

LIQUOR LICENSING AMENDMENT BILL 2008

Second Reading

- Mr Speaker, I move –

That the bill be now read the second time.

Mr Speaker, the Liquor Licensing Amendment Bill 2008 introduces a number of amendments to the Liquor Licensing Act 1990 to strengthen the existing regulation of the sale and supply of liquor in the State, by improving clarity, enhancing administrative efficiency and ensuring operational integrity. In addition, there are number of amendments incorporated in the bill designed to minimise harm associated with the sale of liquor. These amendments are addressed first.

Currently, the Commissioner for Licensing may grant an out-of-hours permit to authorise the sale of liquor on a licensed premise subject to conditions specified in the permit. The proposed amendment provides the Commissioner the power to amend the conditions of an out-of-hours permit if the Commissioner determines it is in the public interest to do so. This will provide greater flexibility for the Commissioner to address ongoing problems, such as noise and disturbances, without having to cancel the permit as is currently the case. Such amendments could, for example, reduce the hours in which the permit is operable. The bill provides appeal rights for licensees in this regard.

The bill seeks to strengthen the enforcement of the legal drinking age in Tasmania by making it an offence for an underage person to present fraudulent identification. It also allows for such identification to be seized and destroyed.

The bill supports responsible service of alcohol in Tasmania by increasing existing penalties for the sale and supply of liquor to young persons and to persons who appear to be drunk. It also strengthens penalties for offences committed by young persons, such as purchasing liquor and consuming liquor on licensed premises. The increase in penalties will align Tasmania's penalties with other states and with similar offences relating to smoking. Currently, there is a deficiency in the act, in that a licensee is not held responsible if a person employed to sell liquor by them, sells liquor to a person who appears to be drunk.

The bill introduces a new penalty for a licensee where liquor has been served by an employee, to a person who appears to be drunk. This new penalty is consistent with the original policy intent of the act, which places an onus on the licensee to ensure responsible service of alcohol.

Mr Speaker, currently, the Annulled Convictions Act 2003 does not include applications for liquor licences and permits, as 'non-exempt applications', meaning that when applications for liquor licences and permits are assessed, annulled convictions are not disclosed.

As liquor is a potentially hazardous substance, it is considered important to ensure that persons involved in the operation of licensed premises are of a suitable character and background.

The bill also seeks to include applications for liquor licences and permits as 'non-exempt applications' as is currently the case with gaming licences. Mr Speaker, under the act, it is the licensee's responsibility to ensure that employees are appropriately trained to serve liquor. Amendments contained in the bill provide clarification to ensure that this responsibility is upheld.

An amendment is proposed to ensure that if an employee has not already completed an approved responsible service of alcohol course, the licensee is required to enrol the employee in a course that is scheduled to start within three months, before the employee may serve liquor on the premises.

The bill also introduces an obligation that licensees must be able to verify, in a form approved by the Commissioner, that persons employed to serve liquor have been trained in accordance with the requirements of the act.

Mr Speaker, the following amendments are aimed at enhancing compliance and enforcement of the Liquor Licensing Act.

Currently, there is limited power under the act giving the Commissioner the discretion to investigate an existing Associate of a licensee after a licence has been issued, if the Commissioner suspects that their situation has changed and they may no longer be suitable to be an Associate of a licensee.

Further, the act fails to give the Commissioner power to investigate a new Associate who has joined a business subsequent to a licence being issued.

The bill overcomes these limitations by providing the Commissioner the discretionary power to investigate an Associate so as to have up-to-date knowledge of those involved in, or associated with, the operation and management of a licensed business.

The amendment also replaces the current 'good repute' test with the stronger 'fit and proper' test in determining suitability to hold a liquor licence, or to be an Associate.

Mr Speaker, the bill also introduces a new power to enable police officers to issue infringement notices for certain breaches of the act in accordance with the Monetary Penalties Enforcement Act 2005. These arrangements are similar to traffic infringement notices.

The introduction of infringement notices will assist policing and will streamline the disciplinary process by removing the need for offenders to appear in court.

While the act requires licensees to obtain the Commissioner's approval of alterations to the area of the licensed premises, there is currently no requirement for licensees to notify the Commissioner when they undertake internal alterations at the licensed premises. If renovations affect the designations to prohibit or restrict the entry of young people, compliance and detection problems can be created for police and authorised officers. The bill therefore includes an amendment to make it an obligation that licensees give the

Commissioner at least 30 days written notice before altering the boundaries of a designated area.

Finally, Mr Speaker, the bill introduces a number of amendments to improve the administration of the act. The bill creates a new power to enable the Commissioner to vary conditions of a special liquor licence at a licensee's written request or at the discretion of the Commissioner, upon consultation with the licensee and approval from the Liquor Licensing Board. This will provide licensees and the Commissioner with greater flexibility to amend special licence conditions rather than cancel and reissue the special licence as is currently the case.

Currently under the act, there is a requirement that one member of the Licensing Board must be a legal practitioner. This requirement is considered to be overly restrictive. The bill proposes that it be removed to ensure that the most appropriately skilled people are appointed to the Board.

The bill also contains a number of minor amendments aimed at correcting oversights and enhancing administrative efficiency.

Mr Speaker, the Liquor Licensing Amendment Bill will improve the efficiency and effectiveness of the regulation of the sale and supply of liquor in the State. These amendments represent ongoing efforts to ensure the State remains at the forefront in regulating the sale and supply of liquor.

Mr Speaker, I commend the bill to the House.