

EVALUATION REPORT
ON
LIQUOR CONTROL

PROGRAM EVALUATION DIVISION
OFFICE OF THE LEGISLATIVE AUDITOR
APRIL 1979

EVALUATION REPORT
LIQUOR CONTROL DIVISION
DEPARTMENT OF PUBLIC SAFETY

PROGRAM EVALUATION DIVISION
OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

APRIL 1979

A SUMMARY OF
FINDINGS AND RECOMMENDATIONS
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FOREWORD

On April 5, 1979 the Legislative Audit Commission accepted the following report on the Liquor Control Division in the Department of Public Safety. The report was completed in August 1978 by the Program Evaluation Division based on research conducted in Fall 1977.

Because acceptance of the report was delayed the commission invited the Department of Public Safety to submit a second and more current response to indicate what recent actions have been taken to improve liquor control activities. A letter from Acting Commissioner Novak dated April 5 is included in the appendix with his original response of July 28, 1978. The department has also prepared and submitted to the commission an "Internal Management Study", which discusses in detail the department's liquor control activities and management practices. That document is available from the Department of Public Safety and the Program Evaluation Division.

On behalf of the Legislative Audit Commission I wish to thank Commissioner Novak and his staff for their cooperation and patience. I hope they will continue to work toward the implementation of this report and their own plan for improved management of liquor control activities.



Representative Donald M. Moe
Chairman
Legislative Audit Commission

May 1, 1979

PREFACE

The following report was written by Bruce Spitz, former Deputy Legislative Auditor for Program Evaluation. Leif Hartmark, Carol Weisberg, Dean Ziemke, and Elliot Long of the Program Evaluation Division participated in the evaluation report. The report was edited by Kerry Cork.

We appreciate the cooperation we have received from Edward Novak, Commissioner of Public Safety, James Pederson, Assistant Commissioner, Joseph Novak, Director of the Liquor Control Division and their staffs. We also thank Representative Donald Moe, Chairman of the Legislative Audit Commission, Senator Nicholas Coleman, Chairman of the LAC Advisory Subcommittee on the Liquor Control Division Evaluation and members of the subcommittee. We appreciate their interest and participation in this report.

James Nobles
Deputy Legislative Auditor
for Program Evaluation

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INTRODUCTION

After reviewing the issues surrounding liquor regulation and interviewing legislators and state officials the evaluation was focused on these general questions:

1. Uniformity. Is the Liquor Control Division promoting uniform liquor law enforcement throughout the state?
2. "Filling the Gaps." Is the state liquor regulation function providing essential services unavailable at the local level?
3. Managerial Efficiency and Effectiveness. Is LCD managed in an efficient and effective manner?

The evaluation involved two principal stages of investigation. In order to describe the purposes, structure, and operations of LCD, an "Evaluability Assessment" was presented to the Legislative Audit Commission in June 1977. That report outlined some of the basic evaluation issues which guided the work. The second stage involved collecting and analyzing data relevant to LCD's performance.

Chapter One of this report provides a brief overview of the Liquor Control Division including a discussion of the organization and functions of the division. In addition, the structure of the evaluation is explained.

Chapter Two describes and analyzes the licensing functions of LCD and includes findings and recommendations for improvement.

Chapter Three reviews the inspection and investigation functions of LCD. It also presents findings and recommendations for improvement.

Chapter Four addresses the major policy issues associated with regulating the liquor industry. This chapter presents issues that need to be addressed by the legislature as well as LCD.

I. LIQUOR CONTROL: AN OVERVIEW

A. LIQUOR CONTROL POLICY

Minnesota's liquor control policy is not clearly defined. The state first enacted legislation to regulate the liquor industry in 1934 (Minnesota Statutes, Ch. 340). This legislation does not provide a clear policy statement or define state goals. Even if it did, the policy of that era would probably have little practical application today. Improvements in local law enforcement and administration have resolved many of the problems associated with the post-Prohibition period. In addition, societal conditions and attitudes have changed over time. Thus, contemporary concerns are quite different than those of the 1930s. Over the years amendments to Chapter 340 have done little to improve our understanding of liquor control policy.

To assess the current state liquor control policy, we examined what state agencies actually do to regulate the liquor industry. This responsibility currently rests with the Liquor Control Division (LCD) of the Department of Public Safety. LCD is responsible for:

1. Inspecting and licensing liquor manufacturers, importers, wholesalers, and retailers
2. Conducting special investigations of suspected liquor law violations

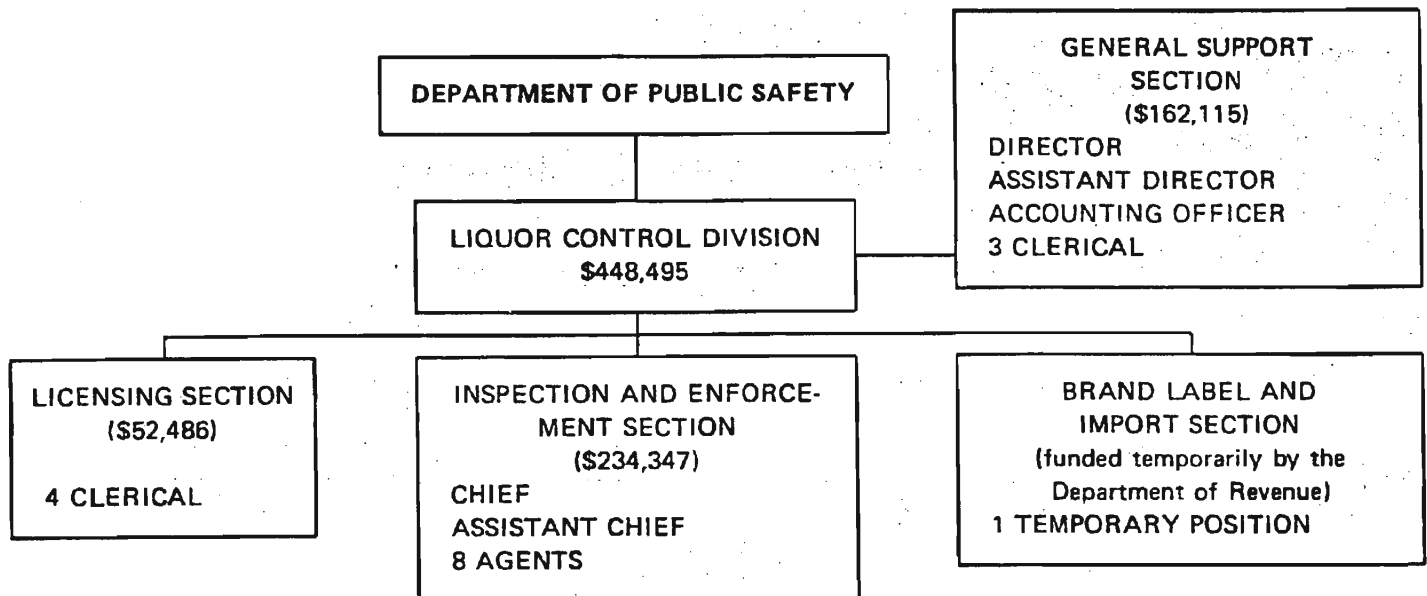
3. Helping to maintain an orderly market through brand-label registration, and promoting price competition through wholesale price filing
4. Providing general services and technical assistance to vendors, law enforcement agencies, and the public

It appears that these responsibilities are aimed at promoting uniform liquor law enforcement and providing essential services unavailable at the local level. They are also aimed at maintaining an orderly and competitive market place and generally protecting consumer interests.

B. ORGANIZATION AND FUNCTIONS

To carry out liquor control responsibilities a Liquor Control Commission was established in 1934. In 1975, staff functions were transferred to the Department of Public Safety. The Liquor Control Division is headed by a director, appointed by the commissioner of Public Safety. It contains four sections: Licensing, Inspection and Enforcement, Brand Label and Import, and General Support. The LCD organization and FY 78 budget is detailed in Figure I-1.

