. Establishing a territorial wide limit for the amount of alcohol that can be purchased over a specified period of time will address these problems while also supporting efforts to educate Nunavummiut about low-risk drinking levels as set out in the guidelines.

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The recommended maximum amount of alcohol that can be purchased in a specified period of time is outlined in section 14.2.2 above. In summary, the maximum amounts for unrestricted communities are:

- Hard Liquor: One 1140 milliliters bottle per month per person of distilled alcohol containing more than 20% alcohol by volume.
- Beer or cider and wine: In communities where there is a beer and wine outlet, a daily limit per person of 12 standard size beers or ciders and a 750ml bottle of wine; or 2 bottles of wine to a maximum of 1500ml. In communities where there is no beer and wine store, the maximum limit per person per week should be twice the daily volume for communities with a beer and wine store.

The maximum for restricted communities cannot exceed the maximum for the unrestricted communities; however the Alcohol Education Committees can impose further restrictions.

14.4.4 Establish a Maximum Possession Limit for Alcohol

The Task Force members were often told by Nunavummiut that everyone in the community knew who the bootleggers are, and that they couldn't understand why the police did not shut them down. On the other hand, police told the Task Force that under the present *Liquor Act*, it is not illegal to possess excessive amounts of alcohol as long as it is legally acquired through the Nunavut Liquor Commission or acquired from another jurisdiction using a valid Import Permit. The only time that bootlegging charges can be laid is when the police have evidence that someone sold liquor without a valid licence.

As a major step toward stamping out bootlegging, the Task Force recommends that anyone that is in possession of alcohol in excess of twice the maximum order limits outlined in Recommendation 14.2.2 be deemed to be in possession of alcohol for the purpose of resale, and as such could be charged for bootlegging, unless the person has a valid permit for home brew or wine making for personal consumption.

In addition, the Task Force recommends that anyone transporting alcohol in excess of the maximum permissible order for the given community be deemed to be transporting alcohol for the purpose of illegal resale.

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Exceptions to this rule should include the designated government liquor outlet, or any business transporting alcohol on behalf of the Nunavut Liquor Commission.

14.4.5 Mandatory Disclosure of Information to the RCMP

The new Act should make it mandatory for the designated government liquor outlet to disclose to the police the name of the buyers and quantity of alcohol purchased, especially when the quantity of alcohol purchased or the frequency of purchasing indicates the possibility that someone could be purchasing alcohol for illegal resale. This information will be available for the police to obtain a warrant to search the individual's residence and property.

14.4.6 Special Identification Tags Should Be Used To Identify Alcohol Legally Acquired Through the GN Sale and Distribution System

Once the GN establishes a monopoly on the sale and distribution of alcohol within Nunavut, and with the establishment of a reasonable maximum quantity of alcohol that can be purchased within a specified period, it will be more difficult for bootleggers to purchase alcohol legally for illegal resale. This will force most bootleggers to illegally import alcohol from neighboring jurisdictions. In order to facilitate the policing of such activities, the Task Force recommends that the Government of Nunavut affix some form of lawful product identification tag to all alcohol containers. Any alcohol containers that do not display this tag should be deemed to have been imported illegally and subject to seizure by the police. We further recommend that these tags could also include public messages about safe drinking levels similar to those used in the NWT and Yukon.

14.5 Strengthen Enforcement and Penalties

The *Act* prescribes the sanctions and punishment for illegally selling alcohol. Penalties include fines for individuals from \$5,000 to \$20,000 and/or imprisonment for up to two years. The *Act* also allows the police to search for and seize alcohol, vehicles, and other assets used in bootlegging activities.

14.5.1 Issues Identified during the Consultation

The Task Force heard many mixed messages about the appropriateness of penalties and sanctions. Some people suggested that for some offences the penalties should be increased while others suggested the penalties for the

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same offences were already too high. Nonetheless, most people agreed that the existing penalties for bootlegging are far too low. Furthermore, they think that the current penalties and sanctions consistently fail to deter people from selling alcohol illegally. There was also general agreement among participants that more rigorous enforcement measures are required for existing laws. People asked to see greater enforcement and follow-up for fines and other court ordered sanctions and penalties.

14.5.2 Key Concerns

- In some instances enforcing liquor laws can be difficult and so people are often not being held properly accountable for breaking the law;
- While the current fines and penalties appear to be acceptable, they do little to deter bootlegging because bootleggers simply increase the price of their alcohol to cover the costs of the fines they incur;
- Too many people turn a blind eye to bootlegging. For some Nunavummiut it is considered a normal business transaction that is socially acceptable; and,
- The RCMP and other enforcement and control groups encounter a number of social and legislative obstacles in putting a stop to bootlegging.

14.6 Recommendations: Strengthen Enforcement and Penalties

Key Recommendations

The Task Force recommends that the new *Liquor Act*:

- a) Strengthen search and seizure provisions under the *Act* and introduce strong civil forfeiture legislation to deter illegal sales of alcohol.
- b) Significantly increase fines and penalties for bootlegging and redirect revenues to harm reduction programs.

Supplementary Recommendation

- c) Facilitate collaboration and information sharing and data collection on alcohol purchasing between licensing, sales and distribution, and law enforcement agencies.

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14.6.1 Strengthen search and seizure and introduce civil forfeiture legislation

Search and seizure is a legal process whereby the police or other enforcement authorities can search a person's property and confiscate any relevant evidence to a crime. Section 107 of the existing *Act* gives peace officers the authority to search property and vehicles if the peace officer believes that there may be alcohol kept there for unlawful purposes. The *Act* also gives the peace officer the right to seize the alcohol. Most participants suggested that the search and seizure laws are not strong enough. The Task Force recommends that the Government and law enforcement explore the limits of the law with respect to search and seizure with a view to improving its efficiency as a tool to combat bootlegging.

Several participants suggested that the GN introduce civil forfeiture legislation specifically to address bootlegging. Civil forfeiture or civil asset forfeiture is a legal technique whereby the Courts are invited to address property derived from, or instrumental in, unlawful activities. Today, in Canada, seven provinces have civil forfeiture legislation. The GN Department of Justice made a presentation to the Task Force on its interest in civil forfeiture legislation and programs. The Task Force supports the Department of Justice in this matter and recommends the urgent introduction of strong civil forfeiture legislation as a critical tool to fight the unlawful possession and illegal sale of alcohol, among other objectives.

14.6.2 Increase Penalties and Redirect Revenues to Communities

The penalties and fines for bootlegging are prescribed in the *Liquor Act*. Participants frequently asked for the fines and penalties to be set at a level that discourages repeat offenses, and that the amount of fines should be commensurate with the harm that bootlegging is causing. In particular, many people suggested a significant increase in penalties and fines for people who unlawfully sell alcohol to underage youth.

In Nunavut, the money collected from fines is put into the General Revenue Fund. On several occasions participants suggested that this money should be given to the community to fund alcohol harm reduction initiatives. People said they believe such an action would counteract the apathy apparent in some communities where people turn a blind eye to bootlegging, or where residents feel overwhelmed by the scope of the bootlegging problem.

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The Task Force reviewed the penalties in the *Act* and recommends that fines and penalties for bootlegging be substantially increased for both first and repeat offences. Further, the Task Force recommends that the monies from fines be allocated to the community in which the offence was committed to fund community sponsored harm reduction initiatives.

14.6.3 Supplementary Recommendations – Facilitate Collaboration and Information Sharing Between Relevant Agencies

In meetings with law enforcement and community agencies, the Task Force was often advised that the number of crimes decreases and community safety increases when community agencies collaborate to enforce the liquor laws. The Task Force was given several examples of successful collaboration between hamlet councils, the RCMP, AEC, and other community organizations. Learning from the work of these communities, the Task Force recommends that the Nunavut Liquor Commission assist the RCMP, GN departments, Inuit organizations, local agencies, and non-profit groups to develop protocols for sharing of information, undertaking harm reduction initiatives, and increasing resources and capacity to address alcohol-related problems.

15.0 STRENGTHEN COMMUNITY EMPOWERMENT

The Task Force was repeatedly told that strengthening community empowerment is vital to harm reduction at the local level. During the consultation meetings, participants repeatedly raised three areas of concern:

1. The need to improve the plebiscite process;
2. The need to provide additional options for alcohol bans; and,
3. The need to support Alcohol Education Committees.

15.1 Improve the Plebiscite Process

In Nunavut, a plebiscite under the *Liquor Act* is a secret ballot conducted with the consent and support of the Minister responsible for the *Liquor Act*. The plebiscite is considered to be an expression of opinion by qualified voters on whether alcohol should be allowed, restricted, or prohibited within the community. Section 49 of the

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Act requires the Minister to make a declaration in accordance with the result of the vote.

A liquor plebiscite takes place when the Minister responsible for the *Liquor Act* gives consent to a petition signed by 20 or more eligible voters in a community. The *Act* prescribes the duties and roles of those involved in the plebiscite, and the processes that must be followed. The *Act* requires sixty percent of the qualified voters to support the plebiscite question for it to pass. If the plebiscite question does not have 60% support, then no further plebiscite asking the same or similar question can be held for three years. The *Act* makes provisions for three kinds of plebiscites:

- 1) Plebiscites before the Liquor Licensing Board can issue a licence in a class for the first time in a community;
- 2) Plebiscites concerning restrictions or special prohibitions; and,
- 3) Plebiscites concerning the closing of licensed premises or changing the hours of operation.

Participants in the public consultations did not raise any concerns regarding plebiscites on the closing of licensed premises or changing the hours of operation.

15.1.1 Issues Identified during the Consultation

There was much contradictory and impassioned public discussion about the merits and challenges of prohibition, restricted, and unrestricted control mechanisms. While these discussions highlighted the fact that there was no public consensus on the issues, it did bring to light the fact that an overwhelming majority of participants believe that it is the right of the community to make decisions about local alcohol control and regulations. Many Nunavummiut said that they consider the plebiscite approach to be an acceptable method to engage the community, and to facilitate community empowerment. However, very few people suggested transferring the responsibility for the plebiscite process from the Minister to local authorities. Nonetheless, people did speak openly of their dissatisfaction with the current plebiscite process. Most of the criticism is focused on perceptions about the fairness of the process and confusion resulting from the complex wording of the question(s) on the ballot.

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15.1.2 Key Concerns

- The *Liquor Act* and the *Local Authorities Elections Act* (LAEA) govern liquor plebiscites. The Chief Electoral Officer for Nunavut has been responsible for conducting all liquor plebiscites since 1999—16 in total. Many difficulties with liquor plebiscites exist under the current rules;
- The relationship between the *LAEA*, *Plebiscites Act* and *Liquor Act* is unclear;
- The current eligibility requirements allow for the plebiscite process to be “hijacked” by special interest groups or individuals who may have little knowledge of, or long-term commitment to the community;
- The specific wording of the plebiscite question(s) often confuses voters leading to unintended voting outcomes;
- A 20 voter petition can lock-up a community for 3 years on licence issues;
- The community has no awareness of a pending plebiscite until one month before, since there is a long “gestation period” between the petition and order/regulations;
- Some people feel that the three-year waiting period between plebiscites is not long enough for the community to benefit from the plebiscite outcome. Others disagree;
- Some people would like to see plebiscites held in conjunction with hamlet elections. Others disagree, citing that the often controversial nature of the plebiscite will have a negative effect on local elections;
- Some people feel the current 60% vote majority is too low for such an important community issue. Others prefer a simple majority; and,
- Residents in some prohibited communities want to see liquor plebiscites conducted at a regional or territorial level, not at the community level. They fear that if a neighbouring community votes to become an unrestricted or restricted community their community will see an increase in alcohol.

(For more details see What We Heard pages 22-26)

15.2 Recommendations: Improve the Plebiscite Process

It is the view of the Task Force that the law should provide communities with the power to take an active role in determining the type and extent of restrictions for their own community. The members believe that the plebiscite process supports community empowerment and control.

Key Recommendations

The Task Force recommends that:

- a) Plebiscites should remain the main tool of control for communities;
- b) There should be no changes to the prescribed duties of the Minister however the process of petitioning the Minister should be clarified;
- c) Voter eligibility should remain the same;
- d) There should be an increase in the threshold of signatures required to trigger a plebiscite;
- e) The frequency and term of plebiscites should not be changed;
- f) The plebiscite questions and processes should be standardized; and,
- g) All communities should be required to adopt a local alcohol strategy.

Supplementary Recommendations:

- a) More resources, including education and information material, should be provided to residents prior to a plebiscite vote; and,
- b) Prior to a plebiscite, sufficient time should be given to allow for community engagement and discussion.

15.2.1 Plebiscites should remain the main tool of alcohol control for all communities

It is the opinion of the Task Force that the plebiscite process does provide for an acceptable level of community involvement and empowerment. Since very few participants expressed a desire to move away from the plebiscite process, the Task Force did not consider any other form of democratic process in place of plebiscites.

Residents in some prohibited communities said they would like to see liquor plebiscites conducted at a regional or territorial level, not at the community level. They are worried that decisions made in another community within their region may negatively impact their community. The Task Force empathizes with these communities in their struggle to minimize alcohol-

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related harm. However, many other participants told the members that each community should be responsible for setting its own direction. The Task Force was convinced by the arguments for local control and therefore the members do not recommend regional or territorial wide plebiscites on alcohol issues.

The Task Force believes that communities should retain the right to determine their own alcohol status, and the members agree that communities should receive adequate support and resources to implement, manage, monitor, and enforce their choices.

