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Liquor Bill 2007

Casino, Liquor and Gaming Control Authority Bill 2007

Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Bill 2007

About this Item

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Business - Bill, Second Reading

LIQUOR BILL 2007

CASINO, LIQUOR AND GAMING CONTROL AUTHORITY BILL 2007

MISCELLANEOUS ACTS (CASINO, LIQUOR AND GAMING) AMENDMENT BILL 2007

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Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [3.43 p.m.], on behalf of the Hon. Ian Macdonald: I move:

That these bills be now read a second time.

Given that the second reading speech is quite lengthy, I seek leave to have it incorporated into *Hansard*.

Leave granted.

The current Liquor Act has been in place for almost 25 years. There have been many changes in our society in that time and we must ensure our laws properly reflect those changes. The liquor laws must meet the expectations, needs and aspirations of today's community for a variety of hospitality, dining and entertainment choices. The law should not create unreasonable barriers to innovation and competition. Red tape and costs for industry, Government and the community must all be minimised so that access to the liquor licensing system is available. The public interest is best served by laws that promote a responsible liquor industry through a flexible and practical system of regulation with minimal formality and technicality. The liquor laws should also contribute to the responsible development of related industries, such as the live music, entertainment, tourism and hospitality sectors.

Importantly, the liquor laws must continue to send a clear message to industry and the community about the need for responsible service and consumption of alcohol. Those who have responsibilities under the law, including regulators, licensees, and persons selling and supplying liquor, must consider the need to minimise alcohol-related harm. The law must encourage responsible attitudes and practices, and it must support the need for alcohol consumers to be responsible in their decisions and behaviour. It is time for a new Liquor Act that reflects modern regulatory practices and meets the needs of today's community.

The Liquor Bill 2007, the Casino, Liquor and Gaming Control Authority Bill 2007 and the Miscellaneous Acts (Casino, Liquor and Gaming) Amendment bill 2007 make up a reform package that will benefit the community for many years to come. The bills represent a complete rewriting of the New South Wales liquor licensing laws. They include comprehensive changes to the liquor regulatory framework which reduce complexity and cost. These changes simplify and modernise the law to aid understanding and enforcement. I seek leave to table some draft examples of the regulations and the proposed community impact Statement process.

Reforms in the Liquor Bill 2007 support the Government's program to reduce harm associated with alcohol abuse, and promote a culture of responsible service and consumption of alcohol. They help to promote industry sustainability and enhance access to the liquor licensing system for all stakeholders. These bills have been developed from exposure drafts which were released for public consultation in November 2005. The Government received more than 900 submissions in response to those drafts from the community, local councils, business and Government agencies. Their views are strongly represented in this reform package. These new liquor laws strike a balance between community and industry needs, now and into the future.

I will now outline some of the principles of the bills and the new regulatory framework they establish. The objects of the Liquor Bill 2007 in particular have been enhanced compared to the current liquor laws. The new objects reflect the needs I have identified. In securing these objectives persons who have functions under the new laws will be required to have due regard to the need to minimise alcohol-related harm and encourage

responsible attitudes and practices. The objects recognise the importance of a properly regulated liquor industry which is able to develop in a way which is consistent with the public interest. The objects also recognise that the manufacture, sale and supply of alcohol and the operation of licensed premises contribute to the economy and to society. These newly expanded objects will provide better guidance to regulators, licensees and the community on the purpose of the liquor laws.

These bills include plain English liquor laws which will benefit the whole community. The Liquor Bill 2007 represents a single Act for the regulation of liquor sales, including sales in registered clubs. All liquor industry sectors and liquor licensees will be subject to similar licensing standards. The Registered Clubs Act will now focus on club management, accountability and governance issues. Before I refer to the detail of the new licensing regime I will outline the arrangements for the new regulatory authority.

The centrepiece of these reforms is to take liquor licensing out of the courts and introduce an administrative-based system to reduce complexity and cost for industry, the community and Government. The new liquor licensing system will be simple and flexible. Liquor licence applications and disciplinary matters will be now considered by a new Casino, Liquor and Gaming Control Authority. Under this administrative process licensees and interested persons-including police, residents and local councils can make submissions directly to the authority. The authority will be able to conduct interviews, conferences and meetings to assist stakeholders to put forward their views. The administrative nature of the process will better allow differences to be resolved between parties without the need for expensive court hearings.

The Casino, Liquor and Gaming Control Authority Bill 2007 will establish the new authority. The practical outcome of the bill is that the role and responsibilities of the existing Casino Control Authority are expanded to cover the liquor and gaming sectors in addition to the casino sector. The Casino, Liquor and Gaming Control Authority Bill 2007 brings together in one place a range of provisions dealing with administration and other matters. Many of these provisions are currently replicated in the Liquor, Registered Clubs, Gaming Machines, and Casino Control Acts. Having all of these provisions in one Act will help to ensure consistency. It is important to note that these changes will not result in any diminution of the existing powers and responsibilities of the Casino Control Authority in relation to casino matters. These reforms essentially entail a minor change of name for the authority, and regulatory control over the casino will be unchanged.

