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made under the

LIQUOR CONTROL ACT

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MINIMUM PRICING OF LIQUOR AND OTHER PRICING MATTERS

Definitions

1. (1) In this Regulation,

“annual adjustment date” means, subject to subsection (2), March 1 in every year;

“cider” means cider as described in section B.02.120 of the *Food and Drug Regulations* and the cider-like beverage made from the fermented juice of pears known as perry;

“Class A spirits” means any beverage that contains more than 15 per cent alcohol by volume obtained from distillation and that is,

(a) a whisky as described in sections B.02.010 to B.0.023 of the *Food and Drug Regulations*,

(b) a rum as described in section B.02.030 of the *Food and Drug Regulations*,

(c) a gin as described in sections B.02.040 or B.0.041 of the *Food and Drug Regulations*,

(d) a brandy or other product described in sections B.02.050 to B.0.058 of the *Food and Drug Regulations*,

(e) a vodka as described in section B.02.080 of the *Food and Drug Regulations*,

(f) a vodka as described in clause (e) to which a flavouring has been added,

(g) a tequila as described in section B.02.090 of the *Food and Drug Regulations*,

(h) a mezcal as described in section B.02.091 of the *Food and Drug Regulations*,
or

(i) a fruit spirit as described in section B.02.102 of the *Food and Drug Regulations*;

“Class B spirits” means any beverage that,

(a) is a liqueur or spirituous cordial as described in section B.02.070 of the *Food and Drug Regulations*, or

(b) contains more than 14.8 per cent alcohol by volume obtained from distillation, but is not,

(i) a Class A beverage,

(ii) a one pour cocktail, or

(iii) fortified wine;

“Class C spirits” means a beverage that,

(a) contains more than 0.5 of 1 per cent but less than or equal to 14.8 per cent alcohol by volume obtained from distillation, other than fortified wine, or

(b) is a one pour cocktail;

“draft beer” means beer for sale in a container that has a capacity of 18 litres or more;

“draft cider ” means cider for sale in a container that has a capacity of 18 litres or more;

“*Food and Drug Regulations*” means the *Food Drug Regulations* made under *The Food and Drug Act* (Canada);

“fortified wine” means wine to which an alcoholic distillate has been added and that contains no more than 21 per cent alcohol by volume;

“minimum retail price” includes all taxes, but does not include any container deposit;

“non-draft beer” means beer for sale in containers each of which has a capacity of less than 18 litres;

“non-draft cider” means cider for sale in containers each of which has a capacity of less than 18 litres;

“non-refillable container” means a container that the manufacturer of a product or other person who initially fills the container with the beverage does not intend to refill;

“one pour cocktail” means any beverage that,

(a) contains more than 7 per cent and no more than 15 per cent alcohol by volume obtained from distillation,

(b) has been mixed with a non-alcoholic beverage other than water during the course of manufacturing,

- (c) is intended by the manufacturer to be consumed in its immediate form, and
- (d) is sold in a container larger than 500 mL;

“wine cooler” means a beverage made from wine to which flavouring, colouring, sugar or other additives have been added and contains no more than 7 per cent alcohol by volume.

(2) In a year in which March 1 falls on a Saturday or Sunday, the annual adjustment date shall be the immediately following Monday.

(3) For the purpose of this Regulation, sake shall be deemed to be a wine.

Application

2. (1) Subsections 3 (2), 8 (2) and 18 (3) apply only to sales of liquor to a person,

- (a) who is buying the liquor for use or consumption by the person or by someone else at the person’s expense;
- (b) who is buying the liquor on behalf of or as agent for a principal for use or consumption by the principal or by someone else at the principal’s expense; or
- (c) who is buying the liquor pursuant to a special occasion permit issued under the *Liquor Licence Act*.

(2) Subsections 3 (2), 8 (2) and 18 (3) do not apply to sales of liquor to a person for the purpose of in-store sampling in a government store.