FIGURE I-1



1. LICENSING SECTION

The Licensing Section issues licenses to manufacturers, wholesalers, importers, and common carriers; approves licenses for off-sale retail, municipal liquor stores, clubs, on-sale licenses in seven towns (wine only), and county licenses; registers locally issued licenses for on-sale retail establishments; and issues consumption and display permits.

2. INSPECTION AND ENFORCEMENT SECTION

This section has a staff of two supervisors and eight field agents located throughout the state. They are responsible for conducting pre-license inspections for initial licenses issued or approved by LCD and conducting periodic inspections of all licensed liquor retailers, manufacturers, and wholesalers in the state.¹ The Inspection and Enforcement Section also assists local law enforcement agencies in investigations and obtaining evidence of liquor law violations.

3. BRAND LABEL AND IMPORT SECTION

This section is responsible for registering brands of liquor which may be sold in Minnesota and maintaining records of shipment manifests to track the flow of liquor into the state. The shipment manifests are also routed to the Department of Revenue for tax auditing purposes. No permanent funding is currently available for this activity in the LCD budget, but one is being temporarily supported by the Department of Revenue.

4. GENERAL SUPPORT SECTION

This budgetary category includes the director, assistant director,

¹Pre-license inspections are not routinely done when ownership of a license is transferred.

accounting officer, and three clerical positions. It provides general management and support to the operations of LCD.

C. THE STRUCTURE OF THE EVALUATION

This evaluation focuses on the impact, effectiveness, and efficiency of certain significant activities of the Liquor Control Division. It includes analysis of the major activities of LCD where the greatest number of personnel are and the greatest expenditure of funds takes place. It does not include a review of two activities: brand-label registration and wholesale price filing. These activities make up a minute portion of LCD activities. After consultation with the Legislative Audit Commission it was determined that the scope of the study should be limited to the licensing, inspection, and enforcement functions of LCD.

Over time the state's role in liquor control and regulation has diminished, while that of local governments has increased. The state currently exercises relatively little control over local liquor law enforcement.

The current justification for state involvement in liquor regulation is based on two major goals: assuring uniform law enforcement across Minnesota and filling gaps in services. These issues provide the basic criteria for our evaluation.

1. Uniformity. Is LCD promoting uniform liquor law enforcement throughout the state?
 - a. What impact has the state licensing function had on the liquor industry?
 - b. What impact has the inspection function had?
2. "Filling the Gaps". Is the liquor regulation function providing essential services unavailable at the local level?

- a. Is useful technical assistance available and effectively provided by LCD?
- b. Does LCD provide useful investigative support to local units of government?

In addition to these criteria, we also examined the overall effectiveness and efficiency of LCD management.

3. Managerial Effectiveness and Efficiency. Is LCD managed in an efficient and effective manner?
 - a. Is the licensing process performed efficiently and effectively?
 - b. Are management objectives clearly defined and understood?
 - c. Is management control adequate?

To assess LCD performance with regard to these questions we reviewed the activities of the Licensing and Inspection and Enforcement Sections. We monitored LCD operations, interviewed clerical staff and field agents as well as administrators, and talked with a number of local law enforcement officials. In addition, we reviewed internal documents, LCD records, and other materials relevant to division operations.

II. LICENSING

A. INTRODUCTION

This chapter presents findings and recommendations with regard to the licensing activities of the Liquor Control Division. We find that the work associated with issuing or approving liquor licenses is not being performed effectively or efficiently and that LCD licensing efforts at present have little impact on the liquor industry.

1. SCOPE AND AUTHORITY OF LICENSING

State licenses and permits are required by law for virtually all segments of the liquor industry. The Liquor Control Division processes approximately 22,000 licenses, permits, and identification cards annually. There are 20 major categories of licenses, 9 categories of permits, and 7 types of identification cards.¹ Table II-1 presents a summary of licenses, permits, and identification cards issued by LCD in FY 1977. Table II-2 summarizes the licenses approved or registered by the division that year.

¹Data regarding the number of licenses issued, license renewal dates, the degree of state authority pertaining to each type of license, and the statutory reference for each license type can be found in the staff paper entitled Liquor Control Division: Licensing Study Report.

TABLE II-1

LCD-ISSUED LICENSES, PERMITS, AND IDENTIFICATION CARDS

FY 1977

<u>Licenses</u>	<u>Number Issued</u>
Manufacturers	17
Wholesalers	191
Importers	249
Common Carriers	<u>11</u>
Subtotal	468
Duplicates and Sunday Sales	<u>941</u>
TOTAL	1,409
 <u>Permits</u>	
Vehicle	4,202
Consumption and Display	1,186
Brand Label Registration	1,777
Other	<u>294</u>
TOTAL	7,459
 <u>Identification Cards</u>	
Retailers	4,208
Salespersons	1,721
Other	<u>232</u>
TOTAL	6,161

TABLE II-2
LICENSES APPROVED OR REGISTERED BY LCD
FY 1977

<u>Category</u>		<u>Number</u>
Off-Sale Retail		1,706
On-Sale Retail		3,107
Wine Only		<u>125</u>
	Subtotal	4,938
Sunday Sales		<u>1,367</u>
TOTAL		6,305

LCD issues licenses to manufacturers, importers, wholesalers, and common carriers. The division has complete authority in deciding whether to grant these licenses. The state charges a fee, established by statute, for all licenses issued by the division. LCD also has the authority to approve licenses in the following categories: (1) off-sale retail, (2) club on-sale, (3) wine only, (4) all county liquor licenses, and (5) on-sale licenses for Aurora, Biwabik, Chisholm, Ely, Eveleth, Gilbert, and Virginia. In these cases, the local governing body votes to grant the license; LCD must then approve the license before the municipality or county can issue it. The state collects no fee for approving these licenses.

Municipalities have complete responsibility for the issuance of on-sale retail liquor licenses. However, these licenses must be registered with LCD within 10 days of issuance. There is no state fee for registering licenses.

LCD issues nine categories of permits which are required either by statute or rule. The majority of permits issued are for the purpose of:

- regulating vehicles used for transporting intoxicating liquor
- registering brands which may be sold in Minnesota
- regulating who may sell set-ups and under what conditions

The division also issues seven types of identification cards which are required by rule. These cards authorize salespersons to solicit orders for intoxicating liquor, authorize retailers to place orders, and identify distillery representatives who may not solicit orders.

2. PROCESSING LICENSES

When a license application is received it is processed by clerical staff. If it is to be issued or requires approval by LCD it is forwarded to the Inspection and Enforcement Section. The Inspection and Enforcement staff is responsible for checking to see whether applicants have been previously convicted of liquor law violations and for conducting pre-license inspections where required.

There are a number of additional requirements which must be met for each license and permit issued by LCD.

1. For licenses issued by LCD the applicant must submit a formal detailed application, a fee and, for most licenses, show evidence that a surety bond has been posted.
2. For licenses approved by LCD licensees must also submit an application and demonstrate that a surety bond has been posted. In addition, for off-sale license approvals the municipal clerk must submit certain documents verifying the local approval.
3. For licenses registered by LCD a brief certification report must be submitted by municipal clerks. Municipalities are responsible for conducting a preliminary background and financial investigation of the applicant.
4. For most permits and identification cards issued by LCD a short application and five-dollar fee are required.

These activities make up the majority of the licensing workload.

B. FINDINGS

As noted in Chapter One, two criteria for judging the performance of LCD are uniformity and efficiency. We find that in the following ways LCD fails to meet these criteria:

- LCD licensing activities have little positive impact on the uniform enforcement of state liquor laws and regulation.
- The forms management process is redundant, overly complex, and time-consuming.
- License renewal procedures are cumbersome.
- Duplications and omissions are found in agency files.

1. LICENSING HAS LITTLE IMPACT ON THE LIQUOR INDUSTRY

The question of uniform enforcement of state liquor laws is most directly addressed in Chapter Three with reference to the impact of inspection activities. However, during our analysis of the Licensing Section one major finding was evident with regard to the impact of state licensing activities on the liquor industry.

