Developments in Canadian Community-Based Impaired Driving Initiatives: The Ontario “Last-Drink” Program

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Abstract

Context
A disproportionate number of impaired drivers are coming from licensed establishments, as opposed to their own home or other private venues. Despite Canada’s stringent liquor licence legislation, licensed establishments routinely over-serve patrons, many of whom subsequently drive. In the absence of far more rigorous enforcement, licensed venues have little incentive to comply with the legal prohibitions against serving intoxicated patrons.

“Last Drink” programs focus liquor licensing enforcement on high-risk establishments in an attempt to reduce impaired driving and other alcohol-related incidents. Pursuant to the program, the police ask impaired driving suspects where they had been drinking. If a licensed establishment is named, the information is forwarded to licensing officials for follow-up action.

Objectives
This paper outlines the rationale for implementing Last Drink programs and summarizes the limited research on their impact. It describes Ontario’s mandatory Last Drink program, which was introduced in August 2012, and the preliminary results of the pilot project on which it was based. Finally, the paper puts this program into the broader framework of regulating the hospitality industry.

Key Outcomes
A large percentage of the impaired driving suspects in the Ontario pilot project reported coming from a small percentage of the licensed establishments. The Alcohol and Gaming Commission of Ontario (AGCO) described the program’s preliminary results as “encouraging on multiple fronts,” and Mothers Against Drunk Driving (MADD) Canada and other safety organizations endorsed it. Ontario subsequently introduced a mandatory province-wide Last Drink program.

Discussion and conclusions
Last Drink programs appear to temporarily improve serving practices in the targeted venues. However, it is unclear if these initiatives have a lasting impact on the targeted establishments and the broader hospitality industry. Nor is there much evidence on the ongoing impact of these programs on the incidence of impaired driving.

Introduction
While licensed venues account for approximately 20% of total alcohol consumption in Canada (Babor et al., 2010, pg. 32), they play a disproportionate role in terms of the impaired drivers apprehended by police. A similar pattern is evident in the United States and Australia. For example, one study reported that between one-third and three-quarters of the intoxicated drivers
stopped by police in the United States had their last drink at a licensed establishment (Stewart & Sweedler, 2007, pg. 4), while another American study put the figure at up to 50% (Moore, 2007, pg. 177). In New South Wales, approximately 50% of impaired driving offenders had been drinking in a licensed premise prior to the offence (Rydon, Stockwell, Syed, & Jenkins, 1993, pg. 339). Not surprisingly, licensed establishments are similarly overrepresented in alcohol-related crashes (Willingham & Mosher, 2013, slide 31).

An early Ontario roadside survey reported that while only 6% of the drivers were coming from bars or taverns, they accounted for 16% of the drivers with BACs between .05% – .08%, and 16% of those with BACs above .08% (Single & McKenzie, 1992, pg. 3). In a 2001 Alberta nighttime roadside study, drivers coming from bars and taverns were 5 times more likely to be legally impaired than drivers coming from all other locations (Belton, Voaklander, MacDonald, & Jhangri, 2001, pg. 3). Similar results were evident in the 2003, 2008 and 2010 British Columbia roadside surveys (Beirness, Foss, Wilson, & Burch, 2004; Beirness & Beasley, 2010; Beirness & Beasley, 2011). In the 2010 survey, 8.4% of drivers coming from bars, pubs and nightclubs had BACs above .08%, compared to 2.2% of total drivers (Beirness & Beasley, 2011, pg. 9 & 12).

Binge drinking (i.e. consuming five or more standard drinks in a single sitting), which strongly correlates with impaired driving, is commonplace in licensed establishments, particularly bars and taverns (Rydon et al., 1993; Rammohan et al., 2011, pg. 335). Canadian research indicates that the environment in bars and clubs predisposes students to heavy drinking (Demers, Kairouz, Adlaf, Gliksman, Newton-Taylor, & Merchand, 2002). Indeed, Canadian university students report that they routinely binge drink when at a bar or pub, consuming on average 5.1 drinks (Centre for Addiction and Mental Health [CAMH], 2005, pg. 37 & 42).