PART I CLASS A AND CLASS B SPIRITS

Minimum retail prices, Class A and Class B Spirits

3. (1) In exercising its power to fix the price at which Class A and Class B spirits may be sold at retail in government stores, the Board shall not set the price of any product below the minimum retail price established in accordance with this Part in respect of the class of spirits to which the product belongs and the size of the container in which it is to be sold.

(2) Except as provided in this Regulation, the operator of a government store shall not offer or sell Class A spirits or Class B spirits at retail at a price lower than the minimum retail price established in accordance with this Part for the class and size of container in which the spirits are to be sold plus the container deposit.

Minimum retail price established

4. Beginning April 12, 2010, the minimum retail price for Class A spirits and Class B spirits shall be the price set out in Column 2 or 3, as the case may be, for the size of container set out in Column 1 of the Table to this section.

TABLE

Column 1	Column 2	Column 3
Container size (mL)	Class A	Class B
40	2.10	1.15
50	2.60	1.40
60	3.15	1.70
100	3.50	2.25
120	4.20	2.70
150	5.25	3.35
180	6.30	4.05
200	7.00	4.45
250	8.45	5.30
280	9.50	5.95
300	10.15	6.40
350	11.90	7.55
360	12.25	7.80
375	12.65	7.95
400	13.50	8.50
500	15.30	10.35
600	18.40	12.45
650	19.85	13.40
660	20.45	13.85
700	21.45	14.50
720	22.05	14.85
730	22.35	15.05
750	22.80	15.35
800	24.35	16.40
1000	30.25	20.65
1050	31.80	21.70
1125	34.05	23.25
1130	34.25	23.40
1140	34.50	23.55
1200	36.35	24.80
1280	38.75	26.45
1400	42.40	28.95
1500	45.10	30.70
1750	51.80	35.75
2000	59.15	40.80
2600	76.90	53.05
3000	88.85	61.35
3790	112.15	77.35
3850	114.00	78.70
4000	118.10	81.50
4500	133.05	91.80

Annual adjustment

5. On each annual adjustment date, the Board shall, in accordance with the following formula, adjust the minimum retail price at which each container size of Class A and Class B spirits set out in the Table to section 4 can be sold:

$$A + (A \times I)$$

in which,

“A” is the minimum retail price in effect on the day before the annual adjustment date of the particular year, and

“I” is the index factor determined in accordance with Schedule 1.

Other container sizes

6. If Class A spirits or Class B spirits are sold in a container size other than a container size shown in the Table to section 4, the minimum retail price shall be determined in accordance with the following formula:

$$A/B \times C$$

in which,

“A” is the minimum retail price in effect for the container size shown in the Table that is next smaller than the container that is not shown,

“B” is the size of the container shown in the Table that is next smaller than the container that is not shown,

“C” is the size of the container for which the minimum retail price is to be determined.

Final determination of minimum retail price

7. (1) If a price determined under section 5 or 6 ends in a multiple of five cents, then that price becomes the minimum retail price on the annual adjustment date.

(2) If a price determined under section 5 or 6 does not end in a multiple of five cents, it shall be rounded up to the next multiple of five cents and the price, as rounded up, becomes the minimum retail price on the annual adjustment date.

PART II

BEER, DRAFT CIDER, CLASS C SPIRITS AND WINE COOLERS

Minimum retail prices, beer, etc.

8. (1) In exercising its power to fix the price at which beer, draft cider, Class C spirits and wine coolers may be sold at retail in government stores, the Board shall not set the price of any product below the minimum retail price established in accordance with this Part in respect of the product.

(2) Except as provided in this Regulation, the operator of a government store shall not offer or sell beer, draft cider, Class C spirits or wine coolers at retail at a price lower

than the minimum retail price established in accordance with this Part in respect of the product.