15.2.2 No changes to the prescribed duties of the Minister

The Task Force did not hear any concerns about the role and responsibility of the Minister. In fact, there was a general recognition that leaving the plebiscite process within the Minister's realm will ensure an acceptable level of transparency and accountability throughout the process. However, some participants pointed out the need to clarify the process of petitioning the Minister.

15.2.3 Voter eligibility should remain the same

Some people feel that the current voter eligibility requirements are not strict enough. There is a concern that newcomers, who may have little knowledge or long-term commitment to the community, have the ability to initiate or sign a petition and to unduly influence the outcome of the plebiscite. To combat this, people suggested the adoption of a three-year residency requirement prior to eligibility to vote in a plebiscite.

After careful deliberation the Task Force did not support this suggestion. The members believe that the current voter eligibility requirements are fair, and consistent with inclusive democratic principles. To the members, it seems that the best way to protect the process from being hijacked by special interest groups or individuals is to provide appropriate education and information about the potential plebiscite outcomes, and to facilitate opportunities for more community engagement and discussion.

15.2.4 Increase the threshold of signatures to trigger a plebiscite

Another measure that may help to avoid special interest groups triggering a plebiscite is to increase the number of signatures required in order to petition the Minister to hold a plebiscite.

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The current Act requires twenty (20) qualified voters to sign the petition. Consultation participants pointed out that twenty voters in Arctic Bay is approximately 2.5% of the population while twenty voters in Rankin Inlet is approximately 0.8%. Participants argued that this was not a fair standard and suggested that a minimum level and sliding scale be set based on eligible voter lists.

The Task Force favors such an approach. Increasing the number of qualified voters will help to ensure that the call for a plebiscite has a reasonable and broad level of community support, while providing opportunities to increase awareness and promote community discussion. We recommend the thresholds for triggering a plebiscite be the greater of 20 signatures or 5% of the number of voters on the most recent valid voters list for the community.

15.2.5 No changes to the frequency of plebiscites

Some people feel that three years is not long enough for the community to benefit from the plebiscite outcome. Not unexpectedly, those who admitted to being satisfied with their community's current alcohol status showed the strongest support for an extension to the three-year term. Those who wished to see the community status changed usually expressed support for a shorter term.

The Task Force heard valid arguments for lengthening the time between plebiscites and also for keeping the current three-year time frame. After some discussion the members agreed to recommend no changes to the minimum of three years between plebiscites.

15.2.6 Standardize the plebiscite questions and processes

The specific wording of plebiscite questions were often raised as a problem. Many people complained that they are confused by the questions. Many people stated that they had voted the "wrong way" in a plebiscite because they did not understand what they were being asked. Discussing this issue with representatives of the Department of Finance, the Task Force was advised that changes had already been implemented to improve the process and facilitate a clearer understanding of the plebiscite questions (See supplementary recommendations 15.2.8). Nonetheless, Elections Nunavut representatives pointed to specific ongoing problems that they believe need to be addressed.

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15.2.7 Require all communities to adopt a local alcohol strategy

Several hamlet representatives and concerned members of the public said they feel that their communities are ill-prepared to deal with any change in alcohol control status. To reduce any negative outcomes resulting from a change in status, and to support an orderly transition from one status to another, the Task Force supports the suggestion that communities be required to adopt a community alcohol strategy. The Task Force also recommends that communities receive support to acquire the capacity and resources necessary to properly support the outcome of the plebiscite vote and to implement the alcohol strategy (See recommendations 15.6.1).

15.2.8 Supplementary Recommendations -

Not having a clear understanding of the ramifications of a plebiscite vote was a frequent concern expressed during the consultation meetings. Several participants suggested that there exists an outstanding need to develop better information campaigns prior to the plebiscite vote. It was reasoned that these campaigns could help create a greater understanding of the potential risks and benefits to the community of choosing one alcohol status over another. The Task Force recommends that well developed, evidence-based information campaigns should be part of the plebiscite process. Further, the Task Force recommends that there should be a reasonable amount of time given to implement the campaign prior to the plebiscite vote.

15.3 Alcohol Bans

According to some leaders, their communities report less crime and fewer accidents during holiday periods and special events when the community has implemented a special alcohol ban, which is an option under the current *Liquor Act*. The *Act* gives communities the power to prohibit alcohol in the community for no more than 14 days, three times per year. A council can initiate three bans a year and must take appropriate steps to advise the public, and the Minister must also be advised in writing. In circumstances where a community has already initiated three bans in a given year, the council can request the Minister to declare the community a prohibited area. The Minister requires 15 days advance notice and can approve the ban for not more than 10 days.

15.3.1 Issues Identified during the Consultation

The majority of community leaders expressed satisfaction with the current legislation and policy, with one exception. Community leaders would like to

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be in a position to be more responsive to local unforeseen circumstances such as the death of a respected Elder or a catastrophic event that will bring substantial impacts on the community.

Bans on drinking on Elections Day was raised as an issue by Elections Nunavut. Organization representatives called the current prohibitions, “out of date, and patronizing.” They pointed out the difficulties in administering and monitoring the ban.

15.3.2 Key Concern

- The current *Act* requires more flexibility in allowing communities to institute prohibition during times of unexpected community crises.

15.4 Recommendations: Alcohol Bans

Considering the experiences of many hamlet councils, the Task Force is of the opinion that special prohibition bans can play an important role in mitigating alcohol-related harm.

Key Recommendation
<p>The Task Force recommends that under the new Liquor Act:</p> <p>a) Communities be allowed to institute special 48 hour prohibition bans.</p>

15.4.1 Allow communities to institute special 48 hour prohibition bans

The current provisions in the Act allowing communities to establish bans three times a year, and the requirement for further bans to be approved by the Minister are considered reasonable by the general public and the Task Force members. However, these provisions assume that the community has the time and foresight to correctly institute or request a ban. Based on their experiences, community leaders provided examples of times when anticipating and planning for bans was not possible but where in their opinion the community would have benefitted from a prohibition of alcohol. The Task Force believes that empowering communities to proclaim prohibition when facing grave and exceptional circumstances will support harm reduction.

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The Task Force gave consideration to the impact of this recommendation on existing licensed establishments. These businesses will be impacted each time they are forced to close during a special ban. Regardless, the Task Force believes that the community is in the best position to consider and plan for any impact on social and economic interests and should be given the authority to do so.

15.5 Alcohol Education Committees

Alcohol Education Committees are not found in every community. Under the current *Liquor Act* they are only in restricted communities that voted for a committee system during the plebiscite.

An Alcohol Education Committee (AEC) is a community-based group created by regulation under the *Act*. The committee members are elected at the same time as hamlet councilors. The Committee's mandate is to educate their community on how to prevent alcohol abuse, and also to control alcohol use in their community. The *Act* gives the AEC the authority to:

- Organize programs to educate individuals in the safe and responsible use of alcohol in order to reduce its abuse;
- Establish a counseling service for persons who abuse alcohol; and,
- Promote programs for the prevention of the abuse of alcohol.

According to the *Act*, Alcohol Education Committees have the power to withdraw the eligibility for a person to consume, possess, purchase, or transport liquor in the community for up to one year. The *Act* identifies two types of circumstance when the Alcohol Education Committees may exercise this power:

- 1) When the Committee believes that an individual's excessive drinking reduces his or her estate, injures his or her health, or upsets the peace and happiness of the family or community; or,
- 2) When the individual has sold or given liquor to a person who was already ineligible to have liquor.

While all Alcohol Education Committees share some common administrative rules, there are some areas where the rules differ between communities. Examples of such areas include the approval or rejection of liquor permits, alcohol quantity limits, and the prescribed penalties that a court may order. It should also be noted that while the *Act* allows for Alcohol Education Committees to be given the powers and responsibilities outlined in this section, Alcohol Education Committees are actually

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empowered via their specific community regulations, and only have the responsibilities outlined in their specific regulation.

15.5.1 Issues Identified during the Consultation

AEC members across the Territory feel that the committees lack the resources, knowledge, training, and often the community support to effectively carry out their mandates. Most AEC members described their role as limited to approving requests to purchase alcohol by individuals in their respective communities with no real opportunity to undertake any prevention, education, or treatment initiatives.

In some communities, many of the residents praised AEC members for their steadfast action in preventing and addressing alcohol-related harm. In other communities, AEC members spoke of being victimized for decisions they have made concerning individual applications to purchase alcohol. Frequently, local residents called into question the motives of AEC members. Some committee members were accused of making decisions that support bootlegging operations, while others were accused of making decisions that allow too much alcohol to come into the community at any given time.

Regardless of how people viewed the role and performance of their local AEC, there was general agreement among participants that, when provided with the right tools and support, Alcohol Education Committees can play an important role in preventing and reducing alcohol-related harm. In fact, most participants called for the establishment of an AEC, with a clear mandate to reduce alcohol-related harm, in every community in Nunavut, regardless of its prohibited, restricted, or unrestricted status.

15.5.2 Key Concerns

- The *Act* provides the AECs with the power to play an essential role in addressing alcohol harm in the community. However the majority of participants believe that Alcohol Education Committees are not achieving their potential. Participants said that the committees lack financial and logistical support and resources, training for members, and their mandate and authorities are not well understood;
- Under the current *Act*, Alcohol Education Committees can provide education and treatment programs and they have the authority to withdraw a person's eligibility to consume, possess, buy, and transport alcohol. Many AEC members expressed frustration because

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they feel their committee is limited to just handling the approval of liquor orders, and they often feel threatened when carrying out their mandate;

- The powers and authority of the Alcohol Education Committees are prescribed in the Act. The way members are elected is also defined in the legislation. Several hamlet councils and AEC members complained that the local committees are not operating properly. They identified a number of issues including problems with membership appointments, personality conflicts, personal agendas, discriminatory practices, and confusion over the powers of the Alcohol Education Committees’;
- The various Regulations establishing the Alcohol Education Committees do not actually give the committees the powers set out in s.48(2) the Act; and,
- All prohibited communities spoke of alcohol problems within their community and the need for a community-based committee, similar in nature to the AEC, with a strong focus on prevention, education, and treatment programs.

(For more details see What We Heard pages 28-30)

15.6 Recommendations: Support Alcohol Education Committees

The arguments of many participants convinced the Task Force that, with adequate support and resources, Alcohol Education Committees can play an essential role in reducing alcohol-related harm. The Task Force supports the participants’ call for the establishment of an Alcohol Education Committee, or a similar committee, in every community in Nunavut.

Key Recommendations

The Task Force recommends that under a new *Liquor Act*:

- a) An AEC should be established in each community, with an appropriate mandate and uniform regulations;
- b) The responsibility for approving individual liquor orders be removed from the AECs to make it less onerous for AEC members;
- c) Alcohol Education Committees be given adequate resources and support through a secretariat;
- d) AEC membership be extended to include ex-officio members;
- e) Elected AEC members should be recognized for their commitment and be

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- offered an honorarium; and,
- f) There should be no changes to the election process for AEC members, or changes to terms of office for AEC members.

15.6.1 An AEC should be established in each community, with an appropriate mandate and uniform regulations

In every prohibited and unrestricted community, participants requested the formation of a group capable of championing initiatives to prevent and address the many negative impacts of alcohol misuse. The Task Force supports this request and recommends the creation of an Alcohol Education Committee in each community in Nunavut that, cognizant of the alcohol status of the community, has a strong mandate to:

- Mobilize the community against bootlegging and the local manufacturing of potentially dangerous alcoholic beverages;
- Reduce the acceptability of illegal and or high-risk alcohol use;
- Lead and support the community's alcohol strategy, and policy initiatives such as alcohol education and awareness programs; and,
- Provide care and support for individuals affected by alcohol.

15.6.2 The responsibility for approving individual liquor orders be removed from the AECs to make it less onerous for AEC members

AEC members often expressed frustration and concern over their role in the approval of alcohol orders. Many members suggested that their role was simply the “rubber stamping” of alcohol orders. The Task Force believes that the committees have an important role to play in controlling alcohol in their communities. However, we feel the current process could be improved significantly. The Task Force recommends that the committees continue to identify individuals as eligible or ineligible to order, but this list need not be tied to a specific order. The Nunavut body responsible for the liquor distribution should then keep a master list. It will be the distributor’s responsibility to check this eligibility list at the point of sale.

15.6.3 Alcohol Education Committees be given adequate resources and support through a secretariat that is located within the Nunavut Liquor Corporation

In every community, the Task Force heard participants ask for an increase in resources to address alcohol problems in their community. At the same time

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the Task Force heard AEC members state that the committees lack the capacity to institute education and treatment programs, even though it is within their mandate to offer such programs. The Task Force recommends that the Alcohol Education Committees be provided with the resources and logistical support they require to properly undertake all their current powers, including the facilitation of education and treatment programs.

Besides the lack of resources, a common concern of AEC members is their lack of knowledge and experience in launching alcohol education and treatment programs. It is the view of the Task Force that the Alcohol Education Committees will benefit significantly from the establishment of a secretariat mandated to facilitate their work and to help establish strong and responsive community networks (See recommendation 17.1.1).

15.6.4 AEC membership should be extended to include ex-officio members

Several participants highlighted the difficulties faced by AEC members when carrying out their duties. Many said that their local committee struggles to make good decisions, and the committee often has to rely on the knowledge and expertise of others such as the local RCMP members, the Community SAO, and justice and health workers. The Task Force recommends that, in addition to the elected members, the Minister consider appointing up to three ex-officio members to support the work of the AEC. These ex-officio members should be drawn from agencies with experience in identifying and addressing alcohol-related harm such as the police, health and social workers, justice workers, and municipal government officials.