There will also be no diminution of the powers of the regulatory authority in relation to the liquor and gaming industries in New South Wales. The powers and responsibilities of the authority will be equivalent to those of the existing Licensing Court and Liquor Administration Board. Any differences that arise are minor and result from the move from the current court-based system to an administrative-based system. Existing liquor licensing offences are carried forward, with maximum penalty levels either maintained or, in some circumstances, increased. These offence matters will be heard by local courts, with appeals available to the District Court. In fact, these bills will enhance regulatory control over licensed venues. I will provide details of these enhanced controls later.

Members of the Casino, Liquor and Gaming Control Authority will be appointed by the Governor on the recommendation of the Minister. The bill specifically provides that the authority will not be subject to the direction or control of the Minister except to the extent already provided for in the Casino Control and Gaming Machines Acts. The bills require that an authority member with substantial legal qualifications must be present when disciplinary decisions are made. Applications for a review of a non-casino disciplinary decision of the authority can be made to the Administrative Decisions Tribunal. I also point out that the Supreme Court has jurisdiction to review administrative decisions, such as those that will be made by the authority. The authority will appoint inspectors who assist police with the enforcement of the liquor and gaming laws. These inspectors have a strategic role, focusing on hot spots and assisting licensees and venue operators to ensure good management practice. They also provide valuable assistance to liquor accords.

The Casino, Liquor and Gaming Control Authority Bill 2007 carries across powers of entry, inspection and investigation for police and inspectors from existing Acts. Inspectors will continue to have the same role and responsibilities in relation to the casino and licensed venues as they do under the current law. To support this reform package the Government will provide an additional \$10.8 million to the Department of the Arts, Sport and Recreation over three years, commencing in 2008-2009. A review will be conducted at the end of that period. This new funding will allow inspectors to assist with the implementation and enforcement of these new liquor laws. They will provide a focus on increased support for liquor accords, working with police and other agencies to reduce alcohol-related crime. The funding will also be used to develop an education program for industry, local Government and the community in relation to these new laws.

I would now like to turn to the detail of the new liquor licensing regime. The Liquor Bill 2007 sets out six liquor licence categories. The first licence category is a hotel licence. Hotel licences will apply to premises where the primary purpose is the sale and supply of alcohol. Hotels will continue to be able to sell liquor for consumption on and off the licensed premises. Bars that do not operate gaming machines or sell takeaway alcohol will be able to obtain a special type of hotel licence, to be known as a "general bar" hotel licence. A general bar hotel licence will help to stimulate diversity, resulting in a greater variety of licensed venues, including small bars.

However, there is a potential for bars of all sizes that focus on selling alcohol to have an impact on the local community through noise, antisocial behaviour and problems associated with intoxication and irresponsible service of alcohol. Therefore, all applications for a hotel licence - including the new general bar licence - will be subject to the new community impact Statement process, which I will refer to later.

The fee on grant for a general bar hotel licence will be less than the fee for a hotel licence that permits gaming machines and takeaway alcohol sales. It will not be possible for the prohibition on gaming machines and takeaway sales to be varied or removed for a general bar hotel licence. Standard trading hours for hotels, including the new general bar licence, will be unchanged from the current liquor laws. Standard trading will be from 5.00 a.m. to midnight Monday to Saturday, and 10.00 a.m. to 10.00 p.m. on Sunday. Existing hotel trading restrictions between midnight Sunday and 5.00 a.m. Monday and on Good Friday and Christmas Day are also maintained. Hotels will be able to apply for extra trading hours via an extended trading authorisation, as they can under the current liquor laws. Certain existing requirements applying to hotels are modernised and carried across to the new bill.

The second category is a club licence. Club licences will apply to registered clubs. In order to obtain this type of liquor licence a club must meet the requirements of the new liquor laws as well as the Registered Clubs Act. Clubs will continue to be referred to as "registered clubs" in the liquor and club management laws. Existing clubs will continue to have access to unrestricted trading hours, as they do under the present law. Other registered club privileges and requirements will also be maintained for existing clubs. Newly licensed registered clubs will be subject to the standard trading period of 5.00 a.m. to midnight Monday to Saturday, and 10.00 a.m. to 10.00 p.m. on Sunday. These new clubs will be able to apply for extra trading hours via an extended trading authorisation.

The third licence category is an on-premises licence. This new category of licence will replace existing on-licences under the current liquor laws for restaurants, motels, theatres, universities, public halls, vessels, airports and section 74A licences. It will also replace the existing nightclub, caterers, Governor's and community liquor licences. On-premises licences will be very flexible. Sale of liquor will be permitted for consumption primarily on the premises. Individual licence conditions imposed by the authority will determine the type of business for an on-premises licence, along with alcohol sale, supply and consumption arrangements. The type of business for an on-premises licence will be specified when the licence is granted. An on-premises licence will not be issued where the sale, supply or consumption of alcohol is the primary business or activity carried out on the premises. However, there will be exceptions for some businesses and activities, such as airports and universities. Other exceptions can be prescribed.