Enforcing Liquor Licence Legislation
Given the preceding statistics, it is evident that licensed establishments, particularly bars, pubs, taverns, and nightclubs can play an important role in reducing impaired driving. It has long been illegal in Canada for licensed establishments to sell, serve or provide alcohol to patrons who are or appear to be intoxicated, or to permit “drunkenness” on the premises. These stringent prohibitions can be traced back, at least in Ontario, to colonial times and remain subject to potentially severe penalties. Moreover, even in the absence of a charge, licensing officials have broad administrative authority to suspend, revoke or refuse to renew a licence if the licensee has breached any provision of the liquor legislation or its regulations, or any condition of the

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1 Drivers coming from licensed restaurants were not overrepresented in terms of drivers with BACs between .05% – .08%, and above .08% (Single & McKenzie, 1992, pg. 3).

2 In the 2008 British Columbia roadside survey, 26.1% of the drivers coming from pubs/bars had a BAC above .08% (Beirness & Beasley, 2010, pg. 218-219).

3 Ontario, Licences to Sell Liquor, R.R.O. 1990, Reg. 719, s. 45(1). See also Nova Scotia, Liquor Control Act, R.S. c. 260, s. 95(a), (b) and (c) (LCA); and British Columbia, Liquor Control and Licensing Act, R.S.B.C. 1996, c. 267, s. 43(1) and (2) (LCLA).

4 See for example, Ontario, Liquor Licence Act, R.S.O. 1990, c. L.19, s. 61 (LLA); Nova Scotia, LCA, ss. 78 and 103; and British Columbia, LCLA, s. 48(2) and (3).
licence. Finally, the police and liquor licence inspectors are authorized to enter and search any licensed premises without a warrant. While on the premises, they may demand documentation and seize evidence of any offence. Licensing officials clearly have broad investigatory powers and ample legal authority to ensure compliance with the legislation.

Some studies indicate that increased enforcement in licensed establishments reduces the number of over-served patrons and the number of impaired drivers originating from these venues. In a Michigan study, increased enforcement focused on targeted establishments significantly reduced the number of “pseudopatrons’ simulating intoxication” who were served and the percentage of impaired drivers coming from these establishments (McKnight & Streff, 1994). A Swedish project involving enhanced licensing and police enforcement increased the rate at which service was denied to intoxicated patrons from 5% in 1996 to 47% in 1999, and then to 70% in 2001 (Wallin, Nöstrom, & Andreasson, 2003, pg. 275; Wallin, Lindewald, & Andreasson, 2004, pg. 409). Moreover, crimes in the intervention area fell an estimated 29% compared to a slight increase in the control area (Wallin et al., 2003, pg. 274). The project also included training in responsible beverage service and conflict resolution (Wallin et al., 2004, pg. 409).

Other studies on the impact of enhanced enforcement are more equivocal. For example, one study stated that “targeted responsible beverage service programs combined with enforcement may have an impact on traffic safety” (Stewart & Sweedler, 2007, pg. 5). Another study reported that “while enhanced regulation and enforcement are key components of alcohol policy, they cannot be relied on to prevent all, or even most, problems” (Mann et al., 2009, pg. 12). In a recent review, the Task Force on Community Preventive Services concluded that “there is insufficient evidence to determine the effectiveness of over-service law enforcement initiatives as a means to reduce excessive alcohol consumption and alcohol-related harms, because of the small number of available studies and inconsistent findings” (Task Force on Community Preventive Services, 2011, pg. 345).

The alcohol industry and others have suggested various alternatives to enhanced enforcement, such as self-regulation of marketing, industry accords and industry-sponsored responsible consumption campaigns. These measures have either proven to be ineffective or there is little evidence of their efficacy (Babor et al., 2010, pg. 159-162; Anderson, Chisholm, & Fuhr, 2009, pg. 2237-2239; Giesbrecht, 2000; Dejong, Atkin, & Wallack, 1992). While some research indicates that responsible beverage service programs have a positive effect, particularly when coupled with intensive enforcement (Stockwell, 2001, pg. 260; National Highway Traffic Safety Administration [NHTSA], 2013, pg. 1-46 & 1-47), other studies have not found these programs

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5 Ontario, LLA, s. 15(1). See also Nova Scotia, LCA, s. 47(1), (3) and (4); and British Columbia, LCLA, ss. 16, 16.1, and 20(1)(a), (c.1) and (2)(c)-(e).