(3) The Board shall determine the minimum retail prices applicable to non-draft beer, Class C spirits and wine cooler products in accordance with the following rules:

1. The minimum retail price for a product sold in a refillable container shall be determined by applying the applicable baseline rate then in effect to,
 - i. the volume of beverage involved, if the product contains less than 5.6 per cent alcohol by volume, or
 - ii. the absolute alcohol content of the beverage involved, if the beverage contains 5.6 per cent or more alcohol by volume.
2. The minimum retail price for a product sold in a non-refillable container shall be the sum of the amount determined under paragraph 1 plus,
 - i. before July 1, 2010, 8.93 cents per non-refillable container, plus an amount equal to the taxes that would be payable by a purchaser in respect of that amount,
 - ii. beginning July 1, 2010, 8.93 cents per non-refillable container, plus an amount equal to the harmonized sales tax that would be payable by a purchaser under Part IX of the *Excise Tax Act* (Canada) in respect of that amount, plus an amount equal to 4 per cent of 8.93 cents.

(4) The Board shall determine the minimum retail prices applicable to draft beer and draft cider products in accordance with the following rules:

1. The minimum retail price for a draft beer or draft cider product in a refillable container shall be determined by applying the baseline rate then in effect to the volume of product involved.
2. The minimum retail price for a draft beer or draft cider product in a non-refillable container shall be the sum of the amount determined in accordance with paragraph 1 plus,
 - i. before July 1, 2010, 8.93 cents per non-refillable container, plus an amount equal to the taxes that would be payable by a purchaser in respect of that amount,
 - ii. beginning July 1, 2010, 8.93 cents per non-refillable container, plus an amount equal to the harmonized sales tax that would be payable by a purchaser under Part IX of the *Excise Tax Act* (Canada) in respect of that amount, plus an amount equal to 4 per cent of 8.93 cents.

(5) If a price determined under this section ends in a multiple of five cents, then that price is the minimum retail price.

(6) If a price determined under this section does not end in a multiple of five cents, it shall be rounded up to the next multiple of five cents and the price, as rounded up, is the minimum retail price.

Baseline rate established

9. Beginning April 12, 2010, the baseline rate for beer, draft cider, Class C spirits and wine coolers shall be the rate set out in Column 2 for the alcohol content by volume set out opposite thereto in Column 1 of the Table to this section.

TABLE

Column 1	Column 2
Alcohol content by volume	Baseline Rate
Non-draft beer	
Less than 4.1%	\$3.045 per litre
4.1 to less than 4.9%	\$3.089 per litre
4.9 to less than 5.6%	\$3.170 per litre
5.6% or more	\$58.870 per litre of absolute alcohol as defined in Division 2 of the <i>Food and Drug Regulations</i>
Class C spirits	
Less than 4.1%	\$3.045 per litre
4.1 to less than 4.9%	\$3.089 per litre
4.9 to less than 5.6%	\$3.170 per litre
5.6% or more	\$58.870 per litre of absolute alcohol as defined in Division 2 of the <i>Food and Drug Regulations</i>
Wine Coolers	
Less than 4.1%	\$3.045 per litre
4.1 to less than 4.9%	\$3.089 per litre
4.9 to less than 5.6%	\$3.170 per litre
5.6% up to and including 7%	\$58.870 per litre of absolute alcohol as defined in Division 2 of the <i>Food and Drug Regulations</i>
Draft Beer and draft cider	
Draft beer – any alcohol content	\$2.456 per litre
Draft cider – any alcohol content	\$2.923 per litre

Annual adjustment

10. (1) On each annual adjustment date, the Board shall, in accordance with the following formula, adjust the baseline rate for each of the products named in the Table to section 9 and the baseline rate as adjusted under this section becomes the baseline rate on that date:

$$A + (A \times I)$$

in which,

“A” is the baseline rate in effect on the day before the annual adjustment date of the particular year, and

“I” is the index factor determined in accordance with Schedule 1.

(2) A baseline rate determined under this section shall be rounded to the nearest one-tenth of a cent.