- LCD almost never denies the issuance or renewal of licenses. The division does not keep careful records of such transactions and therefore it is impossible to document the actual number of denials. However, when interviewed, neither the director nor assistant director could provide any examples of LCD denying or revoking a license within the past two years, although the division processes approximately 6,000 licenses annually. LCD does claim to withhold license approval in the pre-license inspection process until corrective actions are taken, but there are no records which can document the extent of these actions.

2. THE FORMS PROCESS IS REDUNDANT AND OVERLY COMPLEX

- Although license applicants are required to submit a great deal of information, licensing clerks report that no more than a third of it is routinely used.
- The forms are redundant; that is, an applicant is often required to submit more than one type of application which require the same information.
- While properly completed license applications are normally processed quickly, time delays of a few days to as long as several months occur frequently. Licensing clerks report that for as many as half of certain kinds of transactions, documents received are incomplete. This may be at least in part because applicants have difficulty figuring out exactly what is required of them.

3. LICENSE RENEWAL PROCEDURES ARE INEFFICIENT

- No license renewal forms are used by LCD. Therefore when renewing a license the licensee must submit the same lengthy application required for the initial issuance of a license.
- Clerks keep a manual record of each license holder and send out renewal notices as required. No automated process exists for sending out renewal notices.
- Renewal dates for licenses, permits, and identification cards are not coordinated. It is not unusual for license holders who often are required to obtain several separate licenses and permits to correspond with LCD three times during the year. In addition, because licenses and permits are generally not processed by the same clerk, the number of times information gets filed is increased as more clerks become involved in the process.

4. THERE ARE DUPLICATIONS AND OMISSIONS IN LCD FILES

- A brief spot check of LCD files revealed apparent contradictions, serious omissions, and falsifications. Clerks report that they are not responsible for checking past applications against the current application for contradictions or for verifying any information provided by applicants. According to LCD this is done by the Enforcement Section; all this section checks, however, is the current license application and not previous applications. The Enforcement Section maintains a card file on people who are convicted of liquor law violations. This file is used for the violations check done by the Enforcement Section. However, the adequacy of this file may be questioned since it is based on incomplete information. A spot check revealed that violation information provided by applicants is not routinely entered in this file. Furthermore, it was reported by the person responsible for keeping this information that at best only one-third of the courts submit conviction information to LCD.
- There is a good deal of unnecessary duplication in record keeping. Each licensing clerk maintains a master list of his or her license holders. Master lists are updated manually on a daily basis resulting in a continuous need for each clerk to notify staff regarding changes, additions, or deletions.
- Each clerk also maintains a license card file which duplicates pertinent information from the master lists. In addition, the receptionist maintains a current file of all licensees and permit holders which results in another duplication of license data.

5. THERE EXISTS AT LEAST ONE SERIOUS COMMUNICATION BREAKDOWN

- A serious communication problem exists in the management of

license review. One significant breakdown in communication is that the LCD director has been making decisions regarding license renewal based on what he believed was a five-year violation history of the application, when in fact the information provided by staff is only for the current licensing year. This explains why the director thinks it is rare to find repeat violators.

C. RECOMMENDATIONS

The Liquor Control Division's licensing system is in need of fundamental reform. In Chapter Four we discuss whether certain functions of LCD should be maintained. If it is decided to continue the present licensing function of the division, the following recommendations should be implemented:

Recommendation II-1:

The Department of Public Safety should automate the licensing process where possible. LCD should consider instituting an automated or computerized system for preserving license data, updating files and master lists, issuing automatic renewal notices, and retrieving information whenever necessary. We estimate that a fully computerized system could be maintained by two full-time employees properly trained in managing the system as opposed to the five full-time employees currently allocated to this function. Even without computerization simple and traditional alternatives might be implemented, as, for example: (1) mechanical devices such as addressograph machines, or (2) keypunching data cards and a card sorter to identify periodically who needs to be sent renewal notices.

Recommendation II-2:

To improve the effective implementation of license review and discipline we recommend that:

- a. applications be checked more carefully for contradictions and falsifications
- b. information provided by licensees regarding previous convictions be utilized
- c. the Liquor Control Division diligently encourage and assist clerks of court to comply with M.S. Ch. 340.85 (2) which requires that clerks of court submit information regarding liquor law convictions to the division within ten days after the conviction

- d. the director of LCD examine a five-year violation history of each applicant at license renewal time
- e. LCD establish a clear policy regarding license discipline. This policy should clearly specify the conditions under which license discipline will be taken.

Recommendation II-3:

To improve the general efficiency of the licensing process we recommend that LCD:

- a. devise a more efficient method of sending out renewal notices for licenses and permits
- b. coordinate renewal dates in such a way that licensees can renew their permits at the same time their licenses are renewed. This would require a rule change.
- c. develop and implement a short license renewal form

Recommendation II-4:

The Department of Public Safety should analyze the contemporary need for each type of permit and identification card and recommend legislative action to delete those which can no longer be justified.

Recommendation II-5:

The state should consider collecting a fee for approving and registering licenses. This may require a change in statute and/or rule.

It seems reasonable and appropriate for the state to collect a nominal fee to defray some of the cost of approving and registering licenses. A \$5 fee would generate approximately \$32,000 annually, while a \$10 fee would generate approximately \$64,000.

III. INSPECTION AND INVESTIGATION

A. INTRODUCTION

This chapter presents findings and recommendations with regard to the inspection and investigation activities of the Liquor Control Division. We find that inspections of wholesale and retail establishments are performed in a perfunctory manner and are not conducted in a standardized uniform fashion. Further, with few exceptions, agents do not bring a significant degree of technical expertise to investigations above that available at the local level. Finally, we find that management control is weak, and there is a good deal of ambiguity among agents concerning the proper role of LCD as an inspecting, licensing, and/or enforcement agency.

1. ACTIVITIES

The Inspection and Enforcement Section is responsible for inspecting wholesale and retail establishments, conducting special investigations, and providing general services and technical assistance.¹ Table III-1 presents

¹For a detailed discussion of these findings see the staff paper entitled: Liquor Control Division: Report of Agent Activities.

a detailed breakdown of where agents spend their time. Figure III-1 shows the breakdown of state LCD districts.

2. INSPECTION

Inspections consist of two types: (1) prelicense inspections of applicants seeking a state-issued or -approved license, and (2) compliance inspections of retail and wholesale license holders to check for compliance with state liquor laws and rules.

Prelicense inspections must be completed before an initial license is granted. Agents are responsible for checking for structural and other requirements applicable to each category of license. Agents also answer questions about state liquor laws.

Periodic inspections are more routine in nature than prelicense inspections. Because of the large number of liquor establishments that require inspection, however, periodic inspections consume the largest amount of time and money. Agents generally check for violations of applicable laws and rules including such items as price advertising, tampering with stock, untaxed liquor, and related problems. The intent of such inspections is to regularly check establishments in each assigned district on an unannounced bases, to serve as a deterrent against unlawful practices, and to inform licensees of legal requirements, issue warnings, and obtain leads for further investigations.