15.6.5 Elected AEC members should be recognized for their commitment and be offered an honorarium

According to many participants retaining AEC members can be a challenge. In fact, the Task Force was told that many committees do not operate with a quorum and some committees have resorted to including non-elected members in order to handle the work load. The high dropout rate of AEC members was often attributed to the excessive amount of time required to consider and process alcohol orders, and the lack of community and technical support. There were also many comments from AEC members about the abuse they receive from individuals who are angry because they have been denied the opportunity to order alcohol. Several people commented that in order to keep members they have resorted to paying

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their members an honorarium. In some cases the expense of the honorarium is taken from the ordering process fee.

The Task Force recommends that a modest honorarium be given to elected AEC members in recognition of the importance and social complexity of their work.

15.6.6 There should be no changes to the election process for AEC members, or changes to the term of office for AEC members

There were some discussions about changing the timing of the AEC elections so they did not coincide with the hamlet council elections. However, most participants supported the current arrangements believing them to be cost effective. The Task Force did not hear any persuasive argument to change the election process or the term of office.

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16.0 CHANGING THE DRINKING CULTURE

Throughout the Territory, the Task Force meetings invariably began with participants commenting on Nunavut's current relationship with alcohol and a common plea to change the Territory's drinking culture. Nunavummiut, from all walks of life, said they want to see the government work toward changing harmful attitudes about alcohol, and toward stopping the behaviours that put individuals and society at risk. When asked how this could be achieved, participants repeatedly recommended focusing on the following harm reduction strategies designed to target high-risk and vulnerable groups:

1. Educate to reduce the abuse and overall consumption of alcohol;
2. Protect the vulnerable;
3. Develop and deliver effective treatment programs; and,
4. Influence consumer behaviours and choices of alcohol products.

In the course of the consultation meetings we were often reminded that changing the drinking culture would require more than changes to the *Act*. Many people believe that changing the *Act* is a step in the right direction. However, we were told that underlying societal issues such as poverty, loss of cultural identity, and inadequate housing must also be addressed in order to effect any substantial and sustainable change.

16.1 Alcohol Education

There are a number of territorial and national programs available in Nunavut intended to empower people to lead safe and healthy lives. These programs are normally offered by agencies such as the RCMP, health and social services, community justice, non-profit groups, and Inuit organizations. Some programs are delivered in schools as part of Nunavut's education curriculum. As noted in the previous section, the *Act* does give Alcohol Education Committees the power to establish education and prevention programs, but in most communities the Task Force was told that the committees do not have the resources or capacity to undertake immediate or long-term educational or harm reduction initiatives. We were advised that in some communities the AEC, RCMP, elders' groups, hamlet councils, and other locally based agencies collaborate to offer special education and prevention programs targeted to vulnerable groups in their community.

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16.1.1 Issues Identified during the Consultation

An overwhelming number of participants told us that positive change will only come about when education and prevention programs are properly recognized and are allowed to become an essential and recognized component of any new regulations. In general, participants identified a lack of resources, insufficient culturally sensitive materials, and a limited number of skilled volunteers as significant barriers to implementing effective alcohol harm reduction programs. During the consultation many people told the Task Force that a significant weakness of the *Act* is the lack of provisions for using profits from alcohol sales to fund education and treatment programs.

16.1.2 Key Concerns

- The *Act* gives Alcohol Education Committees the power to establish education programs but the *Act* is silent on the funding of these programs. Many people wanted to see funds clearly identified for education programs, and they want these programs financed through alcohol sales profits;
- There are many organizations and people who want to help, but many initiatives are “one-offs” and often occur for only a short time and only in a time of crisis; and,
- Often, the high-risk individuals who should benefit the most from the education programs choose not to take part in the programs.

(For more details see What We Heard pages 41-42)

16.2 Recommendations: Educate to Reduce High-Risk Drinking

The Task Force members took into account the research findings indicating that the views and behaviours of people concerning drinking are greatly influenced by the attitudes and actions of parents, peers, and others. In light of this, education and information programs vary in their effectiveness depending on the target groups and available resources. The Task Force members are of the opinion that education and prevention programs are just one of the tools needed to raise awareness and help people to make informed choices about alcohol use. The members believe that a well-structured and integrated community approach to alcohol education will significantly increase the effectiveness of the programs.

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Key Recommendations

The Task Force recommends that:

- A new and well-resourced Social Responsibility Function should be incorporated into the mandate of the proposed Nunavut Liquor Corporation.

Supplementary Recommendations:

- The GN should provide support to communities to establish grass root initiatives for alcohol education and prevention programs targeted at vulnerable populations through the proposed Nunavut Liquor Corporation, and health and education agencies.

16.2.1 Social Responsibility

There are no overt references to social responsibility in the current *Act*. The Task Force recommends that the duties of the Board of Directors of the proposed Nunavut Liquor Corporation should include the promotion of the responsible use of alcohol and the provision of support to communities in their efforts to minimize alcohol-related harm.

16.2.2 Supplementary Recommendations – Grass Roots Education and Prevention Programs

The Task Force recommends that the AEC, health, justice, and social service agencies and community non-profit groups be supported in the development and delivery of local alcohol education and harm prevention programs. The Task Force recommends that such programs be funded through the Nunavut Liquor Corporation and be designed to:

- Enable consumers to make healthy and informed choices about their drinking by raising awareness and sharing knowledge and skills; and,
- Help those who choose to drink to avoid those patterns that lead to individual health problems and social harm.

16.3 Protect the Vulnerable

In almost every public meeting that the Task Force held, people asked the government to place a greater emphasis on programs and support for those people

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who are most susceptible to harm from alcohol abuse. Youth, children, pregnant women, addicts, and elders were consistently identified as belonging to vulnerable populations.

There are a number of sections in the existing *Act* and Regulations intended to protect vulnerable populations. These laws include the establishment of a minimum drinking age and interdiction orders (Sec. 72), neglect of children (Sec. 101), and selling to intoxicated persons (Sec. 98). There are also other statutes, such as the *Child Protection Act*, that can be used to protect individuals from alcohol-related harm. Through these laws and regulations a number of federal, territorial, Inuit, and non-profit agencies also provide programs and services designed to protect the most vulnerable in Nunavut.

16.3.1 Issues Identified during the Consultation: Vulnerable Populations

While the *Act* does contain various provisions for the protection of vulnerable populations, many Nunavummiut want to see a much stronger emphasis placed on safeguarding people from alcohol-related harm. The Task Force was particularly moved by stories of the impact of alcohol abuse on children and the elderly.

16.3.2 Key Concerns

- The minimum drinking age and associated penalties do not discourage many Nunavut youth from drinking alcohol before they are 19;
- Penalties in the *Act* do not deter bootleggers and others from providing alcohol to susceptible or underage individuals;
- Some parents are teaching their children high-risk drinking behaviours and children and youth come to accept these as normal drinking practices;
- Some people routinely abuse family members while under the influence of alcohol;
- Several participants expressed frustration over the inability of government to make it illegal for women to drink while pregnant;
- Educators continually expressed concerns about youth dropping out of school because of alcohol-related problems, or youth coming to school drunk. They also noted that some children come to school hungry, and some are afraid to go home when alcohol is present in the house.

(For more details see What We Heard pages 42-45)

16.4 Recommendations: Protect the Vulnerable

From the outset the Task Force understood that protecting the vulnerable was very important to many participants. During the consultation there was much discussion on how to protect children, youth, elders, and unborn children from the impacts of high-risk drinking. These discussions often led the Task Force members to concede that the *Liquor Act* may not always be the most appropriate or effective vehicle with which to protect vulnerable populations. Nonetheless, the Task Force believes that, wherever possible and applicable, laws should be strengthened to protect the most vulnerable in our society.

Key Recommendations

The Task Force recommends that the new Liquor Act should:

- a) Maintain the legal drinking age at 19;
- b) Strengthen interdiction outcomes; and,
- c) Place health warning labels on all alcohol containers sold in Nunavut.

Supplementary Recommendations:

- d) Mandatory reporting requirements for signs of alcohol abuse in the home and alcohol abuse by underage students should be strengthened; and,
- e) Interagency protocols for reporting alcohol abuse should be established where appropriate.

16.4.1 Maintain the legal drinking age at 19

Across the Territory there was no measurable level of support to increase the minimum drinking age. In general, participants felt that many underage youth currently have almost unrestricted access to alcohol through bootleggers and, therefore, that increasing the minimum drinking age will have no effect. In fact, some participants reasoned that increasing the drinking age would only encourage more bootlegging and binge drinking.

16.4.2 Strengthen interdiction outcomes

The *Act* states that a person whose eligibility has been withdrawn is not eligible to purchase, possess, or use alcohol where the person is normally a resident. During the consultation several participants mentioned that

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individuals who are interdicted in their community go to other communities to purchase alcohol. The Task Force recommends that once a person is on the interdiction list, that person is no longer eligible to purchase alcohol anywhere in the Territory.

16.4.3 Place health warning labels on all alcohol bottles sold in Nunavut

Experts are undecided about the benefits of labeling, particularly for problem drinkers who are pregnant. Nonetheless, the Task Force is persuaded by the research that labels are effective in changing society's perceptions about drinking. For this reason the Task Force recommends putting warning labels on all alcohol containers sold in Nunavut.

There is also a secondary reason why the Task Force proposes adding labels to bottles. We believe that labeling bottles with a unique Nunavut brand will help to identify bottles that are bought, sold, transported, or consumed illegally. For more information on this recommendation please see Section 14.4.6.

16.4.4 Supplementary Recommendations – Mandatory reporting of abuse and interagency protocols

Many participants told the Task Force that the alcohol-related risks faced by vulnerable individuals are often complex and multifaceted, and addressing these risks requires a comprehensive and integrated approach. Several front-line workers stated that current efforts to protect the vulnerable would benefit from a more coordinated approach involving multi-stakeholders where information, knowledge, skills, and resources could be more readily shared.

On some occasions, the Task Force was informed by workers and individuals that there are no mandatory requirements for educators, caregivers, and others to report suspected cases of abuse resulting from problem drinking. However, the Task Force was advised by the Department of Health and Social Services that it is clearly a person's duty to report abuse or neglect, including alcohol abuse and its impact on others. The Task Force further understands that there are a number of interagency protocols already in place. The Task Force recommends that these protocols be reviewed and if necessary refreshed, and that everyone working with children be reminded of their obligations under the *Child Welfare Act*. The

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Task Force also recommends that, as part of the social responsibility agenda, the proposed Nunavut Liquor Corporation enter into a protocol agreement with social service agencies and others stakeholders.

16.5 Develop and Deliver Effective Treatment Programs

Throughout the consultation process, participants expressed their dissatisfaction with the lack of local or regional treatment and mental health facilities. People continually called on government to build more treatment centers in Nunavut. There was also a common appeal for government to adopt and implement addiction programs that better reflect Inuit approaches and values.

The Department of Health and Social Services offers community, regional, and out-of-Territory mental health services to help diagnose and treat people with alcohol abuse and addiction problems. There are also self-help groups such as Alcohol Anonymous and Al-Anon available in a few communities. The Government of Nunavut funds treatment programs from the Nunavut Consolidated Revenue Fund. At this time, the *Liquor Act* requires all monies from the sale of liquor to be put into the Liquor Revolving Fund and from there it is transferred into the General Account of the Consolidated Revenue Fund (Sec. 58).

16.5.1 Issues Identified during the Consultation: Treatment Programs

In many communities, participants said that they believe that treatment programs provided outside of Nunavut are not successful in the long-term. The Task Force heard several stories of family members who underwent treatment but, upon returning to their community, lapsed back into high-risk drinking behaviours. Front-line workers in health and social service organizations said that often relapsing occurs because the underlying causes contributing to alcohol abuse are still present in the home or community.

16.5.2 Key Concerns

- There are not enough traditional treatment options;
- There is insufficient support for individuals and their families returning from treatment programs outside of Nunavut;
- Elders and others can play an important role in a person's recovery. However, privacy issues often prevent elders and others from becoming involved in treatment programs;
- Problems with alcohol are prevalent in some workplaces leading to loss of productivity and workplace conflict; and,

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- Alcoholism comes with a stigma that is hard to remove. More needs to be done to ensure patients have the understanding and support of their family, community, and employer.

(For more details see What We Heard pages 45-47)

16.6 Recommendations: Establish Effective and Accessible Treatment Programs

This is one area where the discussion and the participant suggestions clearly fell outside the traditional purview of the *Liquor Act*. However, Minister Peterson asked that the Task Force listen and include these issues in our report.

On several occasions, discussions about increasing the type of treatment programs available in Nunavut also included a discussion about the expense of specialized programs and the difficulty in staffing specialized positions. Frequently, people suggested that treatment programs should be funded through the profits from alcohol sales. The Task Force considered this suggestion with the input of the Nunavut Liquor Commission, the Department of Finance, and representatives of the Department of Health and Social Services. It is the opinion of the Task Force that the cost of providing alcohol treatment programs outstrips the profits currently being made through the sale of alcohol products in Nunavut. However, as illustrated earlier in this report, the Nunavut Government spends considerable amounts of money for policing, incarceration, health programs, and social and family support programs as a result of alcohol and drug abuse. The potential of avoiding some of these costs represents a powerful incentive for effective community-based alcohol treatment programs.