The bill also specifies the kinds of businesses and premises for which an on-premises licence cannot be granted. Most on premises licences will be subject to the standard trading period of 5.00 a.m. to midnight Monday to Saturday, and 10.00 a.m. to 10.00 p.m. on Sunday. Applications for extended trading hours will be permitted. The sale of liquor under an on-premises licence will be with, or ancillary to, another product or service. These new provisions will replace the costly and restrictive dine-or-drink authority for licensed restaurants under the current liquor laws. The application process for this authorisation will be simple. There will be no fee payable other than a minor processing fee. Limits on the number of drinkers and other aspects of the approval will be determined on a case-by-case basis by the authority. However, the "primary purpose" requirement for restaurants and other on premises licences will ensure the sale or supply of liquor cannot become the primary purpose of the licensed premises.

The bill requires that a specific approval be obtained to sell liquor without meals rather than it being an automatic right. A specific approval allows regulators to consider the particular circumstances of a restaurant, and can assist with enforcement. The approval can also be more readily withdrawn if problems occur. Concerns have been raised about the potential for this bill to result in substantial changes to the mode of operation for existing restaurants. I point out that the authorisation provided for by clause 24(3) is not intended to allow restaurants and public entertainment venues to turn themselves into bars, or to alter the business or activity specified in their licences.

A restaurant with an on-premises licence will be required to continue to operate as a restaurant, which is defined in clause 4 of the bill. The Casino, Liquor and Gaming Control Authority will need to have this in mind when considering applications for an authorisation under clause 24(3).

Venues that wish to trade as bars will be required to obtain a general bar hotel licence, where the primary purpose is the sale of liquor. Under the Liquor Bill 2007 an on-premises licence will be available to operate live music and public entertainment venues where alcohol is provided to patrons with entertainment. This will replace the current nightclub and theatre licences, and will ensure that an appropriate licence is available for intimate venues providing live entertainment. These venues will be subject to local council requirements relating to the provision of public entertainment. Unnecessary and outdated restrictions on businesses such as accommodation venues, universities, and entertainment venues will be removed. The bill allows the authority to approve an authorisation for takeaway sales for an on-premises licence to ensure the flexibility provided by the existing Governor's licence is maintained. However, takeaway sales are intended for special types of facilities only, and in special circumstances.

The bill provides for regulations to limit the circumstances in which an authorisation can be approved. The Government will be monitoring this aspect closely to determine what future controls are necessary. On-premises licences will be required to have food available on the premises as a harm-minimisation measure. For caterers operating under an on-premises licence the existing "principal business" requirement has been removed. Caterers will no longer have to operate a separate catering company, thereby reducing costs. The requirement that alcohol may be served only with food has been also removed for caterers. However, food will still need to be available. Accommodation venues will benefit from simplified, flexible and modern licensing provisions that, among other things, do away with the need to have approval to operate a guest's bar. Accommodation venues will also be able to provide liquor with a takeaway meal or in a picnic basket meal to their accommodation guests so long as the volume on any one day does not exceed two litres.

The fourth licence category is a packaged liquor licence. Packaged liquor licences will apply to liquor stores selling takeaway liquor. Standard liquor store trading hours will be unchanged from the current liquor laws. Liquor stores will be able to apply for extra trading hours via an extended trading authorisation. The existing law preventing takeaway sales on Good Friday and Christmas Day will be maintained. Holders of packaged liquor licences will not be able to trade between midnight and 5.00 a.m. on any day. The fifth category of licence is a producer/wholesaler licence. Producer/wholesaler licences will apply to wine producers, brewers, distillers, and wholesalers. The licence allows wholesale sales to other liquor licensees. The licensing arrangements for wine producers will be modernised. This is a key feature that will directly assist regional tourism and regional economies.

Wine producers will be able to charge for tastings if desired, make cellar door sales, and operate multiple premises in a wine region under the one licence. Wine regions will be determined in consultation with the wine industry, and prescribed in the regulations. An important reform for wine producers is that they will be able to conduct tastings and sell their wine directly to the public at wine shows and farmers' or producers' markets. A producers' market is a market at which farmers or primary producers display and sell their products directly to the public. It must be conducted in accordance with prescribed requirements, including a minimum number of stalls. Requirements will be determined in consultation with the industry.

Tastings and sales at a wine show can only occur where the wine show is held by a recognised wine, vineyard or industry association. Wine producers will also be able to obtain an authorisation to allow liquor consumption on the premises, such as in a restaurant or motel, or at an event such as Opera in the Vineyards. Wine producers will be able to sell blended wines so long as their wine contains a minimum percentage of product manufactured by the licensee. Wine producers will also be able to sell products that they make from types of fruit other than grapes that are grown on their premises. The existing 45-litre limit on cellar door sales will be abolished. A producer/wholesaler licence will also allow small-scale regional brewers and distillers to conduct tastings and sell directly to the public at their licensed premises. As this reform is also intended as a boost to regional tourism and economies, it will not apply to brewers and distillers in metropolitan areas.