Applications for change in beer price

11. (1) The following rules apply with respect to applications made to the Board by a manufacturer of beer for a change in the price at which its beer is sold by Brewers Retail Inc.:

1. A manufacturer of beer may request a change in the price at which its beer is sold by submitting a price change application to the Board on any Monday no later than 4 p.m. or, if Monday is a holiday, no later than 4 p.m. on the first day after that is not a holiday.
2. On condition that the price change requested is not lower than the minimum retail price for beer in effect on the day that the price change is to take effect, the Board shall notify the applicant manufacturer and Brewers Retail Inc. that the price change will go into effect on the second Monday following the making of the application, or, if the Monday is a holiday, on the first day after that is not a holiday.
3. Despite paragraph 2, no price increase shall go into effect in the month of December.

(2) Despite paragraph 2 of subsection (1), if the day that a price change would take effect is in the same week as the annual adjustment date in a particular year, any price change shall take effect on that annual adjustment date.

(3) Despite paragraph 2 of subsection (1), if an application is made on Monday, June 14, 2010, any price change shall take effect on Thursday, July 1, 2010.

Changes on annual adjustment date

12. If on April 12, 2010 or on an annual adjustment date the price at which beer is sold by Brewers Retail Inc. would be lower than the minimum retail price for beer in effect on that day, the Board shall,

- (a) change the price of that beer to comply with the minimum retail price effective that day; and
- (b) notify the manufacturer of the beer and Brewers Retail Inc. that the price is to be changed on that day.

PART III

WINE, SAKE, FORTIFIED WINE AND NON-DRAFT CIDER

Interpretation

13. (1) For the purposes of this Part,

“wine” means wine that is packaged in a form for retail sale.

(2) For the purposes of this Part, an operator's cost to acquire a product includes the operator's freight costs but excludes any taxes, duties or levies in respect of the product or the freight costs that the operator is required to pay.

Non-application of Part

14. This Part does not apply to wine coolers.

Minimum acquisition cost

15. The operator of a government store shall not acquire wine, sake, fortified wine or non-draft cider for retail sale at a cost that is less than the reference rate established in accordance with this Part for wine, sake, fortified wine or non-draft cider.

Reference rate established

16. Beginning April 12, 2010, the reference rate for wine, sake, fortified wine and non-draft cider shall be the rate set out in Column 2 for the container set out in Column 1 of the Table to this section.

TABLE

Column 1	Column 2
Wine and Sake	
in a container which has a capacity of less than 16L	\$2.1309 per litre
in a container which has a capacity of 16L or more	\$0.7575 per litre
Fortified Wine	
in a container which has a capacity of less than 16L	\$2.9740 per litre
in a container which has a capacity of 16L or more	\$1.6006 per litre
Non-draft Cider	
in a container which has a capacity of less than 18L	\$2.1309 per litre

Annual adjustment

17. (1) On each annual adjustment date, the Board shall, in accordance with the following formula, adjust the reference rate for each of the products named in the Table to section 16 and the rate as adjusted under this section becomes the reference rate on that date:

$$A + (A \times I)$$

in which,

“A” is the reference rate in effect on the day before the annual adjustment date of the particular year, and

“I” is the index factor determined in accordance with Schedule 1.

(2) A reference rate determined under this section shall be rounded to the nearest one-hundredth of a cent.

PART IV MISCELLANEOUS

New products

18. (1) Before selling liquor that is not Class A spirits, Class B spirits, Class C spirits, beer, wine cooler, wine, sake, fortified wine or cider, the Board shall set a minimum retail price or a reference rate, as the case may be, for the liquor.

(2) In establishing a minimum retail price or a reference rate under subsection (1), the Board shall have regard to the liquors to which Parts 1, 2 and 3 apply, and shall set a minimum retail price or a reference rate for the liquor consistent with the price or rate then in effect for the class that the liquor most closely resembles.