The following is a compilation of the suggestions from participants across the Territory.

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Key Recommendations

Supplementary Recommendations:

- a) Make available sufficient effective prevention, treatment, and support programs at the community and regional levels;
- b) Provide assistance for private sector and non-profit employers to establish Employee Assistance Programs to address alcohol issues in the workplace; and,
- c) Address confidentiality issues in order to allow elders, and family members to assist in addiction treatments.

16.6.1 Supplementary Recommendations – Make available sufficient effective prevention, treatment and support programs at the community and regional levels

The Task Force recommends that the GN develop culturally sensitive prevention and counseling programs that can be offered at the community and or regional levels.

16.6.2 Supplementary Recommendations – Provide assistance for private sector and non-profit employers to establish Employee Assistance Programs to address alcohol issues in the workplace

The Task Force recommends that the GN provide guidance and assistance for some of the larger private-sector and non-profit employers to establish and deliver employee assistance programs for their employees, similar to the program offered by the GN to its employees.

16.6.3 Supplementary Recommendations – Address confidentiality issues to allow Elders, and family members to assist in addiction treatments

Elders and family members often told the Task Force about their frustration with their inability to become involved with and support a family member's addiction treatment program. Health care and addiction workers told us that they are familiar with this issue, but confidentiality restrictions are preventing them from including elders or family members in the treatment program. The Task Force recommends that options be explored to include

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elders and or family members in addiction treatment programs, especially when the person receiving the treatment is consenting to their involvement.

16.7 Influence Consumer Choices and Behaviour

On many occasions Nunavummiut told the Task Force that it is impossible to stop individuals who want to drink from drinking. We were also told that not everyone who drinks is a problem drinker. In fact, many people said that in their community the number of problem drinkers is small, but the trouble they cause is very visible, and affects and disturbs many people. With these views as a starting point, participants often asked for government interventions that would result in people making safer choices and reducing the harmful use of alcohol. People spoke of seeking ways to change the drinking context from one where binge drinking and violence are common occurrences, to one of moderation where consumers have a healthy and risk free relationship with alcohol.

The existing *Act* contains several provisions that are intended to have a moderating influence on the way people drink. These provisions include restrictions and prohibitions on who can buy and sell alcohol, where it can be bought, at what times it can be purchased, how much can be consumed, and where it may be consumed. In addition, the *Act* prescribes enforcement penalties and fines intended to persuade the industry and consumers to avoid high-risk drinking behaviours.

The Nunavut Liquor Licensing Board (NLLB) has the power to issue liquor licences to legitimate businesses. A licence allows the licensee to purchase, sell, possess and use alcohol. The *Act* defines who is eligible to obtain a licence, and who is not. In issuing each licence, the Board imposes specific conditions on the licence including, but not limited to: hours of operation, the types of alcohol that can be sold, requirements for server training, and notification of events to the Chief Liquor Inspector.

The Nunavut Liquor Enforcement and Inspections Division is responsible for monitoring and inspecting licensed liquor establishments. The goal of the Division is to remove or minimize public safety risks, and to protect community standards. The Division does this through enforcement, promotion of voluntary compliance, and through education programs such as server training courses.

16.7.1 Issues Identified during the Consultation

When people spoke of changing the drinking culture, they usually focused on three issues: binge drinking, over serving, and serving to minors. Binge

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drinking is the practice of drinking large amounts of alcohol over a short amount of time causing rapid intoxication. This practice is of particular concern to some parents and youth workers who say that underage drinkers are often binge drinkers. Many people perceive binge drinking as a growing trend in Nunavut and believe that it is a significant contributor to poor health, low educational achievement, relationship problems, and crime.

The Task Force members were surprised at how many times people accused parents and family members of providing underage youth with alcohol. It was not a surprise to the members to hear that bootleggers regularly sell to minors. While many participants feel the current penalties for selling to minors or interdicted persons are reasonable, they often expressed concerns about how punishment is administered and how sanctions and fines are collected.

On several occasions, participants accused local licensed establishments and clubs of serving to customers who were already significantly inebriated. Representatives of the licensees told the Task Force that, while over serving can happen, they take rigorous precautionary steps to educate their staff in “serving it right”. They also have internal penalties for staff that do not conform to responsible serving practices and rewards for those staff that do.

The Nunavut Liquor Licensing Board plays a crucial role in the licensing and monitoring of liquor licences. The Board provided the Task Force with a brief outlining some of their concerns. These concerns included the Board’s position that licensing fees and the fines and penalties for violating the *Liquor Act* are set too low. The Board’s brief also included suggestions to use licence fees and fines to offset government costs and to fund special programs for reducing alcohol-related harm.

(For more details see What We Heard pages 28-42)

16.7.2 Key Concerns

- Underage youth can easily obtain alcohol in Nunavut;
- Drinking to get drunk is becoming a normal and accepted practice;
- Youth see people binge drinking in the community and they assume that is the normal way to drink;
- The alcohol sale and supply system in Nunavut contributes to excessive drinking;

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- Interdiction lists do not work. Interdicted people can still get alcohol;
- Many problems occur after hours when the bars are closed because the bootleggers continue to supply people with alcohol;
- Some bars keep serving the customer even when it is obvious the customer is drunk;
- There is no enforcement action taken against people who do not pay fines;
- Sometimes people ignore fines because they have no way of paying them, but there is no alternative and so nothing is done and people do not change their behaviour;
- There are too many classes of licensees; the classes are confusing and inadequate;
- There is no class that allows licensing banquet or meeting rooms for occasional alcohol service;
- Licence Fees are set too low and do not reflect the administrative cost associated with licensing to the GN; and,
- Penalties and fines for violating the *Liquor Act* do not act as a deterrent, and the high costs of the current process is covered by the GN not the licensee.

16.8 Recommendations: Influence Consumer Choices and Behaviour

Key Recommendations

The Task Force recommends that the new *Liquor Act* should:

- a) Clarify the circumstances under which parents can supply alcohol to youths;
- b) Make it mandatory for licensees and liquor stores to require proof of age;
- c) Make server training mandatory for all individuals working in licensed establishments and at functions held under Special Occasion Permits;
- d) Reduce the number of classes of licences;
- e) Clarify the conditions for the issuance and use of Special Occasion Permits;
- f) Specify hours of operations for licences establishments and clarify the Policy for Tolerance;
- g) Increase licence application and renewal fees to offset the GN's administrative and program costs;

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- h) Significantly increase fines and penalties for violations of *Liquor Act*; and,
- i) Standardize the size of a single measure of alcohol.

16.8.1 Clarify the circumstances under which parents can supplying alcohol to minors

The existing *Act* says that no person shall supply or sell liquor to a person less than 19 years of age. However, the *Act* exempts parents and guardians in the home or at special functions such as weddings. Considering the concerns of many participants that high-risk youth are getting alcohol from parents and family members, the Task Force believes that there should be greater clarity around these exemptions. The Task Force recommends that the *Act* clearly state that while it is preferable for parents not to supply children under 19 with alcohol in the home or at family events, supplying alcohol to a minor must be consistent with the responsible care and supervision of the child. The Task Force believes that establishing responsible care should include factors such as the age of the child, the quantity of alcohol provided, when and where it is given, and the length of time the child is supplied with it.

16.8.2 Mandatory Request for Proof of Age

Section 89 of the existing *Act* makes it illegal for persons under the age of 19 to purchase or attempt to purchase alcohol. Section 98 (3.1) states that a licence holder (or employee) may request proof of age. It is the opinion of the Task Force that the *Act* should make it mandatory for servers to request proof of age when there is any reason to doubt that the person is not of legal drinking age.

16.8.3 Mandatory Server Training

In its brief to the Task Force, the NLLB reported that the most common infraction that the Board has addressed in the context of Show-Cause Hearings is over serving. Since 2009, the Board has taken the position that licensees must take greater responsibility for ensuring that their employees do not serve alcohol to persons who are already impaired. To this end, the Board has placed a requirement on all new licences that it has issued and on all annual licence renewals that licensees require all staff working in their licensed facilities to complete a recognized course in server training.

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Nunavut Liquor Management is providing server-training courses. The results reported so far have been very positive, and the evidence shows a significant reduction in the number of licence violations resulting from over serving since the Board imposed this condition on all of the licences that it issues. In light of these successes, the Task Force recommends that the new Act specifically require that all staff working in licensed establishments have completed a recognized course in server training.

16.8.4 Reduce the number of classes for Licensees

In its written brief to the Task Force, the NLLB stated that “the existing classes of licences are confusing and inadequate” and that “classifications should be streamlined.” Representatives of the licensees pointed out that under the current Act, off-site caterers are not allowed to provide alcohol to the events they are catering. Instead, the sponsor of the event has to obtain a Special Occasion Permit for the event and provide the alcohol service itself, while meeting the requirement that all individuals involved in serving alcohol be server trained. This condition can be very difficult to meet. The Task Force agrees that the current 12 classes of licences should be streamlined and that provisions should be made for a licence for off-site alcohol service in conjunction with food catering services provided at special events. The Task Force recommends that the new Act define five (5) types of licences for commercial establishments in Nunavut. These would be:

- A licence that permits drinking without food;
- A licence that permits drinking with a meal, with the option of occasional banquet room service;
- A licence that allows drinking on the premises only by persons who are members of a club or other organization and their registered guests;
- A licence for off-site alcohol service in conjunction with food catering services provided at special events; and,
- A licence that allows drinking on premises in remote areas such as seasonal fishing camps.

16.8.5 Clarify the conditions and use of special permits

The Task Force heard comments on the use of Special Occasion Permits in several communities. These concerns usually focused on how events are run and how alcohol is controlled. The Liquor Board provided several examples concerning the improper use of Special Occasion Permits and their ongoing actions to correct these situations. The Task Force recommends that in

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regard to Special Occasion Permits, the new Act should:

- Clearly define what a “special occasion” is and what it is not;
- Prohibit the use of Special Occasion Permits to circumvent legal licensing requirements for groups like service clubs or sports clubs;
- Prohibit the issuance of Special Occasion Permits in communities that do not have a liquor inspector or peace officer available to conduct inspections; and,
- Confirm that only the Nunavut Liquor Licensing Board is authorized to approve a permit for a special occasion event that lasts more than one day.

16.8.6 Specify hours of operations and clarify Policy for Tolerance

The current *Nunavut Liquor Act* outlines the maximum number of hours that any licensed establishment can be open each day. Although it is not specified in the *Act*, the licence application form requires that applicants detail their planned operating hours for each day of the week on their application. When the Liquor Licensing Board approves and issues a licence, it confirms the approved hours of operation for the licensed establishment, and these are written on the operating licence that the Board provides to the licensee.

This arrangement has two purposes. First, it sets out for the public when it can legitimately expect to receive the services normally provided by the licensed establishment. Second, it provides the Chief Liquor Inspector with the information required to establish a reasonable schedule of inspections for the given establishment. Other than in exceptional circumstances, such as the onset of the blizzard, a power failure, or a civil emergency, licensees are not allowed to change the operating hours without prior approval of the Board.

In 2003, the Government of Nunavut issued a directive to licensees that outlined a Policy For Tolerance which permits licensees to close early or open late on 20 occasions during the year without prior approval from the Board. Under this policy, licensees can opt to close early or open late, but in no circumstances can they extend the operational hours approved by the Board outlined on their annual licence certificate. All early closures must be reported to the Board at the end of the month in which they occur. The Nunavut Liquor Licensing Board takes the position that any closure under the Policy for Tolerance must be justifiable; that is, it must be due to a legitimate cause such as inclement weather or a power failure, but not

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because the licensee just does not feel like opening that day.

The Task Force endorses the recommendation of the Nunavut Liquor Licensing Board that the new *Liquor Act* should specifically require licensees to detail their planned hours of operation on licence or renewal applications, and that the Policy for Tolerance should be integrated into the legislation. The Task Force recommends that the new Act should specifically require that:

- Applicants for a licence or renewal of a licence should be required to indicate proposed licensed hours on the application; and,
- The Policy for Tolerance, which permits licensees to close early or open late on 20 occasions during the year without prior approval from the Board, should be integrated into the legislation.

16.8.7 Increase Licence Fees

Currently, Nunavut has the lowest fees of any jurisdiction in Canada for liquor licence applications and renewals. The initial application fee and the annual licence renewal fees are set under the *Act* at \$200.00 per application, a sum that has not changed since the consolidation of the *NWT Liquor Act* in 1988, regardless of the size of the licensed business. The Nunavut Liquor Licensing Board informed the Task Force that this minimal fee is insufficient to cover the actual cost of licensing hearings or of the meetings and administrative procedures that are required on the part of the Board in the process of approving and issuing each licence. In its brief to the Task Force, the Board recommended that application and renewal fees for all classes of licence should be increased significantly in proportion to the level of profits generated from the licence. The Task Force supports the recommendation of the NLLB and recommends that:

- Licence application fees should be increased in order to cover the full costs of the application process, including the costs of public hearings that the Board might require; and,
- Licence renewal fees should be increased and set in relation to the annual liquor purchase from the Nunavut Liquor Commission.