The final category of licence is a limited licence. Limited licences will apply to sporting club and community functions, as well as significant regional and State events. They will replace function and special event licences under the current liquor laws. For no special event functions, a limited licence will only allow liquor sales that are ancillary to the purpose of the function. Functions will be required to be approved, and trading hours will be determined by the authority. The maximum number of functions under a limited licence will be 52 per year, or such other number as the authority considers appropriate. Existing special arrangements for surf club social functions and for race club functions under the current law will be maintained in the bill. Liquor sales under a limited licence will be for on-premises consumption only, except in the case of a trade fair or a special event. Special provisions will apply to a limited licence for a special event in recognition of the significant social and economic benefits of these events.

The Liquor Bill 2007 includes important reforms which assist regional tourism, small business, and live music. I will refer to some of those reforms now. The bill allows small bed and breakfast and farm-stay accommodation venues to supply alcohol without the need for a liquor licence. Controls will apply to bed and breakfasts so that alcohol is not supplied to minors, and responsible service of alcohol training is required. Sales can only be ancillary to the provision of accommodation or a meal. The cut off at which larger bed and breakfast venues need to apply for an on-premises liquor licence has been set at eight adult guests. This number reflects the size of most bed and breakfast businesses in New South Wales.

The new on-premises licence will also assist regional tourism and small business by allowing some regional tourism operators to obtain a suitable liquor licence for the first time. This licence will also greatly simplify arrangements for accommodation venues such as motels, which are a vital part of regional tourism. The wine producer reforms, along with the reforms for small-scale brewers and distillers, will also benefit regional tourism and small business. For the live music sector, the Liquor bill 2007 recognises order of occupancy in disturbance complaints, something the sector is very strongly in favour of, and which has been adopted in Queensland and South Australia. The live music, entertainment, tourism and hospitality industries are also specifically recognised in the objects of the Act. One of the most significant reforms for live music is the on-premises licence which can cater for live music venues. These industry reforms represent a tangible benefit for a range of businesses and communities throughout New South Wales. They will allow greater flexibility and

choice for industry and consumers.

One area of the current liquor laws which is in need of reform is social impact assessments. These assessments have been criticised for being costly, time consuming, subjective, incomplete, and bewildering to residents and other stakeholders. A more efficient, less costly, and better targeted process is needed. The Liquor Bill 2007 therefore introduces a new community impact Statement. The object is to facilitate consideration by the authority of the impact that the granting of certain applications will have on the local community. It does this by providing a process in which the authority is made aware of the views of the local community, and the results of any discussions between the applicant and the local community about issues and concerns.

Community impact statements will gauge potential impacts, especially of new hotels, general bar hotel licences, clubs, bottle shops and other potentially high-impact licensed venues on local communities. Licensed venues, including restaurants and entertainment venues, seeking extended trading hours past midnight will also be subject to the new process. Community impact statements apply in different formats to low impact licence applications. However, the authority will require that a statement be prepared with any application detail that it considers necessary. Community impact statements will be required to be prepared before liquor licence applications are made. Statements will summarise the results of consultation by applicants with local councils, police, health, Aboriginal representatives, community organisations and the public. The consultation process will be set out in regulation. The detail will be developed in consultation with industry and other stakeholders. One aim of the new process will be to minimise time and costs. The Government will examine how community impact statements can be linked into the planning process to reduce duplication as much as possible. No fee will be payable to the licensing authority for a statement.

Stakeholders will have an opportunity to provide comment directly to the Casino, Liquor and Gaming Control Authority in response to a community impact statement lodged by an applicant. This will ensure statements accurately reflect the issues that were raised by those stakeholders. Applications will also need to be advertised so that anyone can make a submission directly to the authority. Advertising requirements will be developed with stakeholders so they are practical and provide reasonable notice. Applications will need to be advertised, and also the local council will need to be advised. To complement the community impact statement process an assessment will be prepared for the authority by the Director of Liquor and Gaming taking account of health, population, crime and other relevant data.

This assessment will be applied to all community impact statements. Applications where a community impact statement requires further detail will also be required at the authority's request. The new community impact statement process will relieve applicants from having to obtain large amounts of data and prepare complex and costly assessments, so they can focus on consultation with the local community. Bringing the assessment process in-house will facilitate a more objective process that can better meet the needs of the authority. The Government believes that this type of process is essential for high-impact liquor licence applications.

The bill requires that liquor regulators must be guided by harm minimisation principles. An informed decision requires input from local stakeholders. I have already mentioned that the Liquor Bill 2007 adopts a standard liquor trading period of 5.00 a.m. to midnight Monday to Saturday, and 10.00 a.m. to 10.00 p.m. on Sundays. The bill provides for an extended trading authorisation, allowing trading outside of the standard period only upon application and subject to harm minimisation and neighbourhood disturbance controls. This also reflects the current liquor laws. Applications for trading past midnight will be subject to a community impact statement and can only be made for on premises liquor consumption. The bill also allows the Minister to approve extended trading for hotels and clubs for an event of regional, State, or national significance. This type of provision was subject to debate in a recent bill dealing with hotel trading during the 2007 Rugby World Cup.