6 See for example, Ontario, LLA, ss. 44(1) and 47(1) and (1.1); Nova Scotia, LCA, ss. 109(1), 111(1), and 113; and British Columbia, LCLA, s. 67(1) and (2).

7 Research also indicates that increased enforcement reduces sales to minors and alcohol-related violence. See for example, NHTSA, 2012; Wallin, Lindewald, & Andreasson, 2004; and Hughes, Furness, Jones, & Bellis, 2010.

8 This large, multi-component initiative (Stockholm Prevents Alcohol and Drug Problems) was launched in 1996. Its success has been attributed to the strong support of its group members, the long-term commitment to the project and the ongoing positive media support that it has received (Babor et al, 2010, pg. 155).
to be effective (Ker & Chinnock, 2006; Ker & Chinnock, 2008; Hughes, Furness, Jones, & Bellis, 2010, pg. 10-12).

**Last Drink Programs**

**A. Introduction**

Last Drink programs can be designed to address various alcohol-related problems stemming from licensed establishments, including alcohol-related violence and impaired driving. The programs seek to improve serving practices in establishments that appear to generate a disproportionate share of the problems. Police calls for service are used to identify high-risk licensed establishments for enhanced enforcement. For example, when the police apprehend an impaired driver, they ask the driver where he or she had been drinking. If the driver identifies a specific venue, that information is passed on to the licensing authorities for follow-up action. This may range from issuing a warning letter and targeting the establishment for increased visits by police and regulatory officials, to taking disciplinary action. These measures serve to encourage or force licensed establishments to improve their serving practices (Sim, Morgan, & Batchelor, 2005).

**B. The International Experience**

There is limited research on the effectiveness of Last Drink programs. While there are some positive results in terms of the immediate effects of these programs, their lasting impact on hospitality industry practices and impaired driving remains to be determined.

Two American studies have reported positive short-term results. Washtenaw County, Michigan, initiated a Last Drink initiative in 1990. Enforcement was increased for 12 months, with half of the enforcement concentrated on the 10 licensed establishments responsible for the greatest number of intoxicated drivers. The rate at which “pseudopatrons” simulating intoxication were refused service rose from 17.5% to 54.3% in the first three months, but then fell to 41.0% at the end of 12 months (McKnight & Streff, 1994, pg. 82).9 The percentage of suspects arrested for impaired driving who reported coming from licensed establishments, fell from 31.7% to 23.3% one year after the increased enforcement initiative began. This percentage remained largely unchanged in three comparison counties (pg. 83).

A study was conducted to assess the impact of intensified enforcement on Washington State’s Last Drink program. The authors reported that the period of intensified enforcement had “mixed” results (NHTSA, 2008, pg. 4).10 Although the authors detected no change in retail practices, there were two promising findings. First, the monthly average number of impaired driving arrestees who reported coming from a targeted venue decreased 36% following the intensive enforcement period (pg. 9). The comparable decrease in the non-targeted (control) venues was 7% (pg. 9). Second, the average BAC of arrestees originating from targeted establishments

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9 The refusal rate in a neighbouring county also increased, but to a lesser extent (McKnight & Streff, 1994, pg. 83). The significance of this finding is unclear, because of the potential spillover effect that the Last Drink program had outside of county boundaries.

10 Moreover, the authors stated that the results should be viewed with caution, given the small number of licensed establishments involved (NHTSA, 2008, pg. 4).
decreased from .135% to .127%, while there was a modest increase in the control establishments (pg. 11).

In the mid-1990s, New South Wales began implementing the “Alcohol Linking Program,” which required the police to determine whether suspects arrested for any offence had been drinking. If so, the police recorded the suspect’s level of intoxication and where the suspect had his or her last drink. If a licensed venue was involved, the suspect was asked for its name and location. The police subsequently followed up with the establishment to encourage greater compliance with the legislation (Wiggers et al., 2004). A 2002 – 2003 study reported that 10% of the establishments accounted for 50% of the people involved in police-attended incidents arising from licensed venues. Following the adoption of an enhanced enforcement program, the number of intoxicated individuals coming from licensed venues who were arrested for an alcohol-related crime fell by up to 22%. The enhanced program involved more intensive enforcement, an audit of the establishment’s serving practices, individualized recommendations, and police follow up (pg. 360). This study did not address the impact of the program on impaired driving.