16.8.8 Increase Fines and Penalties for Violations of the *Liquor Act*

In its brief to the Task Force, the NLLB takes the position that the licence holder or licence applicant should be required to cover the costs of Show-Cause and Public Hearings held by the Board. The Board estimates that each of these hearings costs taxpayers approximately \$20,000. In the case of

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Show-Cause Hearings, the Board suggests that Government expenses could be recovered through the addition of costs to the penalty. In the case of Public Hearings, the Board suggests that the applicant be required to make a deposit of a substantial portion, perhaps 50%, of the estimated cost of the public hearing to be conducted on behalf of their application. The Board argues that adopting these suggestions will save the Government substantial amounts of money, funds that could better be used in the harm reduction and social responsibility initiatives. After considering the brief of the NLLB the Task Force recommends the following:

- Substantially increase the maximum fines and penalties that the NLLB can impose under the *Act* following a Show-Cause Hearing;
- Licensees found in violation of the *Nunavut Liquor Act* should bear the costs of the Show-Cause Hearing held in regard to the violation;
- Where the NLLB determines that a public hearing is required under the *Act* in regard to an application for a new liquor licence or for changes to an existing licence, the applicant should bear a substantial portion of the costs of the hearing; and,
- Licence fees, hearing costs, and fines should be deposited in earmarked funds dedicated to the provision of social responsibility and harm reduction initiatives related to alcohol abuse.

16.8.9 Standardize the Size of a Single Measure of Alcohol

Under Section 20(2) of the Nunavut Liquor Regulations, except when serving bottles containing one serving or when serving from an electronic liquor dispenser of a type approved by the Nunavut Liquor Licensing Board, licence holders are required to dispense spirits using a standard measuring glass of a type approved by the Board. Although this is a requirement of the Liquor Regulations, no specific measuring devices and no definition of what constitutes a single measure of spirits or wine is included in either the *Act* or Regulations. The NLLB asked the Task Force to consider the Board's recommendation that types of measuring devices and standard single measures for each category of alcohol should be approved by the Board under the authority of the new Act, and information about the approved devices should be provided in the new legislation. The Task Force supports the NLLB and recommends that:

- The NLLB be given authority to approve the standard size of a single measure for each category of alcohol for all licensed establishments in Nunavut;

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- The NLLB be given authority to approve the types of measuring devices and other equipment used in serving alcohol for all licensed establishments in Nunavut; and,
- Information about standard serving measures and of measuring devices and serving equipment approved by the Board should be included in the Liquor Regulations.

17.0 IMPROVING THE ALCOHOL CONTROL AND SUPPLY SYSTEM

During the public consultation process, the Task Force heard hundreds of suggestions on how to improve alcohol management and control in Nunavut. The feedback had a remarkable degree of consistency across all Nunavut communities, and focused on simplifying and streamlining the system, maintaining the right of communities to determine the level of access to alcohol that will be permitted in their respective jurisdictions, eliminating inequities between communities in the supply and cost of alcohol, eliminating the illegal sale of alcohol, providing strong support to Alcohol Education Committees in every community, and reducing alcohol-related harm. Collectively the Task Force recommendations in the previous sections are intended to address many of these issues.

After considering the many suggestions and forming our recommendations the Task Force turned its attention to the roles and responsibilities of the various boards and government agencies involved in the management and control of alcohol. Together the following government agencies control and administer the Nunavut Liquor System.

Nunavut Liquor Licensing Board, which deals with liquor licensing issues. The Board considers applications for liquor licences and special permits and approves or denies these applications. The Board holds public hearings on applications for new licences and Show-Cause Hearings to determine the appropriate sanctions for breaches of the Nunavut Liquor Act by licensees, including the imposition of fines, licence suspensions, and cancelations. The Board imposes conditions on licences and establishes the conditions under which alcohol can be sold or consumed on licensed premises. The Board also provides advice to the Minister on matters of policy, legislation, and administration relating to the sale, distribution, and consumption of alcohol in Nunavut.

Nunavut Liquor Commission, which is responsible for the purchase, warehousing, sale, and distribution of alcohol products in Nunavut. From its warehouses in Iqaluit and Rankin, the Commission stores and ships alcohol throughout the territory to licensees and to individual permit holders. At present, the Commission

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is also responsible for issuing liquor Import Permits under the authority of the NLLB.

Liquor Enforcement and Inspections Division, which is responsible for the enforcement of the Liquor Act and its Regulations. Liquor Inspectors appointed by the Minister of Finance carry out inspections on licensed liquor establishments and special occasion events involving alcohol. The Division is also responsible for the implementation of the Nunavut Liquor Licensing Board's decisions and directives.

Alcohol Education Committee, which is a group of locally elected members, created by regulation, to give community members a legal or official way to educate their community on how to prevent alcohol abuse and also control alcohol use in their community.

17.1.1 Issues Identified during the Consultation

While there were many comments about the overall performance of the current alcohol control and supply system, very few participants commented on the performance of specific public agencies; that is, with the exception of the significant number of comments about the mandate, roles and responsibilities of Alcohol Education Committees. However, it became apparent to the Task Force that among consultation participants there is some confusion regarding the roles and functions of the various government bodies involved in the control and supply system.

17.1.2 Key Concerns

- The current governance structure splits responsibilities and functions among agencies, which can lead to inefficiencies, duplication, increased costs, and reduced levels of transparency and accountability;
- Nunavummiut want the GN to be more involved in alcohol harm reduction; and,
- A strong agency is required to champion the new focus on harm reduction.

17.2 Recommendations: Improving the Control and Supply System

Key Recommendation

The Task Force recommends that:

- a) A Crown Corporation, to be called the Nunavut Liquor Corporation, be established amalgamating the Nunavut Liquor Licensing Board, the Nunavut Liquor Commission, and the Liquor Enforcement Division.**

17.2.1 Establish a Crown Corporation

The sum of the recommendations of the Task Force, if accepted, will significantly alter the way alcohol is controlled and distributed within Nunavut. The Task Force recommendations effectively make the Government of Nunavut the sole supplier of alcohol in the Territory. It is the view of Task Force members that under the current governance and operating structures, the GN will be constrained in its ability to effectively implement and coordinate harm reduction strategies. To be fully effective there must be a proper balance achieved between the regulatory requirements, commercial interests, and public policy.

The Task Force recommends that the GN establish the Nunavut Liquor Corporation by amalgamating the Nunavut Liquor Commission, the Liquor Enforcement and Inspection Division, and the Nunavut Liquor Licensing Board. This Corporation should operate under a Board of Directors appointed by Cabinet and supported by a Chief Executive Office and a Chief Financial Officer with appropriate staff. The Corporation will have three core functions:

- 1. The Licensing Function** will remain largely unchanged except in regard to the membership of the Board. The Corporation's Board of Directors would also serve as the Nunavut Liquor Licensing Board or, depending on the size of the Board of Directors, it could be possible to have a Committee of the Board serve as the Liquor Licensing Board. For continuity in the functions

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of the Liquor Licensing Board, and to bring some corporate history to the new Corporation, the members of the Liquor Licensing Board at the time of amalgamation should become members of the Corporation's first Board of Directors.

2. The Sales and Distribution Function (the Nunavut Liquor Commission) will change significantly. First, the Corporation will become the sole agency responsible for the legal purchase, importation, warehousing, sale, and distribution of alcohol products in Nunavut. The Liquor Commission will import, store, and ship alcohol throughout Nunavut to licensees and to individuals from its warehouses in Iqaluit, Rankin Inlet and, eventually, Cambridge Bay. Eventually, the Liquor Commission might also become responsible for limited sales of alcohol direct to individuals in communities electing to have beer and wine outlets.

3. The Social Responsibility Function will incorporate the Liquor Enforcement and Inspections and Alcohol Education components of the current system and will be given more resources and significantly more authority to set up initiatives to reduce alcohol-related harm. The harm reduction initiatives sponsored by this division of the Liquor Corporation will be funded from revenues from liquor sales and taxation.

The Social Responsibility division will retain responsibility for the enforcement of the *Liquor Act* and its Regulations through routine inspections of licensed liquor establishments and special occasion events involving alcohol, and for the implementation of decisions and directives of the Nunavut Liquor Licensing Board.

Working cooperatively with community stakeholders and organizations, the Social Responsibility division will provide strategic guidance, training, and logistical and financial support to Alcohol Education Committees in every community. The objective of these activities will be to better equip the Alcohol Education Committees to provide educational and harm prevention initiatives aimed at reducing alcohol abuse and alcohol-related harm through more effective control of alcohol in their communities.

APPENDIX I – LEGAL RESEARCH

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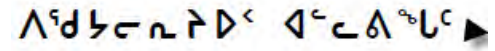
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REPORT

LEGAL RESEARCH AND INTERPRETATION

By: Jocelyn Barrett

3/6/2012

This Report is intended to provide background and guidance to the Task Force on certain issues raised during consultation, including the 'right to drink' vs. society's 'right to prohibit and the responsibilities of individuals and transportation companies with respect to the transportation of liquor into Nunavut.

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NUNAVUT LIQUOR ACT REVIEW
RESEARCH ASSIGNMENT SCOPE OF WORK
Legal Research and Interpretation

Background

1. During the community consultations, some community members questioned the government's power and right to impose alcohol restrictions. A number of community members insisted that they have the 'right to drink' and that the restrictions are 'against the Charter of Rights'.
2. The Task Force also heard comments about the perceived complicity of the airlines, Post Office, freight shippers, and southern providers in the illegal transportation of alcohol into Nunavut communities. Community members questioned the rights and responsibilities of individuals and transportation companies with respect to search and seizure authorities, protocol and practices.

This Report is intended to provide background and guidance to the Task Force on the above issues, but is not intended to provide legal advice.

ISSUE 1

The individual's "right to drink" vs. society's right to prohibit and restrict

At issue is the limit, imposed by society in the pursuit of collective goals, on civil liberties and individual freedom. Some civil liberties are guaranteed by the *Charter of Rights and Freedoms* (the "**Charter**"). However, even with those civil liberties guaranteed by the Charter, the Charter's values do not always take precedence over non-Charter values. Courts are often called upon to undertake the difficult task of determining the compromise between these conflicting values.

This section of the report reviews and analyzes the constitutional and human rights issues relevant to Nunavut's control and restriction of alcohol, from an individual's perspective and mainly under the "Local Option" provisions of the Nunavut *Liquor Act* (R.S.N.W.T. 1988, c. L-9) (the "**Liquor Act**") and related Regulations.

1. The Liquor Act & Regulations

The Liquor Act controls and governs drinking, purchasing, selling, manufacturing and transporting liquor.

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Liquor Restriction

Generally, there are three levels of alcohol restriction in Nunavut:

1. **Prohibited Communities**

The Liquor Act and Regulations prohibit the import, purchase or consumption of any amount of alcohol in Prohibited communities.

2. **Restricted Communities**

Individuals who wish to order or import or bring liquor into a Restricted community, must apply to the local Alcohol Education Committee for approval. Alcohol Education Committee decisions may be appealed to a justice of the peace, whose decision is final.

3. **Unrestricted Communities**

In Unrestricted communities, a small amount of alcohol may be transported without a permit. If more than the maximum amount of alcohol is brought in or shipped, an import permit is required.

Nunavut's liquor restriction system is established pursuant to Section 48 of the Liquor Act. Voters in a community may choose by plebiscite:

1. an unrestricted system in which the community is subject only to the general liquor laws of Nunavut;
2. a restricted quantities system in which, in addition to the general liquor laws, the quantity of liquor that a person may purchase is limited;
3. a committee system, in which a locally elected alcohol education committee decides
 - (i) who may consume, possess, purchase or transport liquor in the community;
 - (ii) who may import liquor into the settlement, municipality or area under this Act,
 - (iii) the amount of liquor that a person may possess, purchase, transport or import in the settlement, municipality or area,
 - (iv) who may apply for a wine permit in the settlement, municipality or area and the amount of wine that a person may apply to make, and
 - (v) who may brew beer for personal or family consumption in the community and the amount of beer that a person may brew; and
4. a prohibition system, which prohibits the consumption, possession, purchase, sale or transport of liquor within the community.

Section 49(5) of the Liquor Act allows for the adoption of Regulations to carry into effect the result of the plebiscite and, if the community has been declared to be a restricted or prohibited area, the Regulations will establish the penalty that may be imposed for violation of the Regulations.

In Restricted communities, Section 50(1) of the Liquor Act empowers an alcohol education committee to withdraw the eligibility of a person to consume, possess,

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purchase or transport liquor in the community, for a maximum period of one year, “where in the opinion of the committee, that person by excessive drinking of liquor, misspends or wastes or unduly lessens his or her estate, injures his or her health, interrupts the peace and happiness of his or her family or other members of the community.”

The Liquor Act (51.01) also provides for the possibility of a community special prohibition resolution declaring a community a “prohibited area” during a special occasion or period where the council wishes to have the consumption, possession, purchase, sale or transport of liquor prohibited in the community during the special occasion.

Penalties: Fines and/or Imprisonment

Under certain Restricted communities’ Regulations, the penalty for (1) ordering liquor, importing liquor or making wine or beer without the approval of the Alcohol Education Committee; and (2) possessing liquor which has been brought or imported into the community in contravention of the regulations is a fine of \$500 or a maximum sentence of 6 months in jail or both.

Certain other Restricted communities’ Regulations provide for penalties of a fine not exceeding \$500 or a term of imprisonment not exceeding 30 days or both. Yet other Restricted communities’ Regulations provide for only fines as penalties, with no imprisonment.