The Government removed a similar provision from that bill during the debate. The provision has been included in this bill so that action can be taken quickly to provide trading for significant events as they arise. If necessary, trading hours can be reduced by regulation for specified classes of premises. Trading hours for a specific licensed venue can also be reduced by the Director of Liquor and Gaming as a result of noise and disturbance complaints, or by the authority as a result of disciplinary action. Existing restrictions that apply to hotel and takeaway trading on Good Friday and Christmas Day are maintained. No takeaway alcohol sales will be permitted on these days. The Liquor Bill 2007 also brings trading for some low-impact venues such as restaurants into line with trading of hotels.

I now turn to the enhanced regulatory controls over licensed premises which are a feature of these bills. Regulatory and disciplinary processes will be simplified and streamlined by moving to an administrative-based approach. A more immediate response to problems will be possible without the need for expensive and time-consuming legal processes in every case, while ensuring that due process is maintained. The circumstances in which action can be taken against licensees and others who do the wrong thing are being widened. Regulatory control over licensed venues will also be enhanced by providing new powers to the Director of Liquor and Gaming. The director will be able to impose conditions on licences, so long as the licensee has been given an opportunity to make submissions. The Liquor Bill 2007 provides for a process of review of the

director's decision in these circumstances. Such a review will be determined by the authority at the request of a licensee. These new powers will be additional to the powers of the new Casino, Liquor and Gaming Control Authority.

Residents and councils will continue to be able to make disturbance complaints against licensed venues, as they can do now. The existing noise and disturbance complaint process is largely carried across into the Liquor Bill 2007. As already mentioned, a new feature is that order of occupancy between a venue and residents is recognised as an issue that can be considered. This provision has received strong support from the live music sector as a way of protecting long-established cultural venues from closure due to complaints by newly arrived residents. The provision is based on similar laws applying in other States. However, this new provision does not mean that complaints are not allowed or that licensed venues will be subject to lower standards.

All licensed venues are required to operate in a responsible manner, and action can still be taken under the noise complaints process if that is not the case. No matter who was first in an area, residents and businesses need to be reasonable and respect each other's needs. Under the Liquor Bill 2007, disturbance complaints will be determined by the Director of Liquor and Gaming. This is appropriate given the enforcement nature of these matters, which are about compliance with the requirements of the law for the responsible operation of licensed premises. Complainants and licensees will be able to request that the Casino, Liquor and Gaming Control Authority review a disturbance complaint decision of the director.

The Liquor Bill 2007 introduces two new offences which reinforce the need for consumers to behave responsibly, and will assist licensees to deal with troublesome patrons. The new offences prohibit intoxicated, violent or troublesome patrons who are refused entry or ejected from licensed venues from attempting to re-enter the venue for a 24-hour period. Such persons must also not remain in or re-enter the vicinity of the venue for six hours unless they have a reasonable excuse. A reasonable excuse will include where a person has reasonable fears for their safety, needs to obtain transport or resides in the vicinity of the premises. The maximum court-imposed penalty for these two new offences is \$5,500. These new provisions send a clear message to irresponsible drinkers about the standards of behaviour that are expected.

The provisions help to address problems where intoxicated persons who are ejected or refused entry remain outside a venue causing trouble. These people often attempt to re-enter the venue surreptitiously, and are an ongoing problem for licensees. To help tackle intoxication and under-age drinking, repeat offenders for certain key offences will be subject to higher penalties. The Liquor Bill 2007 includes a definition of "intoxicated" to assist licensees, staff and police in complying with and enforcing the law prohibiting entry into licensed venues by intoxicated persons, or the sale or supply of liquor to intoxicated persons. The definition has been taken from a draft developed by the Government in 2005, and which has subsequently been adopted in Victoria.

Under the Liquor Bill 2007, the Director of Liquor and Gaming will be able to issue written directions to a licensee, employee or agent concerning any matter relating to the licensed premises, including any conduct on the premises. This will enable the director to take swift action to deal with local neighbourhood problems associated with the sale and supply of liquor by a licensed venue. To ensure due process, these directions can be reviewed by the Casino, Liquor and Gaming Control Authority. There are circumstances where persons with alcohol-dependency problems may wish, and should be capable of requesting, that they be excluded from specific licensed venues. Examples include persons released from custody who, as part of their rehabilitation program, are required to abstain from alcohol use.