Wellington, New Zealand implemented an enforcement program based on Last Drink information and police intelligence. A study was undertaken to assess the impact of increasing the regular level of intervention during two six-week periods. The authors reported that enhancing police and licensing enforcement in licensed establishments “may have contributed to a reduction in the number of highly intoxicated persons” (Sim et al., 2005, pg. ii-iii). During the periods of intensified enforcement, there were decreases in disorder offences and, to a lesser extent, violent offences (pg. 58). Again, the study did not address the impact of the intensified enforcement program on impaired driving.

C. The Canadian Experience

The police and licensing authorities in Ontario have strongly endorsed Last Drink initiatives. In response to “unacceptably high” rates of impaired driving in the early 1990s, the Peel Regional Police began analyzing background data on these offenders and found that up to 46% may have been drinking in licensed premises (Peel Regional Police, 1996, pg. 3). They used these data to identify high-risk establishments and induce them to improve their practices. In addition to warning the venues and offering training on identifying intoxicated patrons, enforcement in the area was intensified.

The Ontario licensing authorities teamed up with the police in what became known as the “Last Drink Campaign.” Licensees named by intoxicated suspects were subject to closer scrutiny and progressive disciplinary action, which included sending licensees advisory letters and reference materials, conducting full investigations and initiating disciplinary action (pg. 4). In praising the program, both the police and licensing authorities noted that it allowed them to more efficiently use their resources and enforce the liquor law (pg. 4). However, the program was not formally assessed. Nor did the police provide data on whether the program reduced the overall incidence of impaired driving in the region or the percentage of impaired drivers coming from licensed establishments. Only one statement was made in this regard, namely: 19 impaired driving arrestees reported coming from a particular venue, and this number fell by 50% once the Last Drink program was fully implemented (pg. 4-5). While this was cited as an achievement, one could draw the opposite conclusion and question why this venue still had a liquor licence.
Several municipal police departments and the AGCO launched a large Last Drink pilot project from July 1, 2011 to January 1, 2012. During this period, 3.6% (7 of the 196) of the identified licensed establishments accounted for 26.5% of the suspects who were arrested for a federal impaired driving offence or who were subject to a provincial administrative licence suspension for having a BAC between .05% – .08% (O’Halloran, 2012, slide 8). The establishments that were named were subject to escalating AGCO intervention. Moreover, 22 establishments were added to the AGCO’s “Risk-Based Enforcement List,” which resulted in increased inspections (slide 9). As with the Peel “Last Drink Campaign,” the police and licensing officials enthusiastically endorsed the project but provided no data on its impact.

Based on the pilot project, the Ontario Chiefs of Police and the AGCO introduced a mandatory province-wide Last Drink program. As of August 6, 2012, all police were required to report to the AGCO any death or serious injury that could be linked to alcohol consumption in a licensed establishment or at a licensed event, including non-traffic-related deaths. The police were also encouraged to report to the AGCO any alcohol-related offence, such as impaired driving and public intoxication, which could be linked to an identified licensee (AGCO, 2012).

Conclusions
In Canada, a disproportionate share of impaired drivers apprehended by the police are coming from licensed premises, with much of the problem attributable to a small number of high-risk licensees. Last Drink programs are designed to identify these high-risk venues and subject them to increased scrutiny and enforcement. The limited research to date suggests that Last Drink programs can temporarily reduce service of alcohol to apparently intoxicated patrons and the number of impaired drivers leaving targeted establishments. It remains to be determined whether these positive results are due to the Last Drink program itself or to the intensive enforcement that accompanies it. Nor is it clear if Last Drink programs have an ongoing impact on the targeted venues, the broader hospitality industry or the incidence of impaired driving. While Last Drink programs have intrinsic appeal, the critical issue appears to be whether the police and licensing authorities are willing to use their broad enforcement authority to compel compliance.

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11 The numbers reported in the presentation are inconsistent. Consequently, the numbers reported on slide 8 and 11 cannot be reconciled with those on other slides.

12 On a first report, a liquor inspector meets with the licensee to inform him or her of the incident. On a second report, an inspector meets with the licensee and reviews the prohibitions against permitting drunkenness and over-serving patrons. On a third report, an inspector meets with the licensee, and explains that the venue is being placed on the Risk-Based Enforcement List and will be subject to increased inspections. Moreover, a formal warning letter is sent to the licensee.
References