Where a person, in a Restricted community, whose eligibility has been withdrawn by the local Committee, has consumed, possessed, purchased, sold or transported liquor, or where any person who sells, gives or transfers liquor to a person whose eligibility has been withdrawn, the penalty consists of a fine of \$100 or community work or in default of paying the fine or executing the community work order, to imprisonment for a maximum of 7 days.

Under Prohibited communities’ Regulations, the penalty for possession, purchase, sale or transportation of liquor in the community is a fine not exceeding \$500 or imprisonment for a term not exceeding 30 days or both.

The penalty for contravening a special prohibition resolution is a fine of not less than \$500 and not more than \$5,000 or imprisonment for a term not exceeding 30 days or both.

2. The Charter

Introduction

The *Canadian Charter of Rights and Freedoms* came into force in 1982. It forms part of Canada’s Constitution. The Constitution is the supreme law of Canada and any law that

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is inconsistent with the provisions of the Constitution (including the Charter) is, to the extent of the inconsistency, of no force and effect.

“The Charter of Rights guarantees a set of civil liberties that are regarded as so important that they should receive immunity, or at least special protection, from state action.” (P.W. Hogg, *Constitutional Law of Canada*, 5th edition (Toronto: Carswell), p. 36-3). If Charter rights and freedoms are breached without justification, the Charter provides certain remedies.

The Charter applies to Parliament, the provincial and territorial legislatures and any body exercising statutory authority, such as municipalities and administrative tribunals. The Charter does not regulate relations between private persons (Hogg, *supra*, p. 34-12 to 34-25).

Judicial review of legislation under the Charter is a two-step process. The first step is to determine whether the challenged law violates a Charter right. If it does not, the law must be upheld. If the law violates a Charter right, a court must decide whether the law is justified under Section 1 of the Charter as a reasonable limit that can be “demonstrably justified in a free and democratic society”. The court must decide whether the government has made an appropriate compromise between civil liberties and the social or economic objectives of the law.

The Charter provisions which are most relevant to Nunavut’s Liquor Act and Regulations are Sections 7, 8, 12 and 15(1).

Right to Liberty and Security of the Person – Section 7

Section 7 is the Charter provision which is most relevant to a review of the Liquor Act.

“7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.”

No caselaw was found dealing specifically with an individual’s ‘right to drink’, based on Section 7. It should be pointed out that alcohol prohibition in Canada is rare, especially since the enactment of the Charter.

However, Courts in the early 2000s were called upon to determine whether the prohibition against (non-medical use) marihuana violated Section 7 of the Charter. In 2003, the Supreme Court of Canada released three decisions affirming the legislative competence of Parliament to prohibit the possession of marihuana (R. v. Clay [2003] 3 SCR 735, R. v. Malmo-Levine and R. v. Caine [2003] 3 S.C.R. 571). The principal issue was whether the prohibition infringed s. 7 of the Charter. The Supreme Court of Canada held that while the availability of imprisonment puts at risk an individual’s liberty and security, it did so in a manner that complied with the principles of fundamental justice.

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The Liquor Act and The Right to Liberty and Security of the Person

Where an individual's liberty is at stake, such as where an individual has been convicted of possession of alcohol in a prohibited community, and sentenced to imprisonment, it is possible that Section 7 of the Charter could be triggered. The issue would then be whether the risk to the individual's liberty has been deprived in a manner that complied with the principles of fundamental justice.

The Supreme Court of Canada, in *R. v. Malmo-Levine* and *R. v. Caine* [2003 3 S.C.R. 571] made some interesting observations regarding the constitutionality of the prohibition of marihuana, which are informative with respect to the prohibition and restriction of alcohol under the Liquor Act (at para. 166):

“On another branch of the imprisonment argument, our colleague Arbour J. argues that it is unconstitutional for the state to attempt to prevent the general population, under threat of imprisonment, from engaging in conduct that is harmless to them, on the basis that other, more vulnerable persons may harm themselves if they engage in it (para. 258). In our view, with respect, this proposition is too broadly stated. In the present context, as previously noted, the evidence shows that it is not possible generally to distinguish in advance the general population from its more vulnerable members. Chronic users emerge from unexpected sources. If our colleague is correct, the impossibility of precise identification of “chronic users” in advance would incapacitate Parliament from taking any action at all to help those in need of its protection, a proposition we do not accept. Further, we do not agree with our colleague that it is a straightforward matter to distinguish between harm to self and harm to others. We noted earlier the recent comment of the Law Commission of Canada that “in a society that recognizes the interdependency of its citizens, such as universally contributing to healthcare or educational needs, harm to oneself is often borne collectively...”

Right to be Secure Against Unreasonable Search or Seizure – Section 8

Section 8 is relevant with respect to the manner in which the Liquor Act is enforced and will also be discussed under **Issue 2 - Transportation of liquor across jurisdictional boundaries**.

“8. Everyone has the right to be secure against unreasonable search or seizure.”

Section 8 gives everyone the right to be secure against unreasonable search or seizure. It affects the laws that permit the police to search homes or places of business, vehicles, or even individuals, in certain circumstances. Section 8 protects property if there is a reasonable expectation of privacy. Before police can search or seize, they must have a good reason to do so.

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The Supreme Court of Canada has held that under section 8, individuals are not to be subject to unreasonable interference with their reasonable expectations of privacy (*R. v. Bernshaw*, [1995] 1 SCR 254). In *Hunter v. Southam* [1984 2 S.C.R. 145], the Supreme Court of Canada set out the requirements for legislation that authorizes a search or seizure, and thereby defined “unreasonable” for the purpose of Section 8.

The Liquor Act and the Right to be Secure Against Unreasonable Search or Seizure

This issue is discussed under under Issue 2, below.

Right Not to be Subjected to Cruel and Unusual Treatment or Punishment – Section 12

Section 12 protects individuals against cruel and unusual treatment or punishment, and may also be relevant to a review of the Liquor Act.

“12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.”

No cases were found regarding the Liquor Act and Section 12 of the Charter. However, Section 12 was examined in the context of drug prohibition. In *R. v. Malmo-Levine* and *R. v. Caine* [2003 3 S.C.R. 571], the Supreme Court of Canada’s statement at para. 158 is helpful in understanding the protection against ‘cruel and unusual punishment’:

“First, as mentioned above, we believe that the issue of punishment should be approached in light of s. 12 of the Charter (which protects against “cruel and unusual treatment or punishment”), and, in that regard, the constitutional standard is one of gross disproportionality. Second, in our opinion, the lack of any mandatory minimum sentence together with the existence of well-established sentencing principles mean that the mere availability of imprisonment on a marijuana charge cannot, without more, violate the principle against gross disproportionality.”

In R. v. Smith, ([1987] 1 S.C.R. 1045), Supreme Court Justice Lamer explained “gross disproportionality”, at p. 1072:

“The test for review under s. 12 of the Charter one of gross disproportionality, because it is aimed at punishments that are more than merely excessive. We should be careful not to stigmatize every disproportionate or excessive sentence as being a constitutional violation, and should leave to the usual sentencing appeal process the task of reviewing the fitness of a sentence.”

The Liquor Act and the Right Not to be Subjected to Cruel and Unusual Treatment or Punishment

Where the Liquor Act and Regulations provide for a term of imprisonment, the issue will be whether there has been a violation of the principle against gross disproportionality.

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For example, under the Liquor Act, an individual may be sentenced to imprisonment for a term of 7 days for providing alcohol to a person whose eligibility to consume alcohol has been withdrawn by an Alcohol Education Committee. The possibility that an individual may be sentenced for up to 6 months in jail for possessing liquor which has been brought or imported into the community in contravention of the regulations is another example of a provision which could give rise to a Section 12 challenge.

Equality

Section 15(1) of the Charter sets out Equality Rights.

“15 (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.”

Before the enactment of the Charter, the Supreme Court of Canada dealt with equality under the *Canadian Bill of Rights* in *The Queen v. Drybones* ([1970] S.C.R. 282). Mr. Drybones was convicted by a magistrate of being intoxicated off a reserve in the Northwest Territories, contrary to s. 94(b) of the *Indian Act*, R.S.C. 1952, c. 149. In a split decision, the Supreme Court of Canada decided that Mr. Drybones was denied equality before the law and Mr. Drybones was acquitted. The Federal Government could not punish an individual at law, on account of his race, for him doing something which his fellow Canadians are free to do without having committed any offence or having been made subject to any penalty. Section 94(b) of the *Indian Act* was a law which created such an offence and it could only be construed in such manner that its application would operate so as to abrogate, abridge or infringe one of the rights declared and recognized by the *Canadian Bill of Rights*.

No recent cases were found regarding legislative liquor control and equality rights under the Charter, but court decisions regarding the ban on marijuana are again informative. The Supreme Court of Canada’s decision in *R. v. Malmo-Levine* and *R. v. Caine* [2003 3 S.C.R. 571] decisively dealt with this question (at para. 185):

“A taste for marijuana is not a “personal characteristic” in the sense required to trigger s. 15 protection: *Andrews v. Law Society of British Columbia*, [1989 CanLII 2 \(SCC\)](#), [1989] 1 S.C.R. 143. As Malmo-Levine argues elsewhere, it is a lifestyle choice. It bears no analogy with the personal characteristics listed in s. 15, namely race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability. It would trivialize this list to say that “pot” smoking is analogous to gender or religion as a “deeply personal characteristic that is either unchangeable or changeable only at unacceptable personal costs”: *Egan v. Canada*, [1995 CanLII 98 \(SCC\)](#), [1995] 2 S.C.R. 513, at para. 5; *Vriend, supra*, at para. 90. Malmo-Levine’s equality claim therefore fails at the first hurdle of the requirements set out in *Law v. Canada (Minister of Employment and*

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Immigration), [1999 CanLII 675 \(SCC\)](#), [1999] 1 S.C.R. 497. The true focus of s. 15 is “to remedy or prevent discrimination against groups subject to stereotyping, historical disadvantage and political and social prejudice in Canadian society”: *Swain, supra*, at p. 992, *per* Lamer C.J.; and *Rodriguez, supra*, at p. 616. To uphold Malmo-Levine’s argument for recreational choice (or lifestyle protection) on the basis of s. 15 of the Charter would simply be to create a parody of a noble purpose.”

The Liquor Act and Equality

The provision of the *Indian Act* in *The Queen v. Drybones* is distinguished from the provisions of the *Liquor Act* since the *Liquor Act* theoretically applies to everyone equally, regardless of race. Based on the Supreme Court of Canada’s reasoning in *R. v. Malmo-Levine* and *R. v. Caine* (quoted above), it would be difficult for anyone to challenge the *Liquor Act*, based on s. 15.

Equality - Nunavut Human Rights Act (S.Nu. 2003, c. 12)

Section 12 of the Nunavut Human Rights Act provides that no person may deny to any individual, on the basis of a prohibited ground of discrimination, any goods that are customarily available to the public or discriminate against any individual or class of individuals with respect to any goods that are customarily available to the public.

Section 7 of the Nunavut Human Rights Act sets out the prohibited grounds of discrimination: race, colour, ancestry, ethnic origin, citizenship, place of origin, creed, religion, age, disability, sex, sexual orientation, marital status, family status, pregnancy, lawful source of income and a conviction for which a pardon has been granted.

No challenges to the Nunavut Liquor Act and Regulations have, understandably, been made, since it would be difficult to argue that the denial of goods (alcohol) is based on a prohibited ground of discrimination.

Reasonable Limits on Charter Rights - Section 1

The Charter and the courts recognize that governments can make laws in the broader public interest, even if a law violates a *Charter* right or freedom. In such a case, a court will consider if the government can justify the violation under Section 1.

Section 1:

“The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.”

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A court may permit a violation of a Charter right if the government can meet this section 1 test.

The limits on rights and freedoms set out in the *Liquor Act* meet the first test (prescribed by law). The issue, really, is whether the limits are justified in a free and democratic society. To decide that, court will look at several things, including whether the government has an important objective and, if so, whether the government acted reasonably in achieving this objective.

Generally, if the law's objective is important to society and the violation of Charter rights is minimal, the law will be 'saved' by section 1. The more severe the violation, the more difficult it will be for government to justify it under section 1.

Courts have accepted a wide variety of legislative objectives as justifications under section 1. *R. v. Oakes* [1986] 2 S.C.R. 103, set the criteria to establish that a limit is reasonable and demonstrably justified in a free and democratic society. Professor Hogg (Hogg, *Constitutional Law of Canada*, 5th edition at p. 38-18) summarized the criteria as follows:

- “1. Sufficiently important objective: The law must pursue an objective that is sufficiently important to justify limiting a Charter right.
2. Rational Connection: The law must be rationally connected to the objective.
3. Least drastic means: The law must impair the right no more than is necessary to accomplish the objective.
4. Proportionate effect: The law must not have a disproportionately severe effect on the persons to whom it applies.”

In *Oakes*, the Supreme Court of Canada made it clear that only objectives that are consistent with the values of a free and democratic society will qualify, the objective must “relate to concerns which are “pressing and substantial”, rather than merely trivial, and the objective must be directed to the “realization of collective goals of fundamental importance.”

An informative discussion, closer to home, is found in *Yellowknife (City) v. Denny* (2004 NWTTC 2). The accused was charged with violating By-Law No. 4276 by “smoking in a non-smoking area”. Mr. Denny attempted to challenge the By-Law, based on Charter arguments. Judge B.A. Bruser of the Northwest Territories Territorial Court dismissed the challenge and made the following comments:

“The various sections of the Charter protect complex and interacting values. The complexity of the Charter cannot be underestimated nor understated. The various provisions interact. Each section is more or less fundamental to the free and democratic society that is Canada. Each section must be interpreted in light

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of the value structure sought to be protected by the Charter as a whole and in light of the content of the other specific rights and freedoms that the Charter and the section in question embody.