The Liquor Bill 2007, therefore, contains provisions specifically allowing licensed venues to enter into a self-exclusion agreement and thereby refuse entry or eject persons who have voluntarily requested to be refused entry and service of alcohol. These provisions build on longstanding provisions allowing licensed venues to refuse entry to intoxicated or violent persons. The bill also allows self-exclusion agreements to apply to licensed venues that are members of a liquor accord. This will enable a single request to be made by a person that will apply to multiple premises in an area. I emphasise that self-exclusion agreements must be requested by the person to whom the agreement will apply. An agreement cannot be forced upon a person. The Liquor Bill 2007 will allow the new authority to issue an order banning a person from entering or remaining on licensed premises. Such an order can be made in circumstances where the person has been repeatedly intoxicated, violent, quarrelsome or disorderly on or in the immediate vicinity of licensed premises. Such orders can be sought by the director, the police, or a licensee who is part of a liquor accord. The authority will be subject to the requirements of the Anti-Discrimination Act in making such an order. The Liquor Bill 2007 carries across existing laws allowing for closure orders to be made where there are significant concerns about threats to public safety.

Finetuning of these provisions will see such orders, which can be requested by the Director of Liquor and Gaming or the police, able to be made by the new authority, as well as by an authorised officer. Lockouts, curfews or restricted entry policies have been voluntarily implemented in certain locations to address late night problems associated with the movement of persons between licensed venues and patrons congregating outside licensed venues. These lockouts prevent patrons from entering licensed premises after a certain hour, although patrons already inside the premises can remain until normal closing time. However, securing

agreement from all late trading licensed venues in an area to voluntarily participate can be difficult and takes time. There are circumstances where it would be preferable to allow the Director of Liquor and Gaming to order licensed venues to participate in a lockout.

The Victorian Liquor Control Act specifically allows the Director of Liquor Licensing to make a late hour entry declaration for an area or locality. The Liquor Bill 2007 includes similar provisions. This will allow the Director of Liquor and Gaming to make a late hour entry declaration for an area, subject to due process, including consultation with licensees and the local council. Decisions can be reviewed by the new authority. The existing Liquor Act includes provisions allowing undesirable liquor products and promotions to be banned, but only where those products and promotions are attractive to minors. Undesirable products must be banned by regulation, whereas the Director of Liquor and Gaming can take action against undesirable promotions. These existing provisions are being carried forward in the Liquor Bill 2007.

However, they are also being expanded in the bill to allow action to be taken against products in circumstances such as where the name, design or packaging is indecent, offensive, or encourages irresponsible consumption. A new feature of the bill is that the director will now also be able to take action against products. However, the director will be limited to issuing orders only to individual licensees, and only where the premises are situated in an area or locality where there are significant concerns regarding intoxication or under-age or irresponsible drinking. Examples of products where action could be taken by the director under these new provisions include high alcohol cocktails created on licensed premises that encourage irresponsible, rapid or excessive consumption.

The director must provide the licensee with a reasonable opportunity to make submissions in relation to the proposed restriction or prohibition, and must take those submissions into consideration. The bill also allows action to be taken against undesirable liquor promotions. The circumstances where action can be taken against undesirable promotions are being expanded to include promotions that can result in rapid alcohol consumption and intoxication. Some aspects of these expanded provisions have been taken from a code of practice developed by the liquor industry in New South Wales; others have been taken from the Queensland and Victorian liquor laws. They will allow action to be taken not only against products and promotions targeted at minors but also against irresponsible products and promotions that cause harm to adults, including products containing excessive levels of alcohol.

The existing Liquor Act contains regulation-making powers to restrict or prohibit the conduct of promotions or other activities, including discounting or supply of liquor free of charge, that could result in misuse or abuse of liquor, such as binge drinking or excessive consumption. There are concerns that substantial liquor discounts could be a factor in encouraging binge drinking or excessive consumption. The Liquor Bill 2007, therefore, includes a regulation-making power which can prescribe circumstances in which the Director of Liquor and Gaming can require responsible consumption of alcohol messages to accompany promotions that involve liquor discounts. The form of such messages will be a matter for the director. The liquor laws in some other States and Territories contain provisions allowing communities to apply for restricted or dry areas to help ease alcohol-related problems.

Controls that apply can range from restrictions over the sale and availability of certain types of alcohol through to complete bans on alcohol in a specific community. These provisions have generally been introduced to assist communities with large indigenous populations, although they have been used in other communities. In other jurisdictions the size of a restricted area can vary from a part or whole town through to extended areas in the case of remote indigenous community locations. The management of alcohol-related problems in indigenous communities needs to be driven by those communities, so they can determine and implement measures they feel will best meet their needs. There must also be interagency co-operation, co-ordination and consultation at the local level.

The Liquor Bill 2007 will assist in this process by providing for restricted alcohol areas to be declared by regulation in particular circumstances. Restrictions imposed in such areas could include restrictions on the trading hours for licensed premises, the kinds of liquor that may be sold or supplied, and the way in which liquor is sold or supplied. Importantly, this new measure can restrict the sale, supply, possession or consumption of liquor on any premises, whether or not those premises are licensed premises. A restricted alcohol area can only be declared by regulation where the responsible Minister is satisfied that it is in the public interest, and has the support of the majority of the community that is likely to be affected. Consultation will be required with the Commissioner of Police, local councils, prescribed persons, and any other persons the Minister considers appropriate, including representatives of the community that is likely to be affected.