(3) Except as provided in this Regulation, the operator of a government store,

(a) shall not offer or sell liquor for which a minimum retail price has been set under this section at retail sale at a price that is lower than that minimum retail price plus the container deposit; and

(b) shall not acquire liquor for which a reference rate has been set under this section at a cost that is lower than that reference rate.

(4) The Board shall advise the Minister in writing after setting a minimum retail price or a reference rate under this section.

Exceptions

19. (1) Despite any provision of the Act or this Regulation, the Board may sell any liquor below the minimum retail prices required by this Regulation to any of the following:

1. Her Majesty the Queen in right of Canada, but only in respect of sales made through the Board's private ordering department.

2. A diplomatic mission or consular post of a foreign state that is officially recognized by Canada, but only in respect of sales made through the Board's private ordering department.

3. An international organization as defined in the *Foreign Missions and International Organizations Act* (Canada), but only to the extent specified in an order made under section 5 of that Act and only in respect of sales made through the Board's private ordering department.

4. The holder of a NATO liquor permit issued by the Board, but only if the holder is purchasing in accordance with the terms of the permit.

(2) Despite any provision of the Act or this Regulation, the Board may authorize, in writing, the sale of a particular class, variety or brand of liquor, other than beer, for a price that is below the minimum retail price required by this Regulation for that class, variety or brand if the same price reduction will be made at all government stores and if, in the opinion of the Board, the sale is necessary,

- (a) to clear a product that is being delisted;
- (b) to clear a product that will soon become unsellable because of age or shelf life;
or
- (c) because it is part of a plan to permanently reduce inventory of one or more products.

(3) Despite any provision of the Act or this Regulation, but subject to subsection (4), the Board may authorize, in writing, the sale of a particular class, variety or brand of liquor, other than beer, for a price that is below the minimum price required by this Regulation for that class, variety or brand at a government store specified in the authorization if, in the opinion of the Board, the sale is necessary,

- (a) to clear a product that will soon become unsellable because of age or shelf life;
or
- (b) because it is part of a plan to permanently reduce inventory of that product in that store.

(4) A sale described in subsection (3) may not be at a price that is less than 70 per cent of the minimum retail price required by this Regulation for that class, variety or brand of liquor, and may not last for more than four weeks.

(5) Despite any provision of the Act or of this Regulation, the operator of a government store may reduce the minimum retail sale price of a product set under Part I or II or under section 18 by an amount equal to the retail tax that would otherwise be payable under the *Retail Sales Tax Act* when making a sale to a person who is exempt from retail sales tax.

Amendments

20. Subparagraph 2 i of subsection 8 (3), subparagraph 2 i of subsection 8 (4), and subsections 11 (3) and 19 (5) are revoked on July 1, 2010.

Commencement

21. (1) Subject to subsection (2), this Regulation comes into force on the later of April 12, 2010 and the day this Regulation is filed.

(2) This section and sections 11 and 12 come into force on the day this Regulation is filed.

SCHEDULE 1 INDEX FACTOR

1. For the purposes of this Regulation, the index factor is the greater of zero or the value calculated using the following formula, rounded to the nearest one-thousandth:

$$\frac{B/C + C/D + D/E}{3} - 1$$

in which,

“B” is the Consumer Price Index for the 12-month period ending the previous November 30,

“C” is the Consumer Price Index for the 12-month period preceding the 12-month period mentioned in the description of “B”,

“D” is the Consumer Price Index for the 12-month period preceding the 12-month period mentioned in the description of “C”, and

“E” is the Consumer Price Index for the 12-month period preceding the 12-month period mentioned in the description of “D”.

2. For the purposes of this Schedule, the Consumer Price Index for a 12-month period is the result arrived at by,

- (a) determining the sum of the Consumer Price Index for Ontario (All Items) as published by Statistics Canada under the authority of the *Statistics Act* (Canada) for each month in that period;
- (b) dividing the sum obtained under clause (a) by 12; and
- (c) rounding the result obtained under clause (b) to the nearest one-tenth.