By-Law 4276 is an excellent example of how we function in our free and democratic society. Nobody is above the rule of law. Nobody has the right to do as they please anywhere at any time. With the rights and freedoms in the Charter also come corresponding responsibilities. This is why, after all, we have laws. The rule of law is paramount. The Charter is part of the rule of law. By-Law 4276 is designed to regulate activities that are legal but that require regulation for the benefit, safety and protection of all persons, whether or not they are smokers.”

The Liquor Act and Section 1

Courts will usually assume that the law itself reveals its objective. The Liquor Act’s general objectives, although not clearly stated, would not be difficult for a Court to ascertain for the purposes of dealing with a Charter challenge. The document entitled “A Summary of the Act” (at p. 6) sets out a number of the Liquor Act’s objectives: “to address a number of alcohol related issues to ensure the responsible sale, service and consumption of alcohol... (including) ... public safety and security; protection of minors; disorderly conduct, and crime; community wellbeing; over service and intoxication; prevention and deterrence of alcohol abuse; and promotion of social responsibility.”

It would be up to the Courts to determine whether the objectives are “sufficiently important” and whether certain provisions of the Liquor Act impair Charter rights ‘no more than is necessary to accomplish the objective’.

Even if the Liquor Act or the Regulations violate a Charter right or freedom, a court will consider if the government can justify the violation under section 1. Charter rights and freedoms are subject to reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. A court may permit a violation of a Charter right if the government can meet this section 1 test.

Remedies if Charter rights violated

Section 24 of the Charter allows persons whose rights have been violated to apply to a court for a remedy that the court considers appropriate and just in the circumstances. A court may exclude evidence if it was obtained in a way that interfered with a Charter right, and if using the evidence would bring the administration of justice into disrepute.

Section 52(1) of the Constitution Act, 1982, provides that any law inconsistent with the Constitution is of no force and effect. A court may declare that a law is unconstitutional.

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Summary

There have not been any cases in Nunavut dealing specifically with the issue of whether the Liquor Act violates an individual's rights, under Section 7 of the Charter, to Liberty and Security of the Person. The (purely speculative) reasons for this could include: (1) no penalties of imprisonment have been imposed upon individuals under the Regulations; (2) it is simply too expensive to contest the seizure of liquor; and (3) the RCMP's objective in getting the alcohol 'off the street' can be met by simply seizing alcohol, and issuing a warning. Cases dealing with the prohibition of marijuana are informative in setting out the principles that may apply to any possible Charter challenge to the Liquor Act and its Regulations.

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ISSUE 2

Transportation of liquor across jurisdictional boundaries

Rights of individuals transporting alcohol (into Nunavut and into Nunavut communities) / Are the RCMP search & seizures legal?

This issue is related to the above discussion of Charter issues. If the legislation is constitutionally valid, then the individual's right to transport alcohol into Nunavut is curtailed. The question then becomes whether the searches and seizures are legal, and whether they violate an individual's Section 8 Charter Right to be Secure Against Unreasonable Search or Seizure.

1. The Liquor Act

Sections 107 and following of the Liquor Act provide police with the powers of search and seizure:

107. (1) A peace officer may, at any time,
(a) without a warrant, enter and search any vehicle in which the peace officer has reasonable grounds to believe that liquor is unlawfully kept or had, or kept or had for unlawful purposes, and, subject to section 112, search any person found in that vehicle; and

(b) under the authority of a warrant issued under subsection (3), enter and search any residence, building or place in which the peace officer has reasonable grounds to believe that liquor is unlawfully kept or had, or kept or had for unlawful purposes, and, subject to section 112, search any person found in that residence, building or place.

(2) A peace officer who has made a search under subsection (1) may at any time seize and take away

(a) any liquor and packages in which the liquor is kept contrary to this Act or the regulations; and

(b) any book, paper or thing that the peace officer reasonably believes may be evidence of the commission of an offence under this Act.

(3) Where, on an ex parte application, a justice is satisfied by information on oath that there are reasonable grounds to believe that liquor is unlawfully kept or had, or kept or had for unlawful purposes, in a residence, building or place, the justice may issue a warrant authorizing a peace officer named in the warrant at any time, including Sunday or other holiday, and by day or by night, to enter the residence, building or place and search for liquor.

Section 111 of the Liquor Act states that "a peace officer may arrest without a warrant a person he or she finds committing an offence under this Act or the regulations."

2. The Right to be Secure Against Unreasonable Search or Seizure - Section 8

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A search without a warrant is, on its face, unreasonable and a violation of an individual's Charter rights (*R. v. Caslake* (1998), 131 C.C.C. (3rd) 97 (S.C.C.)).

A search will be reasonable only if (1) it is authorized by law; and (2) it is carried out in a reasonable manner (*R. v. Collins* (1987), 56 C.R. 3rd 193). Some statutes specifically authorize warrantless searches. Police also have the power to detain an individual and conduct a search if they have reasonable grounds to suspect that the person is connected to a particular crime and detention is necessary to investigate that crime.

If a search is unreasonable, the second step is showing that because of the breach of s. 8, evidence should be excluded because its admission could bring the administration of justice into disrepute.

Section 8 protects "reasonable expectations of privacy" (*Hunter v. Southam* [1984 2 S.C.R. 145]). Whether there is a reasonable expectation of privacy will be decided based on all of the circumstances.

Travelers have a reasonable expectation of privacy in luggage in their possession and a search without a warrant is a breach of Section 8 (*R. v. Chui*, April 18, 1996 Alta Q.B. and McIsaac, Shields, Klein, *The Law of Privacy in Canada* (Thompson Carswell) Loose Leaf Ed.).

R. v. Panaktolak (2011, NWTTC 19), is one of the few cases dealing with the Liquor Act (NWT) and Charter rights. Interestingly, the Northwest Territories Territorial Court did not question the validity of the Liquor Act regulations. In fact, the court confirmed that the community had the right to restrict the import of alcohol. On this point, Judge Malakoe stated:

"The offence with which Mr. Panaktalok is charged is not a *Criminal Code* offence. It is an offence under the *Liquor Act*. I do not say this to say that *Liquor Act* offences are not worthy of attention by the police. On the contrary, the relationship of irresponsible consumption of alcohol to social and criminal problems in the communities is well known. It is for this reason that communities such as Tuktoyaktuk have taken the initiative to restrict the flow of liquor into the community."

The court focused on the issue of the limits of search and seizure of alcohol. In the end, the search of Mr. Panaktolak's luggage, based on an anonymous tip, was found to be unreasonable. The RCMP should have either requested Mr. Panaktolak's consent to the search, or obtained a search warrant. Therefore, the evidence (alcohol) could not be used to convict Mr. Panaktolak, under the Tuktoyaktuk Liquor Restriction Regulations, for bringing into the community more than the allowable quantity of liquor. The the search of Mr. Panaktolak's luggage was a breach of his Section 8 Charter right. Despite the search being unreasonable, the alcohol in question was not returned to Mr. Panaktolak, the court having decided that it was inappropriate to do so, and was ordered to be disposed of by the RCMP.

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The court confirmed that, where individuals are charged with an offence under the Liquor Act, the arrest provisions of the Liquor Act are applicable, to the exclusion of the arrest provisions of the Criminal Code.

Judge Malakoe also confirmed that the common-law and the provisions of the Liquor Act “provide the police with ample tools to investigate and prosecute offences under the *Liquor Act* and its regulations.” He went on to state that the breach of a Charter right in investigating a Liquor Act offence is more serious than the breach of a Charter right while investigating a Criminal Code offence, since Liquor Act offences are regulatory in nature, as opposed to criminal in nature.

In order to arrest Mr. Panaktalok under the Liquor Act, the police had to find Mr. Panaktalok committing an offence under the Liquor Act. “Committing an offence” is a different test than “reasonable suspicion” or “reasonable and probable grounds”. “Committing an offence” can mean “apparently committing an offence” (*R. v. Biron* (1974), 23, C.C.C. 2d 513 (SCC)).

Regarding an individual’s expectation of privacy with respect to his or her baggage, Judge Malakoe commented: “Although the privacy interest of a citizen in his or her baggage may be reduced somewhat because they are travelling on a commercial aircraft, an unreasonable search of luggage, which in this case resulted in arrest, had a serious impact on the accused’s Charter protected rights.”

The impact on Mr. Panakolak’s Charter rights was such that Judge Malakoe decided to exclude the evidence of the seized liquor.

This case is interesting for a few reasons:

- (1) It confirms comments heard during the consultations regarding the difficulty in enforcing the Liquor Act; and
- (2) It indirectly informs the issue of the duty of transportation companies, with respect to the Liquor Act.

The search and seizure issues are directly related to the next issue: the responsibilities of transportation companies with respect to the control of alcohol under the Liquor Act.

3. Responsibilities of transportation companies (airlines, ships)

Transportation companies are caught in the difficult situation where they must balance their clients’ right to privacy with ‘social’ responsibilities. Some airlines, such as First Air, cooperate closely with the RCMP.

The Liquor Act and Regulations do not contain any specific requirements regarding transportation companies. There are only general search and seizure provisions.

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Section 107(1)(a) allows the RCMP to enter and search any vehicle (the RCMP includes aircraft within the definition of 'vehicle'), without a warrant if they have reasonable grounds to believe that liquor is unlawfully kept or had.

The Right to Privacy - Airlines

As discussed above, the Section 8 of Charter protects the "Reasonable Expectation of Privacy". Furthermore, transportation and supply companies are required to comply with privacy of information legislation.

"Special rules seem to apply to luggage of a person traveling by air" (McIsaac, Shields, Klein, *The Law of Privacy in Canada* (Thompson Carswell) Loose Leaf Ed. at p. 2-58.39). A reasonable expectation of privacy is arguably not available, due to security concerns (R. v. Creelman, 2055 NSSC 353).

The Nunavut Court of Justice dealt with Section 8 and cargo in R. v. Naglingniq (2006 NUCJ 3). In this case, Isacky Naglingniq applied for return of \$7950 seized from First Air Cargo, and alleged that his Section 8 Charter rights had been breached.

Judge Beverly Brown first rejected the Crown's argument that once a parcel is dropped off with the airline for shipping, Mr. Naglingniq surrendered his interest in the parcel and therefore had no proprietary interest on which to base a Charter application under s.8.

The police, with the permission of First Air, looked at the package. Judge Brown described the relationship between First Air and the RCMP as follows (para 29):

"First Air and the police have an agreement that encourages co-operation between them."

But Judge Brown was clear about the effect of this agreement (para. 31):

"The agreement between the airline and the police does not diminish the rights of an individual submitting a parcel for transport with the airline. The expectation of privacy belongs to the individual, not the airline or the police."

Judge Brown held that the ordinary expectation of privacy is diminished when a parcel is shipped by mail or cargo (at para. 26 and 31):

"A warrantless search is prima facie an unreasonable search and therefore an illegal search. A search is an interference with an individual's expectation of privacy. One's expectation of privacy depends on the circumstances and the context. As a location becomes more public, an individuals' expectation of privacy decreases. Airports, bus depots and similarly public locations have a reduced expectation of privacy compared to individual persons or their homes."

"When a parcel is submitted to a third party for shipping, the ordinary expectation of privacy is, of course, diminished. Statutorily authorized searches can be carried out for

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safety and other legislated issues once actual possession of the parcel has been surrendered to another.”

Judge Brown summarized the law if a warrantless search is unreasonable (para. 27):

“Then a number of factors must be considered in assessing the consequences of admissibility of the items seized. Those factors are the seriousness of the breach, the effect of admission of the evidence regarding the accused right to a fair trial and whether the administration would be brought into disrepute by admission or exclusion of the evidence under s.24(2) of the Charter.”

Judge Brown responded in the negative to the “simple” question: can the police inspect any parcel on the premises without some kind of statutory authority? She stated: “The police handling of the parcel handed over to the airline is a search and is unreasonable. The police did not have reliable grounds, or even strong suspicion to request access to the parcel. There were no exigent or emergency circumstances.”

Judge Brown commented that (para. 6):

“Protection of property rights is fundamental to our society and recognized appropriately in legislation and the Charter. Any effort by law enforcement authorities to take those rights away or infringe on those rights except by operation of law must be carefully scrutinized. Items taken from private individuals by law enforcement agencies must be returned subject to the processes in the Code requiring judicial authorization.”

Judge Brown held that although there were Charter breaches, Mr. Nagligniq’s application for return of the money was dismissed since he had not been able to prove a proprietary interest in the money.

Suppliers

According to the RCMP, suppliers, such as Marché Turenne for example, have become strict about requiring permits prior to completing orders from Nunavut. According to the Nunavut Liquor Commission, other Liquor Commissions, such as the LCBO and the SAQ also provide “great cooperation” in ensuring that the required Permits are provided prior to completing orders.

Canadian Air Transport Security Authority (“CATSA”)

CATSA’s responsibilities are limited to aircraft security.