Offences in the bill relating to the sale of liquor without a licence, and sale contrary to a licence, will apply in restricted alcohol areas. Other offences can be prescribed in the regulations. Much of the process for establishing a restricted alcohol area will be prescribed. This will facilitate extensive consultation with all stakeholders before that process is finalised. The Government's view is that the process must be inclusive and transparent if it is to work properly. There will be wide-ranging consultation with all stakeholders on the development of the regulations.

One of the most important issues sought to be addressed through the liquor laws is under-age drinking. The law needs to send a strong message to the community about the importance of protecting our young people from the potential harms of alcohol. Significant penalties should apply to those who deliberately put the wellbeing of children at risk. The law should also be very clear for parents and those responsible for the care of children. Concerns have been raised about the complexity of the existing under-age drinking laws. Those

laws are very difficult for parents and minors to understand. Therefore, one of the most important outcomes of the Liquor Bill 2007 will be to greatly simplify the liquor laws, and the Government has focused particularly on the under-age drinking laws. However, the Liquor Bill 2007 does not alter what is currently legal and what is currently illegal in relation to under-age drinking.

Selling liquor to a minor remains an offence for any person, as does supplying liquor to a minor on licensed premises. The Liquor Bill 2007 reflects the outcome of the current law, which effectively allows parents, guardians, and persons authorised by a parent or guardian, to supply liquor to a minor outside of licensed premises. It will remain an offence for all other persons to supply liquor to a minor outside of licensed premises. In fact, the under-age drinking laws are being strengthened in the Liquor Bill 2007 through increased penalties for repeat offenders, and for adults who send a minor to licensed premises to obtain liquor. The Liquor Bill 2007 also provides that where an adult seeks to rely upon the fact that he or she is a parent or guardian or was authorised by a parent or guardian to supply liquor to a minor, the burden of proof will fall on the parent or guardian or person so authorised.

This will result in authorised persons needing to be sure they could prove that they have authorisation from a parent or guardian to supply liquor to an under-age person before doing so. It will make the job of enforcing the under-age drinking laws easier for police and inspectors. The Liquor Bill 2007 provides enhanced support for liquor accords. Liquor accords are a cornerstone of the Government's liquor harm minimisation framework. They are also an effective means of addressing local issues in an environment of respect and responsibility. Changes associated with the new regulatory framework allow accords to approach the new authority to have action taken where recalcitrant venues undermine the success of liquor accords. This is supported by provisions that can require compliance with accords arising from a disturbance complaint.

Who can be a party to an accord is more clearly outlined in the law. The Liquor Bill 2007 also makes it clear that accords can include certain terms to eliminate doubts as to what accords can do. The Liquor Bill 2007 will enable the Director of Liquor and Gaming to order that a licensee contribute to costs of implementing a liquor accord. This power will be used where accords first collectively agree to impose membership fees or seek some other financial contribution from accord members to promote or give effect to the accord. It is fair that where a licensee irrespective of whether he or she is a member of the accord gains some benefit from local accord activities, that licensee should make a contribution to the cost of those activities where other accord members are doing so. Decisions of the director under this provision will be reviewable by the Casino, Liquor and Gaming Control Authority.

The Liquor Bill 2007 and the Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Bill 2007 include a new disciplinary process for liquor licences, registered clubs, and gaming-related licences. This new process will facilitate disciplinary action in much the same circumstances as the current liquor, registered clubs, and gaming machines laws. The changes that have been made are necessary given the move from the courts to an administrative-based disciplinary process. The new process will reduce time and costs for all parties. It will facilitate more efficient action against licensees who do not comply with the law, or operate their business in a manner that is against the public interest. The disciplinary provisions in the bills are a key element of these reforms. They will help to ensure the increased liquor licensing opportunities and the flexibility provided by these reforms are not abused by allowing timely action to address problems. However, it is vital that due process is maintained. The bills provide for licensees to be given a fair opportunity to respond to concerns raised by the Director of Liquor and Gaming or the police before action is taken which could result in substantial penalties or, ultimately, suspension or cancellation of a liquor licence. The bills provide that non-casino disciplinary decisions made by the authority will be reviewable by the Administrative Decisions Tribunal. The Liquor Bill 2007 contains savings and transitional provisions that will largely preserve conditions and trading entitlements for existing liquor licensees and clubs. Transitional and savings provisions have been developed to ensure there is the least impact on existing licensed venues as possible. Current trading hours for licensees are not reduced.