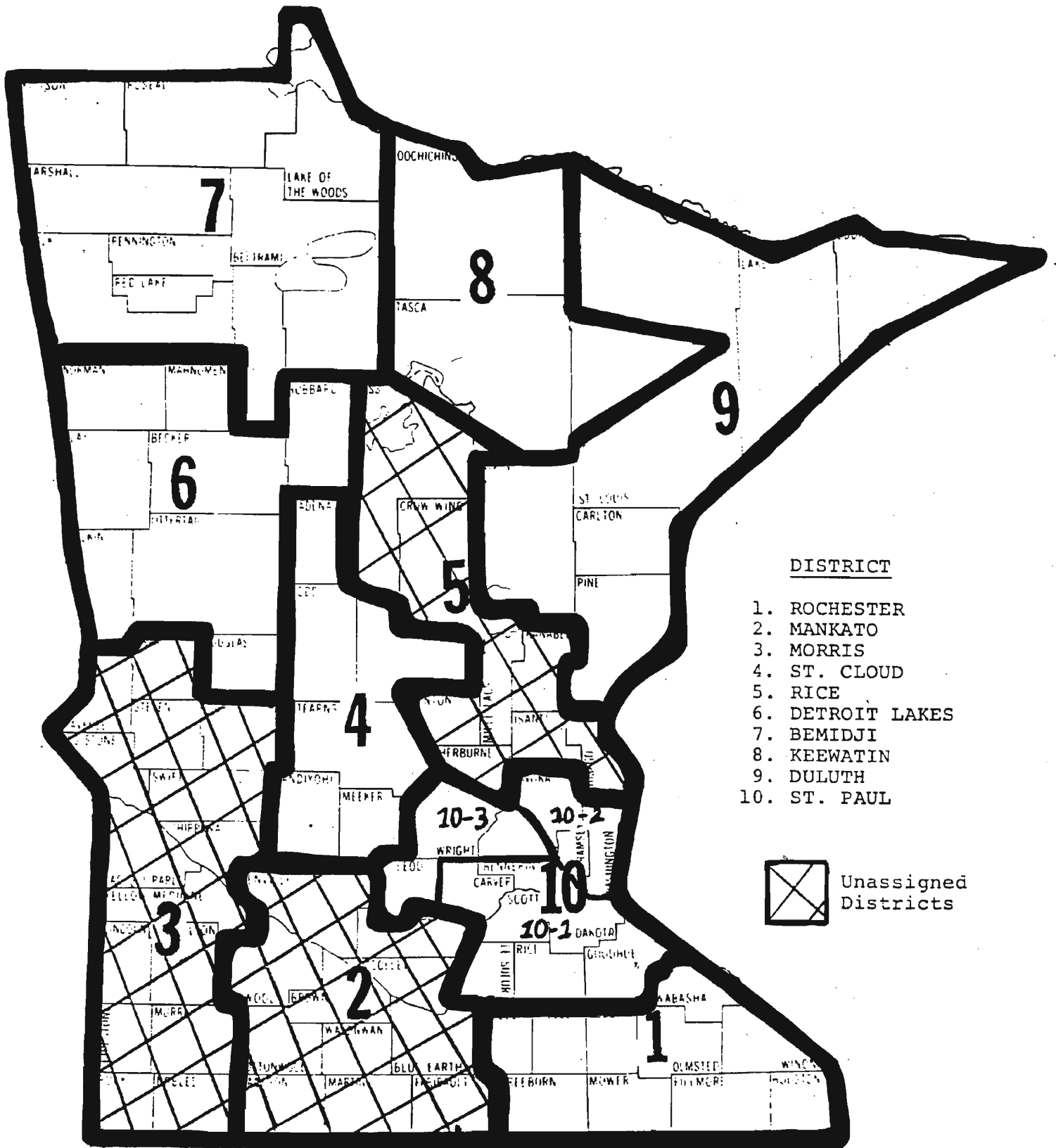
According to LCD records, agents conducted nearly 10,000 inspections in 1977. Division records do not permit us to break down this number between pre-license and compliance inspections. There are also no adequate records of the outcomes of these inspection activities.

TABLE III-1
TIME ALLOCATION BY ACTIVITY*


<u>Activity</u>	<u>Percent Allocated</u>
Inspections	58%
Investigations	13%
Contacts with Public Officials	11%
Peace Officer Meetings	3%
Trials and Hearings	2%
Travel	8%
Other	5%
<hr/>	
TOTAL	100%

*Based on interviews with all state Liquor Control Division agents. An analysis of agency time records confirms these estimates.

**FIGURE III-1
LIQUOR CONTROL DIVISION
FIELD AGENT DISTRICTS**



- DISTRICT
1. ROCHESTER
 2. MANKATO
 3. MORRIS
 4. ST. CLOUD
 5. RICE
 6. DETROIT LAKES
 7. BEMIDJI
 8. KEEWATIN
 9. DULUTH
 10. ST. PAUL

 Unassigned Districts

3. INVESTIGATIONS

Complaints of suspected violations are received by agents or by the central office. If the alleged violation concerns fairly minor liquor infractions, the agent will generally visit the licensee to investigate the complaint. If the complaint concerns a major liquor law (such as unlicensed sales), the agent's responsibility is to obtain evidence necessary for prosecution in a court of law. These investigations are generally coordinated out of the central office, and require either a pair of liquor agents or one agent working in cooperation with a local law enforcement official. Generally, investigations to obtain evidence are assigned to an agent from outside the LCD district, in order to allow undercover work by someone unknown to the licensee. If evidence is obtained, the agent submits it to the local prosecuting attorney and generally signs a written complaint. These investigations are done with the knowledge of local law enforcement agencies and in many instances they are conducted in support of local efforts.

According to LCD records, the division conducted 774 special investigations in 1977. This figure, however, actually represents units of time spent on investigation and does not accurately reflect either the amount of time devoted to investigation efforts or the number of actual investigations undertaken. LCD also reports that its investigations resulted in 23 convictions last year, but we did not study the role of LCD in these particular cases. In general, we are unable to comment on the number of LCD investigations or their outcomes.

4. SERVICES AND ASSISTANCE

Inspection and Enforcement staff are also involved in a number of general activities in support of the liquor regulation function. These include:

1. **Contacts with Public Officials.** As a means of developing information sources on liquor violations, agents routinely visit local public officials and law enforcement personnel. These contacts are also intended to answer any questions by local officials regarding liquor laws and rules.
2. **Price Surveys.** Every few months agents survey a sample of retail establishments to record retail prices of selected brands in an effort to monitor the effects of the 1973 Multiple Distribution Law in terms of retail liquor prices. Since there are currently no requirements covering retail pricing practices, these surveys are conducted for informational purposes, rather than for compliance to any legally required retail pricing system.
3. **Peace Officer Meetings.** Agents attend periodic meetings of peace officer associations within their assigned districts in order to maintain rapport with local law enforcement personnel, share information, and respond to questions. The director of LCD or agents occasionally make presentations at these meetings.
4. **Trials and Hearings.** Agents appear at trials and hearings to testify on evidence obtained in those investigations which lead to prosecution or local or LCD license review hearings.

B. FINDINGS: INSPECTION

As noted in Chapter One, one basic criterion for evaluating the Liquor Control Division performance is the extent to which LCD activities promote uniform compliance to state liquor laws and regulations. In reviewing LCD activities we find that agents lack a common standardized approach to their inspection activities.

- LCD management provides insufficient guidance concerning what to look for in compliance inspections.
- What agents look for during inspections varies considerably among agents.
- No common procedure exists for determining which establishments are inspected and when they are inspected.
- No common method of recording the results of inspections exists.

1. LCD MANAGEMENT PROVIDES INSUFFICIENT GUIDANCE

Agents are not provided with sufficient guidance concerning what to do or what to look for during compliance inspections. Specifically, the agents have not received sufficient training. They do not use standardized inspection forms or record findings from inspections in a uniform fashion. Each agent has his own system of checking for violations and his own priority for what constitutes an important violation.

2. INSPECTION ACTIVITIES VARY CONSIDERABLY

- In the absence of standardized materials and clear policy direction from LCD, we found that what agents are actually doing in their inspection activities varies considerably.
- There is disagreement among agents concerning which activities are important in inspections.
- Although there was general agreement concerning the appropriateness of certain activities, our data show that these items are not checked consistently from one inspection to the next.

3. NO PROCEDURE EXISTS FOR SELECTING ESTABLISHMENTS FOR INSPECTION

- A systematic approach for selecting establishments for inspection is lacking and the required number of inspections constitutes an unreasonable volume of work.
- Agents are expected to inspect all establishments in their district periodically. Until recently officials expected establishments to be inspected twice a year. This is nearly a mathematical impossibility unless only the most perfunctory inspections are conducted. Even annual inspections of all establishments constitutes an unreasonable workload.
- Agents do not select establishments for inspection in any systematic way which would guarantee that each establishment in the territory is covered within a given time period, or is given a definite chance of receiving a meaningful annual inspection.

4. NO ADEQUATE RECORDS OF INSPECTIONS ARE KEPT

- Neither the central agency nor individual agents keep a standardized or uniform record of the results of their inspections. Thus,

no meaningful record is available regarding what was found, whether warnings were delivered, or what further action was taken.