Canada Post

Under the Canada Post “Postal Guide”, liquor may not be mailed by a supplier or by an individual to a Nunavut resident, unless the supplier is the Nunavut Liquor Commission. The relevant provisions of the Postal Guide are as follows:

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“Intoxicating beverages can only be shipped within Canada when:

- a Provincial Liquor Board or Commission is mailing to a manufacturer, distributor or individual within the same province
- a manufacturer of such beverages is mailing to a Provincial Liquor Board or Commission, to a distributor of such beverages in Canada, or to an individual within the same province
- a distributor of such beverages is mailing to a Provincial Liquor Board or Commission, to a manufacturer or distributor of such beverages in Canada, or to an individual within the same province
- they are mailed between a peace officer and a test laboratory for the purpose of carrying out a lawful investigation.

Regardless of who is shipping, special restrictions apply as follows:

1. If the intoxicating beverage contains less than 24% alcohol by volume* (e.g. 48 proof), the item can be shipped by air or ground.
2. If the intoxicating beverage contains:
 - more than 24% alcohol by volume (e.g. 48 proof); and
 - less than 70% alcohol by volume (e.g. 140 proof); and
 - is shipped in a container of less than five (5) litres,

the item can be shipped by ground only.”

*When shipping via *Priority*[™] Next A.M., intoxicating beverages are only acceptable if they contain less than 24% alcohol by volume.”

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REPORT

LEGAL RESEARCH AND INTERPRETATION

By: Jocelyn Barrett

3/6/2012

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NUNAVUT LIQUOR ACT REVIEW
RESEARCH ASSIGNMENT SCOPE OF WORK
Legal Research and Interpretation

Background

Further to my report dated March 6, 2012, you requested additional research on the issues surrounding the transportation of alcohol into Nunavut. Specifically:

1. What are the applicable laws regulating the transportation of alcohol into and within Nunavut?
2. Can the Nunavut Government, through the Liquor Act, impose a positive duty on airlines regarding the illegal transportation of alcohol into Nunavut communities?
3. Can an airline deny access to travel or refuse to ship cargo:
 - a. where a passenger or a shipper is transporting alcohol in contravention of the Nunavut Liquor Act; or
 - b. if the passenger refuses to consent to a search of his or her luggage or cargo?
4. Can the Nunavut Government, through the Liquor Act, impose a positive duty on shipping companies, to report the illegal transportation of alcohol into Nunavut communities?

This Report is intended to provide background and guidance to the Task Force on the above issues, but is not intended to provide legal advice.

1. Transportation of Alcohol into and within Nunavut – Applicable Legislation

Under the Nunavut Liquor Act, the transportation of liquor is prohibited, unless authorized by the Liquor Act.

“71. No person shall consume, possess, purchase, sell, transport, import or use liquor in Nunavut unless authorized to do so by this Act or the regulations.” (Emphasis added)

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In other provinces, the federal Importation of Intoxicating Liquors Act (“IILA”), R.S.C., 1985, c. I-3, an old piece of legislation adopted in 1928, generally prohibits the transport or shipment of alcohol across provincial borders, unless the alcohol is purchased by or on behalf of a provincial liquor board. Therefore, it effectively gives provincial liquor boards a monopoly over the sale and distribution of liquor.

However, the IILA does not apply to the importation, sending, taking or transportation of intoxicating liquor into Nunavut (Section 26, Nunavut Act, S.C. 1993, c. 28). Under the Nunavut Act, the Nunavut Legislature may make laws respecting the importation of intoxicants into Nunavut from any other place in Canada. The IILA does not apply to the Northwest Territories (Section 52 of the Northwest Territories Act, R.S.C. 1985, c. N-27), nor does it apply to the Yukon (Section 2 of the IILA, which excludes Yukon from the definition of “province”). The reason for the inapplicability in Nunavut and the NWT could be because each of the Territories’ liquor board’s constitutive (newer) statutes grant their respective liquor boards a monopoly.

No caselaw or authorities were found dealing with the obligations of airlines to ensure that transportation of alcohol across provincial and territorial borders complies with either the IILA or the respective territorial Liquor Acts.

2. Can the Nunavut Government, through the Liquor Act, impose a positive duty on airlines regarding the illegal transportation of alcohol into Nunavut communities?

There is a potential Constitutional issue. Transportation by air is subject to federal legislative jurisdiction. Airlines are federally regulated. The question is therefore the degree to which territorial legislation is precluded.

According to Professor Hogg (*Constitutional Law of Canada*, 5th edition at p.22-25), the “tendency of the decisions is to deny the application of provincial laws to airports and related activity even where the federal Parliament has not acted”. Zoning bylaws, for example, have been held to be inapplicable to aeronautics.

However, in *Air Canada v. Ontario* [1997] 2 S.C.R. 581, the Supreme Court of Canada decided that a province could validly require an airline to pay to the provincial liquor board a mark-up on liquor that was loaded onto the aircraft from an airport in the province for consumption by passengers in the air. The supply of liquor did not affect the operation of the aircraft, and could therefore be regulated by the province.

The solution could be amending the Nunavut Act so that the IILA, a federal law, does apply to Nunavut. Transportation companies would then be required to comply with the IILA, as Canada Post seems to do. See, for example, the Canada Post “Postal Guide”: liquor may not be mailed by a supplier or by an individual to a Nunavut resident, unless the supplier is the Nunavut Liquor Commission.

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On the other hand, applying the Nunavut Act so that the IILA applies to Nunavut could result in more issues than it solves. The IILA has been much-criticized (see, for example, <http://www.cbc.ca/news/canada/story/2011/05/13/f-canadian-liquor-laws.html>), and seems to have little practical effect on the transportation of alcohol across provincial boundaries.

It is unclear whether airlines would have “interjurisdictional immunity”, sheltering them from the application of any positive duties imposed by the Liquor Act.

3. Can an airline deny access to travel or refuse to ship cargo where a passenger or a shipper is transporting alcohol in contravention of the Nunavut Liquor Act; or if the passenger refuses to consent to a search of his or her luggage or cargo?

No relevant authorities were found on this issue. In practice, one airline serving Nunavut takes the position that it may deny access to travel where a passenger intends to illegally transport alcohol into Nunavut, and informs passengers accordingly. However, the airline does not have any written policy regarding transportation of alcohol. This airline cooperates closely with the RCMP and the community it serves. No passengers have made a complaint to date. However, the airline representative noted that the passengers cannot be searched ‘on their person’.

Another airline serving the same ‘prohibited’ community, co-operates informally with the RCMP but does not discuss the transportation of alcohol with its passengers.

Regarding consent to an airline’s inspection of cargo, in *R. v. Sandu*, 1998 CanLII 457 (BC SC), the accused was charged with possession of cocaine for the purpose of trafficking. He had delivered a package for shipment to Montreal to the Air Canada Express Cargo at V.I.A. The Air Canada cargo agent handling the shipment became suspicious and opened the bag. He found a large quantity of money and alerted the RCMP. British Columbia Supreme Court dealt with the issue of whether there was contractual consent to the search and determined that this was a factual consideration.

Under the Air Canada Tariff, the carrier had a right, but not an obligation, to inspect all shipments. However, the Tariff was only found in a reference manual available at the Air Cargo office. It was a thick book referred to in the air waybill signed by the sender. Since there was no express informed consent as to the right of indiscriminate inspection by Air Canada, the British Columbia Supreme Court held that there was no contractual consent to search, either at law or in fact.

The Court stated: “Even though it is common public knowledge that bags and goods intended for transport by aircraft might be subject to inspection and search and, therefore, a low expectation of privacy attached to those goods, the law authorizing security searches at airports for its limited purpose must, nevertheless, be adhered to; otherwise the statute outlining the security provisions becomes superfluous and meaningless.”

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Despite the fact that the Tariff stated: "Property is acceptable for transportation only when the rules and regulations of the tariffs and all laws, ordinances, and other governmental rules and regulations governing the transportation thereof have been complied with by the shipper, consignee or owner.", the Court made the following comments, with respect to the powers of inspection:

"An examination of the applicable air transport statutory and regulatory provisions clearly indicate the provisions intent in providing powers of inspection at airports is to prohibit the passing and transport of dangerous or hazardous goods aboard commercial aircraft.

The power to inspect was aimed for security and safety of aircraft, not to ferret out contraband unrelated to security. I can appreciate that an established programme of universal or even random searches of air cargo for initial security reasons might fortuitously reveal the presence of contraband. What is not permissible, however, is snooping for reasons clearly unrelated to potential security of the aircraft. If government officials and their agents want to snoop for other reasons, it must pass the scrutiny of prior judicial authorization for a search warrant. A purported security search cannot be a mask or guise to do what is otherwise legally impermissible." (Emphasis added)

Tariffs are defined in the *Canada Transportation Act* as:

"A schedule of fares, rates, charges and terms and conditions of carriage applicable to the provision of an air service and other incidental services".

First Air's Passenger Tariffs, effective April 15, 2005, provides First Air with the right of inspection of goods sent by air.

"FIRST AIR RULE: 190-7F ACCEPTANCE OF BAGGAGE: GENERAL

A) GENERAL CONDITIONS OF ACCEPTANCE
CARRIER WILL ACCEPT FOR TRANSPORTATION AS BAGGAGE, SUCH PERSONAL PROPERTY AS IS NECESSARY OR APPROPRIATE FOR THE WEAR, USE, COMFORT, OR CONVENIENCE OF THE PASSENGER FOR THE PURPOSE OF THE TRIP, SUBJECT TO THE FOLLOWING CONDITIONS:
1) ALL BAGGAGE IS SUBJECT TO INSPECTION BY THE CARRIER; HOWEVER, THE CARRIER SHALL NOT BE OBLIGATED TO PERFORM INSPECTION. CARRIER WILL REFUSE TO TRANSPORT OR WILL REMOVE AT ANY POINT BAGGAGE THAT THE PASSENGER REFUSES TO SUBMIT FOR INSPECTION."

Canadian North's Tariff also provides for a right of inspection:

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“RULE 22. ACCEPTANCE OF BAGGAGE

General Conditions of Acceptance

Carrier will accept for transportation as baggage, such personal property as necessary for appropriate wear, use, comfort, or convenience of the passenger(s) for the purpose of the trip, provided they have a confirmed or waitlist ticket, subject to the following conditions;

1) All baggage is subject to inspection by the carrier or a private security company.

However, the carrier will refuse to transport or will remove at any point baggage that the passenger(s) refuse to submit for inspection.”

However, the Tariff rules are similar to those set out in Air Canada’s Tariff dealt with in *R. v. Sandu*, discussed above, and a court may decide that this right of inspection (1) is not given with clear and informed consent; and (2) is limited to inspection for security purposes.

4. What are the marine transportation companies’ obligations with respect to the illegal transportation of alcohol into Nunavut communities?

Ships with a continuous and regular trade to the ports of more than one province are within federal jurisdiction (s. 92(10)(a) and s. 91(13) of the *Constitution Act* and Hogg, *Constitutional Law of Canada*, 5th edition at para. 22.10). As with air transportation, the question is therefore the degree to which territorial or provincial legislation applies to marine transportation.

The Supreme Court of Canada has held (*British Columbia v. Lafarge Canada* [2007] 2 S.C.R. 86) that ‘interjurisdictional immunity’ only applies to the ‘core’ of federal powers, and that a municipal by-law could be constitutionally applicable to a marine project. However, in this case, the by-law was inoperative and did not apply to the project, because the by-law was inconsistent with the Canada Marine Act.

The question would therefore be whether an obligation imposed on a shipping company by the Liquor Act would affect the ‘core’ of federal powers over navigation and shipping.

With respect to the sale of alcohol on ships, in *R. v. Williams* (2000 BCSC 0449), Williams was the owner and operator of a cruise ship that frequented the waters around Vancouver. He was accused of selling liquor on his ship without a licence. The British Columbia Supreme Court decided:

“The Province has quite legitimately attempted to impose licensing requirements upon carol ships. The Province is not regulating the operating conditions of the appellant’s vessel. They are merely attempting to regulate a form of activity on that vessel. Thus it cannot be said that the enforcement of the **Liquor Act** encroaches upon the federal power of navigation and shipping. Moreover, it cannot be said that the application of the provincial **Liquor Act** impairs a federal undertaking.”

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The Court held:

“The Province of British Columbia can legally regulate the sale of liquor on vessels in the waters around Greater Vancouver notwithstanding that shipping and navigation is a matter of federal jurisdiction. Furthermore, the appellant’s carol ship was within the territorial waters of the Province of British Columbia and, accordingly the provincial **Liquor Act** applies to its operations.”

Conclusion

The questions posed regarding the obligations of airlines and shipping companies raise constitutional division of powers (territorial/federal) issues and there is no clear authority setting out a definitive answer. Any action on the part of government to impose positive obligations on airlines and shipping companies regarding the transportation of liquor would require further in-depth research.

If airlines and shipping companies can be required to take positive action regarding the illegal transportation of alcohol into and within Nunavut, express, clear, informed consent by the cargo sender or passenger to allow the transportation company to inspect cargo and baggage would be recommended.

Summary

- The Nunavut Liquor Act applies to the transportation of liquor in Nunavut.
- The federal Importation of Intoxicating Liquors Act restricts the transport or shipment of alcohol across provincial borders, but does not apply to Nunavut.
- Transportation by sea and transportation by air are matters that are subject to federal jurisdiction.
- The degree to which territorial legislation, including the Liquor Act, applies to transportation by sea and transportation by air is a difficult constitutional issue, which depends on whether the territorial legislation encroaches upon the federal powers over shipping and aeronautics.
- Airlines and shipping companies cannot inspect cargo or baggage beyond what is required for security purposes without express, informed consent of the shipper/traveller.

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