- In fact, agents do not know how many license holders are in their districts. They do not have a consolidated list of district license holders. Rather, they must rely on six separate statewide master lists for retail licenses plus other lists for wholesalers. A consolidated list is necessary for the inspection process to be conducted effectively.

C. FINDINGS: INVESTIGATION

Another criterion for evaluating LCD is the division's ability to provide essential services not provided elsewhere. Our interviews with law enforcement officials and liquor control agents lead us to conclude that investigation activities do not result in the delivery of essential and expert services not already available to local authorities.

- While LCD receives numerous calls for assistance, agents are used in low-level supportive roles in most instances.
- Local law enforcement agencies generate the bulk of complaints rather than periodic inspections.
- Agents lack some necessary resources and any authority to carry out investigations effectively.

1. AGENTS ARE USED IN LOW-LEVEL SUPPORTIVE ROLES

- While individual agents may provide useful and effective services, they are not prepared to bring a high level of technical expertise to investigations and are used in low-level supportive roles in most instances. Little meaningful or relevant training is provided to agents.

2. THE YIELD OF INVESTIGATIONS FROM INSPECTION ACTIVITY IS QUITE LOW

- Agents report that most complaints originate at the local level. Inspection activities uncover very few violations. This is not surprising in light of the perfunctory nature of these inspections.

3. LCD LACKS NECESSARY RESOURCES TO BE EFFECTIVE

Agent effectiveness suffers because of the following limitations in the division:

- The number of field agents has decreased from 18 to 8 over the past five years. However, the use of LCD agents has not been adjusted accordingly. This results in a strategy where staff cannot adequately perform any one of a series of duties. It is simply impossible to carry out the same level of activity with 8 individuals as with 18.
- The lack of arrest powers and peace officer status is discussed later. However, it is important to note here that keeping with an important policy, LCD agents have shifted from an investigation and enforcement emphasis to performing licensing and inspection functions.
- A monthly travel allowance of approximately \$300 is often inadequate because this allotment must cover routine travel costs incurred during inspection trips as well as extensive travel required for undercover operations.

D. FINDINGS: SERVICES AND ASSISTANCE

As discussed previously, Inspection and Enforcement staff provide a number of services and carry out activities in support of liquor regulation. Our findings concerning these services are as follows.

1. CONTACT WITH LOCAL OFFICIALS IS NOT SYSTEMATIC

- No system exists to keep track of which law enforcement officers are contacted or which are not contacted, what complaints officers make, or the outcomes of these complaints.
- No system exists to check if municipal and county clerks report all local liquor convictions to LCD for use in the license renewal process.

2. LCD'S PARTICIPATION IN TRIALS AND HEARINGS IS DIMINISHING

- As LCD activities have shifted from investigations to inspections, agents participate in fewer prosecutions and testify in fewer trials than previously.

E. FINDINGS: MANAGEMENT

A final criterion involves management and efficiency of operation. This was discussed with regard to licensing in Chapter Two. We find inspection and investigation administration to be inadequate in three areas: goal clarification, accountability, and communication.

- Management has failed to clearly define and operationalize LCD goals.
- LCD resources are not managed adequately.
- There is a lack of management control and accountability.
- Communication problems exist.

1. MANAGEMENT HAS FAILED TO PUT LCD GOALS INTO OPERATION

- Most importantly we find that agents have an ambiguous view of LCD's mission. The Department of Public Safety and top management appear to have a clear understanding of what LCD's role should be--primarily that of an inspecting and licensing agency. But some field agents and their supervisors, many of whom are holdovers from the days when LCD played a more aggressive investigation and enforcement role, feel differently. This ambiguity and inability of LCD management to communicate effectively the mission of the division continues to adversely affect performance.
- Agents do report that they perform inspections and, in fact, spend most of their time on these activities. However, they believe they could be more effective if they did more investigations and fewer inspections. This reflects a high level of uncertainty on the part of agents as to whether LCD is a regulatory agency or an enforcement agency. Official policy describes LCD as a regulatory agency, but day-to-day management decisions indicate enforcement is still perceived as a crucial function.

2. LCD RESOURCES ARE NOT MANAGED ADEQUATELY

- As noted previously, agents are asked to carry out many of the same tasks they did when LCD was two-and-one-half times as large. No comprehensive regrouping and consolidation of effort has occurred as a result of a reduced staff.

- The workload distribution is uneven and causes morale problems among agents. This is in part due to the agents' desire to spend more time on investigation-related activities. When an unequal distribution of assignments occurs, morale falls. Further, supervisors carry out certain investigations rather than assigning them to agents, which produces additional morale problems.

3. THERE IS A LACK OF MANAGEMENT CONTROL AND ACCOUNTABILITY

- Management controls over field agents are weak. With the decentralized structure of the organization, supervisors need to have a way to ensure that employees comply with LCD policies. There is little evidence that this is done at present.
- Supervisors do not check records in the field offices. They visit agents in the field approximately once or twice a year while conducting investigations or attending peace officer meetings. There is no evidence that supervisors check with license holders agents inspect, how often they inspect them, or to what degree.

4. COMMUNICATION PROBLEMS EXIST

- A major problem with inspections and investigations is the low level of communication among supervisory staff and agents. No system of regular communication exists. Agents have one or two annual meetings and have no regular communication with the central office. The three agents in the Twin Cities have weekly meetings with the supervisors, but one of the outstate agents said he once did not receive a call from the office for over a month. Other outstate agents are in more frequent contact, but this varies by agent and the amount of communication itself creates a morale problem.

F. RECOMMENDATIONS

The Liquor Control Division's inspection and investigation system is in need of fundamental reform. In Chapter Four we discuss the issue of whether certain functions of LCD should be maintained. Assuming that the division's present role in inspection and investigation is continued, the following recommendations should be implemented:

Recommendation III-1:

The inspection process should be standardized.

- a. Common training, supporting educational materials, and a standardized checklist specifying what to look for during inspections would help agents do a more effective job. More clearly defined procedures and communication from the central office are required.
- b. LCD should develop a systematic approach for selecting establishments for inspection. This approach should take into account the number of agents and volume of work required and should be based on the audit principle of a limited number of detailed, unannounced inspections conducted at random. The deterrent effort of such inspections would no doubt be increased by such a process.
- c. An inspection checklist on each retailer should be maintained in central and district offices to be used for following up infractions, scheduling inspections, and checking previous problems. Analysis of checklist records would yield statewide measures of compliance, and types of violations encountered, and would permit an assessment of the value of inspections.

Recommendation III-2:

The relative priority of inspection activities over investigations should be reemphasized. Investigative activity should not include perfunctory low-level investigations for local law enforcement agencies. Investigations should, where necessary, be conducted to provide a high level of technical expertise otherwise unavailable to local agencies.

Recommendation III-3:

The complaint process should be formalized so that complaints about suspected liquor law violations are filed and organized by district. This would permit efficient investigation of complaints and minimize travel expenses. Written feedback should be sent to district agents and agents should maintain a file of complaints and outcomes for future reference.

Recommendation III-4:

In response to reductions in staff, LCD must make efforts to redefine agents' job tasks and responsibilities. The time spent on the present diverse activities of inspections, investigations, contacts with public officials, and meetings could be better focused. From present agency priorities, a primary emphasis on inspections seems appropriate. The potential morale problem that this might create among agents and supervisors who see a greater importance for investigations needs to be considered in this decision.

Recommendation III-5:

Agents need further training and information resources such as up-to-date copies of relevant statutes and rules if they are to serve as technical experts on liquor investigation.

IV. POLICY ISSUES AND ALTERNATIVES

This chapter discusses the policy issues raised by our evaluation and alternatives to the current system of liquor regulation. These issues require legislative consideration.

Our findings clearly indicate that the Liquor Control Division's activities are not efficient or effective in controlling the liquor industry. In particular LCD does not effectively promote uniform compliance to state liquor laws and significantly does not provide local law enforcement agencies with assistance of the sort which is otherwise available to them. Further, management of LCD is inefficient; controls are weak and communication is poor.

A. TERMINATION/SUNSET

The possible termination of all or part of current state liquor control activity deserves legislative consideration. Such decisions are not within the scope of the Legislative Audit Commission research activities but require the exercise of political judgement. In debating such decisions it is essential to review findings regarding the major activities of LCD to assess the potential impact of termination.

B. LICENSING

The primary purpose of state liquor licensing is to issue licenses to manufacturers, wholesalers, and importers and to approve and register locally issued licenses.

While the state issues licenses for manufacturers, wholesalers, and importers, LCD does not concentrate its efforts nor devote much time to these activities. There is no doubt a need for controlling these elements of the industry. However, whether the current role of the Department of Revenue and other supporting legislation requiring various state and local inspections may be sufficient to warrant abolition of LCD activity in this area is a question for the legislature to decide.

The question of local license review is much clearer. Current LCD review activities are not making any observable impact on the issuance of local licenses. Licenses are rarely if ever denied by LCD and information review procedures are haphazard and inadequate. If these activities were terminated no impact would be evident nor would it be likely to make any difference in the issuance of local licenses.

This is not to imply that an effective license review process would not result in more control over the issuance of local liquor licenses. In fact, we believe that such activities might well result in increased number of denials. However, the current system of review has not worked and the legislature must decide if a more vigorous review process would result in benefits that would justify the cost of these activities.

It remains to be determined if there are additional benefits that result from the license review process. We believe that the only substantial result of this process is the maintenance of a record of all licenses. Whether such lists are necessary or require the attention of five full-time employees is questionable.

C. INSPECTIONS

The inspection activities of LCD are aimed at bringing about uniform compliance to state liquor laws. We have found that current division activities do not result in uniformity because no standardized approach to inspection exists. If a standardized process were implemented it could help in bringing about some degree of uniformity in the industry. However, with a small staff a random audit process would be required whereby many fewer establishments would be visited but more in-depth regulatory reviews would occur. Such a process could be conducted by the state or local law enforcement agencies if standard forms, direction, and training were provided by the state.

If current inspections of retail establishments were terminated there would be little impact on the liquor industry in the short term. If the legislature desires to continue to regulate the liquor industry over time there is a need for a uniform standardized regulatory process which would require inspections. Who should conduct these inspections is a decision the legislature must make.

D. INVESTIGATIONS

Currently the primary role of the state in investigations is to provide technical and field support to local law enforcement agencies. We have found that current investigation activities are undertaken mainly at local initiative. Eight agents cannot be expected to provide much impact on liquor law enforcement manpower in any case. Further, the technical assistance function is very limited by the lack of expertise and training of LCD agents. They are simply spread too thin and lack sufficient expertise to play a significant investigative role.

If LCD were relieved of its investigative responsibilities there might well be no discernable impact on liquor law enforcement. Even a highly trained staff of this size, as currently deployed on a limited part-time basis, could not be expected to bring about significant improvements or impacts.

E. TECHNICAL ASSISTANCE

LCD does not provide much technical assistance in the area of liquor law enforcement although it is theoretically in a position to do so. A well trained staff could be of great assistance to local agencies and the industry. The goals of bringing about uniform law enforcement and filling gaps in local services could well be met, at least in part, by the provision of expert technical assistance. However, given current resources the termination of these activities would have no significant effect.

F. BRAND LABEL REGISTRATION AND WHOLESALE PRICE FILING

We did not examine brand label registration or wholesale price filing during our evaluation. We cannot, therefore, comment on the possible consequences of terminating these activities. However, since these activities make up only a small part of LCD efforts they could be easily maintained, if desired, at minimal cost to the Department of Public Safety or some other state agency.

G. SUMMARY

If it can be determined by the legislature that liquor law enforcement may be safely left to local communities, the decision follows to abolish

the inspection and enforcement activities of LCD. Our finding that LCD activities in this area are ineffective means to us that such action would not have a noticeable impact on liquor law enforcement. LCD's exercise of license discipline and its collaboration in cases of legal action against individual wholesale or retail establishments is now undertaken mainly at local initiative. In effect, in licensing matters the division rubber-stamps local decisions for all license holders (with the exception of a very limited number of manufacturers, importers, and wholesalers who are licensed solely by the state).

Thus, if LCD were suddenly relieved of responsibility for inspecting retail establishments and approving licenses issued by local jurisdictions for such establishments there would likely be no discernable impact on the industry.

H. IMPROVEMENT OF LCD PERFORMANCE

If the legislature wishes to maintain all or some of the functions of LCD this report has identified a number of recommendations which will result in improved division effectiveness and efficiency. The division has not performed well and major changes are warranted if a decision to continue LCD is reached.

APPENDIX
AGENCY RESPONSE



**STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
SAINT PAUL 55155**

July 28, 1978

Eldon Stoehr
Legislative Auditor
Legislative Audit Commission
Veterans Service Building
St. Paul, Minnesota 55155

ATTN: Bruce Spitz, Deputy Legislative Auditor

Dear Mr. Stoehr:

The Legislative Audit Commission's Program Evaluation Report of the Liquor Control Division presents a compelling need for the legislature to review the overall liquor policy of the state. It also presents convincing arguments to review the administration of the Liquor Control Division.

The Department of Public Safety strongly encourages the legislature to review and revise the statutory mandates which govern the state's liquor control function. In addition, the department will continue and intensify its efforts to improve the effectiveness and efficiency of the current operation.

Outlined below is a number of areas which merit consideration in the determination of the state's policy and in the evaluation of the current operation.

POLICY ISSUES:

The implementation of the report's recommendations for the improvement of the current administration should lead to increased efficiency and effectiveness of the Liquor Control Division's operations. However, the policy issues and alternatives presented in Chapter Four of the report clearly merit legislative review. In addition to the issues presented in that portion of the report, there are two significant factors which have contributed to the problems that are evident in the Liquor Control Division and should be addressed by the legislature.

First, the division has experienced a simultaneous reduction of staff and increase in responsibilities. Since 1960 the authorized complement of the Liquor Control Division has been cut from 35 to 19 positions, a 46 percent reduction affecting both field agents and clerical staff. During the same period, the number of licenses requiring Liquor Control Division approval and/or registration has more than tripled from 2,128 to 6,568.

Second, the liquor control policy of the state is not clearly defined. The Department of Public Safety concurs with the Legislative Audit Commission report in that "the legislation does not provide a clear policy statement or define state goals" and that "amendments over the years to Chapter 340 have done little to improve our understanding of liquor control policy." These statements echo a Department of Public Safety report made to the Governor and the legislature in 1976. That report stated that "ambiguous and obsolete language in the liquor laws have caused problems in regulation, enforcement and adjudication." The report concluded with the following language:

It is therefore recommended that a study of Chapter 340 be undertaken for the purpose of grouping like subjects, removing inconsistencies and redundancies and making substantive amendments to bring the liquor laws into focus with present day problems and needs. Should the legislature choose to appoint an interim commission to undertake such project, the Department of Public Safety would willingly offer assistance.

The legislature is conducting a review of portions of the liquor licensing laws; we urge that a comprehensive legislative review of the state's policy be undertaken as soon as possible. A legislative clarification of the state's liquor policy is necessary to determine what impact the state administration/control should have on the liquor industry. Such a determination is desirable in the consideration of the termination or alteration of the state's current liquor control function.

The Department of Public Safety will prepare materials which will be made available to the legislature as it reviews the state liquor policy. Recommendations for the revision of Chapter 340 are also being prepared to assist in that review.

EVALUATION ISSUES:

A preliminary review has disclosed a number of issues which should be considered in the evaluation of the alternatives presented in the Legislative Audit Commission Report.

The report indicates that improvements can and should be made in the administration of the Liquor Control Division. A critical deficiency noted is the lack of statistical records necessary to judge the impact of the function. The Department of Public Safety is scrutinizing its records to compile quantifiable information for the evaluation of current functions. The Liquor Control Division has instituted procedures which should result in improved performance indicators. For example, agents are now required to maintain uniform records on the number of establishments in their districts, the results of their inspections and investigations, as well as documentation of compliance and requests for assistance. The daily activity reports have been modified to include more qualitative information about contacts with the industry and public officials. The division has established procedures necessary to provide composite information concerning the number of license denials, suspensions and revocations. Until these statistical records have been maintained for a period of time, it will be difficult to evaluate the division's impact on the liquor industry.

The Legislative Audit Commission's report contends that the division has little or no impact on the industry. It bases this conclusion largely on the absence of documentation of license denials. However, license denial is only one criteria of effectiveness. License issuance is primarily a local responsibility. The department denies the allegation that it "rubber stamps" local decisions. The division assists local jurisdictions in proper license determination. This assistance takes two forms: (1) Advice prior to local determination and (2) withholding state approval until corrective actions have been taken. The Liquor Control Division conducts on-site inspections prior to the issuance of new licenses and has recently expanded this practice to include license transfers. Improved recordkeeping should allow evaluation of the impact of these actions.

The Legislative Audit Commission report does not examine a number of Liquor Control Division functions which may have significant impact on the industry. These functions include the promulgation and enforcement of rules, the regulation of the industry regarding marketing and sales, the registration of brand labels, and the provision of general consumer protection. A study of these areas should be included before determination of the function's actual and potential value.

The report does make a number of recommendations that appear to be sound and valuable suggestions for the improvement of the division. During the course of the study, the Liquor Control Division took immediate action to correct problems brought to its attention by the Legislative Audit Commission. Consequently, the division began implementation of many of the recommendations prior to the issuance of the formal report. In addition to the previously noted improvements in records maintenance, the division has already taken the following corrective actions:

1. A short license renewal form has been developed.
2. Procedures for verification of conviction data have been established.
3. Five-year violation histories are being maintained and reviewed in license determination.
4. Inspection checklists have been developed and implemented.
5. Inspection procedures have been defined and agents have been provided training and written instructions.
6. The complaint process has been formalized.

The Department of Public Safety will monitor the implementation of these recommendations and make every effort to insure their effectiveness. The department will carefully examine the remaining recommendations and direct the implementation of those found to be feasible, practical and cost-effective.

These efforts will be supplemented by a comprehensive review of the division for the purpose of making further improvements and developing alternatives for maximizing the effectiveness of the current operation. The department has recently completed a similar study which has produced valuable results in the Fire Marshal Division.

Eldon Stoehr
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July 28, 1978

SUMMARY:

We do not agree with the allegation that the state has no impact on the liquor industry in Minnesota: Without statewide controls, any uniformity of licensing and inspections would undoubtedly disappear. Local units of government could be expected to resist taking over liquor control functions because of their lack of personnel and supportive financing. If they were to attempt control, the resultant imbalance in the degree of control would increase the probability of unfair trade practices, neglected revenue collection and negative consumer impact.

The impact of the state on its growing liquor industry has obviously lessened in recent years with the reduction in personnel and funds. Several options exist to increase the impact of the state; our departmental study will explore these options and determine a position to be offered to the legislature.

Sincerely,



Edward G. Novak
Commissioner

EGN:bjm

CC: Senator Nicholas Coleman

OFFICE OF THE COMMISSIONER
211 Transportation Building
Telephone: 612-296-6642



**STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
SAINT PAUL 55155**

April 5, 1979

Donald M. Moe, Chairman
Legislative Audit Commission
2nd Floor, Veterans Service Building
St. Paul, MN 55155

Dear Representative Moe:

Pursuant to the understanding reached at a meeting of the Legislative Audit Commission Subcommittee on Policy and Legislation on March 21, 1979, and following the suggestion by Mr. Eldon Stoehr, we are submitting a response to be made a part of the Legislative Audit Commission's report, "Liquor Control."

I welcome the opportunity to reiterate the department's position on the LAC program evaluation of the Liquor Control Division and to apprise you of changes that have occurred since the time of the review.

Conclusions drawn and recommendations made in the LAC report must be considered in their proper context. The report was based on research conducted in the late fall of 1977. Its recommendations were informally discussed with the members of the Liquor Control Division in February of 1978. Because these recommendations were regarded as constructive suggestions for improvement, the division implemented many of them immediately. When the Department of Public Safety received a draft of the formal report in August 1978, we responded that we would implement all recommendations found to be feasible and cost effective. However, the department took major exception to the conclusion that the division has no impact on the liquor industry.

CONSIDERATIONS OF IMPACT

The issue of impact has significant bearing on determinations concerning the state's liquor policy. Because of the severity of the LAC allegations concerning lack of impact, all records from Fiscal Year 1978 were manually reviewed. Contrary to the findings of the LAC, the division was able to enumerate instances of license denial, suspension and reprimand as well as incidents of requests for assistance by local law enforcement officials.

During FY 1978, the division denied 23 retail licenses. While 23 is a small number compared with the 2,716 retail licenses issued or approved by the division, it should be emphasized that these are licenses that had been already authorized by local officials. In 14 cases the facilities did not meet state statutory require-

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ments; in 5 cases, violations of the multiple ownership law were disclosed; in the remaining 4 cases, problems were found in the statutory time restrictions, bonding requirements or eligibility of the owner.

During FY 1978, the division conducted 114 investigations of alleged violations of the state's liquor laws and rules. The largest portion of these investigations was for alleged gross misdemeanor violations -- unlicensed sales and sales to minors. Sixty-eight percent of the investigations were conducted at the request of a county sheriff's office or local police department. The remaining thirty-two percent were initiated on the basis of complaints from competitors and the public; these investigations were conducted after local law enforcement agencies were informed and assistance was requested. Fifty-eight percent of the investigations resulted in action taken by the local subdivision or by the Liquor Control Division. In support of a philosophy of local control, the division exercised disciplinary action only in those instances where local action was not taken.

As a result of LCD investigative assistance, 25 licenses were suspended in Fiscal Year 1978, for a total of 288 days worth of lost revenue for liquor establishments. Eighteen incidents resulted in over \$6,000 in fines. Two jail sentences were given. The majority of these sanctions and penalties were instituted at the local level. However, because local officials failed to take action on founded complaints it was necessary for the division to take disciplinary action. The division was responsible for 10 of the 25 suspensions and the issuance of 23 reprimands. The department contends that the actions of the Liquor Control Division in the denial of unlawful licenses, the investigations of alleged violations and the institution of license discipline have had an effect on the liquor industry.

The significance of these actions should be reviewed in light of Minnesota's stated liquor policies as well as the implicit policy found in the allocation of state resources. Allocations for liquor licensing and liquor enforcement have steadily diminished in recent years to the point that the Minnesota state liquor control function is one of the smallest of the license states. In a survey conducted of the thirty-three license states in which seventeen responded, it was found that only Rhode Island has a budget and complement equal to that of Minnesota. In the remaining states, even those smaller in size and number of establishments, the liquor control operation is considerably larger.

Some of this difference can be attributed to varying licensing structures and enforcement responsibilities. All but two states issue retail licenses. The majority of these issue all licenses with local government having no role in the process. In the remainder, both a state and a local license is required. In Minnesota, local government is primarily responsible for license issuance. The Liquor Control Division currently has the authority for monitoring and approving fifty-six percent of all retail licenses. Ironically it does not have the authority for approving on-sale licenses in municipalities, although the majority of problems in the issuance of liquor licenses are reported in these facilities.

It may be questioned what impact can be expected in those areas where the division does have authority. In recent years, the division's complement has been reduced from 35 to 19 positions, yet the number of items to be processed by the

Liquor Control Division has more than tripled. The division has been forced to place greater reliance on local authorities for the enforcement of state laws. It has concentrated its efforts on providing guidance and assistance to local officials. This is a proper role for the division.

The division has established the on-site inspection of the license premises as a prerequisite for license issuance and as a priority activity. In Minnesota, only three local governments in the metropolitan area conduct inspections on a formal basis. It could be questioned whether local law enforcement agencies have the resources, willingness and understanding of the state's liquor laws to assume this additional responsibility. The majority of other states surveyed indicated that there was very little involvement by local government in the area of inspection.

ADMINISTRATIVE IMPROVEMENTS

The LAC recommendations have served as a foundation for the improvements in the Liquor Control Division. An internal program study was conducted to refine the recommendations, develop implementation schedules and identify additional areas for improvement. As a result of this process, the department has either implemented or is scheduled to implement every recommendation contained in the report. In addition, LAC recommendations have been supplemented by those of the internal study. The division has taken measures to simplify the liquor licensing process, refine enforcement procedures and develop tools to evaluate agent performance and division effectiveness.

The license application process has been streamlined through the development and implementation of a short renewal form. Application procedures will be simplified through the combination of numerous forms for the licenses, permits and identification cards. Many of the licenses and identification cards will become co-terminous. By eliminating vehicle permits, the division anticipates reducing by 4,500 the number of items processed, saving over \$3,000 in processing costs. Significant improvements in the administration of the licensing program will be realized through the automation recommended by the LAC. An initial review indicates that the licensing activities of the division may be adapted to the Statewide Licensing System. For this purpose the department has requested \$55,000 in its budget.

Numerous steps have been taken to enhance the enforcement procedures of the division. A verification procedure has been developed which examines a five-year history of liquor violations and previous applications to ensure that license applicants meet statutory requirements. In order to ensure the completeness and accuracy of the violation files, the division has encouraged the cooperation of the clerks of court through a letter reminding them of their obligation to supply violation information. This was followed by individual field agent contact to stress the importance of this information. A substantial improvement in reporting by the clerks of court has resulted. The department is exploring ways of providing publications to inform local authorities of their role in licensing and enforcement.

The division's complaint investigation process has been carefully scrutinized. In the department's internal review it was discovered that a significant portion

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of unfounded complaints pertained to patron activities. As a result, the screening process has been modified to minimize investigations in this area.

An inspection checklist has been developed and the division is devising a procedures manual which will define criteria for inspection compliance as well as standards for agent activity. The division director is developing a formal license discipline policy to be completed during this fiscal year.

Increased accountability and control have been established through improvements in the division's recordkeeping. A training program for the field agents is under development. Their position descriptions have been revised. The department is instituting a management information system to evaluate the outcome of liquor agent activities. After reviewing the information produced by this system, it will be possible to make better informed decisions on the actual and potential value of alternative agent activities. It is still too early to realize the impact of these changes.

The department has made a concerted effort to improve its liquor control function. It is continuing in its work to upgrade the division. Evidence of the plans and progress made in the Liquor Control Division can be found in the internal study report. A copy of this report is attached. Additional copies will be prepared and furnished upon request.

Sincerely,



Edward G. Novak
Acting Commissioner

EGN:bjm

Attachment

SUMMARY OF FINDINGS AND RECOMMENDATIONS

LICENSING

FINDINGS:

We find that LCD licensing as currently conducted has little effect on the liquor industry beyond that exercised at the local level and thus has little effect on promoting the uniform application of state liquor laws and regulations. In addition, forms management and licensing procedures are often inefficient.

- Licensing activities have little positive impact on the uniform enforcement of state liquor laws.
- The forms management process is redundant, over complex, and time-consuming.
- License renewal procedures are cumbersome.
- Duplications and omissions are found in LCD files.

RECOMMENDATIONS:

In Chapter Four of the report we discuss the general issue of whether certain LCD functions should be maintained. If present licensing functions are continued, the following recommendations should be implemented:

- The Department of Public Safety should automate the licensing process where possible. LCD should consider instituting an automated or computerized system for preserving license data, updating files and master lists, issuing automatic renewal notices, and retrieving information whenever necessary. We estimate that a fully computerized system could be maintained by two full-time employees properly trained in managing the system as opposed to the five full-time employees currently allocated to this function.
- To improve the effective implementation of license review and discipline we recommend that:
 - a. applications be checked more carefully for contradictions and falsifications
 - b. information provided by licensees regarding previous convictions be utilized
 - c. diligently encourage and assist clerks of court to comply with M.S. Ch. 340.85 (2) which requires that clerks of court submit information regarding liquor law convictions to the division within ten days after the conviction
 - d. the director of LCD examine a five-year violation history of each applicant at license renewal time
 - e. LCD establish a clear policy regarding license discipline. This policy should clearly specify the conditions under which license discipline will be taken.
- To improve the general efficiency of the licensing process we recommend that LCD:
 - a. devise a more efficient method of sending out renewal notices for licenses and permits
 - b. coordinate renewal dates in such a way that licensees can renew their permits at the same time their licenses are renewed. This would require a rule change.
 - c. develop and implement a short license renewal form
- The Department of Public Safety should analyze the contemporary need for each type of permit and identification card and recommend legislative action to delete those which can no longer be justified.
- The state should consider collecting a fee for approving and registering licenses. This may require a change in statute and/or rule.

INSPECTION AND INVESTIGATION

FINDINGS: INSPECTION

We find that agents lack a common standardized approach to their inspection activities.

- LCD management provides insufficient guidance concerning what to look for in compliance inspections.
- What agents look for during inspections varies considerably among agents.
- No common procedure exists for determining which establishments are inspected and when they are inspected.
- No common method of recording the results of inspection exists.

RECOMMENDATIONS: INSPECTION

- The inspection process should be standardized.
 - a. A standardized checklist specifying what to look for during inspections, common training and supporting educational materials would help agents do a more effective job. More clearly defined procedures and communication from the central office are required.
 - b. LCD should develop a systematic approach for selecting establishments for inspection. This approach would take into account the number of agents and volume of work required and should be based on the audit principle of a limited number of detailed unannounced inspections conducted at random. The deterrent effects of such inspections would no doubt be increased by such a process.
 - c. An inspection checklist on each retailer should be maintained in central and district offices to be used for following up infractions, scheduling inspections, and checking previous problems. Analysis of checklist records would yield statewide measures of compliance, and types of violations encountered, and would permit an assessment of the value of inspections.
- The relative priority of inspection activities over investigations should be reemphasized.

FINDINGS: INVESTIGATION

Our interviews with law enforcement officials and liquor control agents lead us to conclude that investigation activities do not result in the delivery of essential and expert services not already available to local authorities.

- While LCD receives numerous calls for assistance, agents are used in low-level supportive roles in most instances.
- Local law enforcement agencies generate the bulk of complaints rather than periodic inspections.
- Agents lack some necessary resources and any authority to carry out investigations effectively.

RECOMMENDATIONS: INVESTIGATION

- The complaint process should be formalized so that complaints about suspected liquor law violations are filed and organized by district. This would permit efficient investigation of complaints and minimize travel expenses. Written feedback should be sent to district agents and agents should maintain a file of complaints and outcomes for future reference.
- In response to reductions in staff, LCD must make efforts to redefine agents' job tasks and responsibilities. The time spent on the present diverse activities of inspections, investigations, contacts with public officials and meetings could be better focused. From present agency priorities, a primary emphasis on inspections seems appropriate.
- Agents need further training and information resources such as up-to-date copies of relevant statutes and rules if they are to serve as technical experts on investigations of liquor law violations.

MANAGEMENT

We find program administration to be inadequate in three areas: goal clarification, accountability, and communication.

- Management has failed to clearly define and operationalize LCD goals.
- LCD resources are not managed adequately.
- There is a lack of management control and accountability.
- Communication problems exist among LCD staff in the central office and between the central office and field staff.

POLICY ISSUES AND ALTERNATIVES

If the legislature wishes to maintain all or some of the functions of LCD, this report has identified a number of recommendations which will result in improved division effectiveness and efficiency. The division has not performed well and major changes are warranted if a decision to continue LCD is reached.

If it can be determined by the legislature that liquor law enforcement may be safely left to local communities, the decision follows to abolish the inspection and enforcement activities of LCD. Our finding that LCD activities in this area are ineffective means to us that such action would not have a noticeable effect in Minnesota on liquor law enforcement. LCD's exercise of license discipline and its collaboration in cases of legal action against individual wholesale or retail establishments is now undertaken mainly at local initiative. In effect, in licensing matters, the division rubber-stamps local decisions for all license holders (with the exception of a limited number of manufacturers, importers, and wholesalers who are licensed solely by the state).

Thus, if LCD were suddenly relieved of responsibility for inspecting retail establishments and approving licenses issued by local jurisdictions for such establishments, there would likely be no discernable impact on the industry.