Matters that are before the Licensing Court or the Liquor Administration Board when the new laws commence will continue to be dealt with by the court or the board. The transitional provisions provide for a period of time to enable the Liquor Administration Board to deal with existing matters. The period will be prescribed in the liquor regulation. The Liquor Bill 2007 exempts liquor sales to residents of a retirement village and their guests at gatherings held in the village that are not organised or conducted by the village operator. This amendment has been requested by the Retirement Village Residents Association. Elderly retirement village residents will not need to apply for a licence to have a few drinks at their regular social functions. The Liquor Bill 2007 also exempts auctioneers and commuter aircraft operators from having to obtain a liquor licence.

International cruise ships will benefit from an exemption given the difficulties of applying the liquor laws to those vessels, which are usually located within New South Wales waters for a very short time. This exemption will not permit sales to minors, and other requirements can be prescribed. Existing surf club licensing privileges are retained in the Liquor Bill 2007. Surf clubs that wish to hire out their club premises for private functions will be able to apply for an on-premises licence. This will assist surf clubs to make full use of their premises for fundraising purposes. These extra privileges will not override planning and other laws governing the use of surf club premises. They do not allow the operation of public bars.

In addition to the amendments I have already highlighted, the Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Bill 2007 contains a range of consequential amendments to the Casino Control Act, the

Registered Clubs Act, the Gaming Machines Act, and certain other relevant Acts. The Government appreciates that the regulations will be important to the operation of the new liquor licensing regime. While draft regulations have been tabled today, the formal regulations will not be finalised until the Liquor Reform Bill 2007 and cognate bills are considered by this Parliament. It is a general practice of law making that regulations are developed as part of the implementation of a new Act. The new liquor regulation will deal with similar matters to the existing regulation. Although they are important matters, they are generally procedural and administrative in nature. As the new regulation will be a principle statutory rule, the Subordinate Legislation Act requires that it be developed in consultation with stakeholders, and be subject to the full regulatory impact Statement process. There will also need to be consultation with relevant government agencies before it is finalised. I commend the bills to the House.

The Hon. TREVOR KHAN [3.44 p.m.]: I lead for the Opposition in speaking to the Liquor Bill 2007 and in doing so I raise two historical quirks. First, today is the anniversary of the ratification of the twenty-first amendment of the Constitution of the United States of America, which removed prohibition in the United States. So in that sense it is interesting that these bills are being debated today. The second is on a more personal level: My grandfather, who was an alcoholic, died whilst drunk on Gardeners Road, Kingsford. As a result of that tragic event, liquor laws and their consequences for members of the public mean a great deal to me and my family. It is in that context that I wish to read an email I received from a lady about a week ago. It states:

Greetings,

I am emailing you in regard to:

1. The bill.
2. The debate to be held prior to the rise of Parliament in December 2007.

I am emailing all State MPs as you will all be involved in the vote. I am asking you to make sure that liquor is not more readily available to the public than it already is, eg, in cafes. I am wondering how on earth our State Government could even consider the liquor amendment (small bars and restaurants) bill 2007—

That is the term that she uses—

in the light of all the accidents and deaths caused on our roads because of alcohol and because of all the family stress, violence and breakdowns caused by alcohol. I shake my head that our State Government could even discuss making consumption of alcohol even more readily available to members of the public, especially to people who have most likely driven their cars to the café. I have heard that the move is to allow small bars and dining areas to rejuvenate areas in the lanes of the inner city to allow smaller venues to trade. This gets away from the large drinking barn like monopoly of big pub industries. It directs drinking to the more balances and European style premises that can enhance the cultural values of little unused lanes, etc. in the inner city in particular. Low consumption in more cultural ambiance would assist in the control of binge drinking and associated alcohol fuelled violence. I am sorry but I fail to see how any of this makes any different to my concerns raised above. If you intend to vote for this proposal, can you, in all conscience, offer me an explanation please?

I offered an explanation and indicated that I would be voting for the bill. I clearly put on the record now that the Opposition does not oppose these bills. This is the long-awaited omnibus rewrite of the Liquor Act 1982 that follows a white paper and a draft bill two years ago. Subsequently, after the inactivity of the former Minister and the intervention of a State election, this new bill, which is substantially different from the first draft, is presented. The proposed principal objects of the bill are manifold: first, to combine the liquor provisions of the Liquor Act and the Registered Clubs Act, while leaving the Registered Clubs Act to cover matters of clubs governance; second, to abolish the Liquor Administration Board and replace it with the new regulatory authority, the Casino, Liquor and Gaming Control Authority, which would take the place of the existing Casino Control Authority; third, to provide for six categories, as opposed to the current 21, of liquor licences, including a new regime of licensing for small bars and restaurants without poker machines; and, finally, for sundry other purposes such as reform of the planning process, new offences pertaining to liquor, abolishing social impact assessments 1 and 2 and replacing them with community impact statements, reform of wine producer licences and new arrangements for surf clubs and other non-profit sports clubs. I have a continuing membership and interest in the Tamworth Hockey Club, which has received great support not only from the general community but also from the Hon. Christine Robertson.

A hotel licence will apply to premises where the primary purpose is the sale and supply of alcohol. A variety of hotels and bars will be subject to such a licence. However, premises that do not provide gaming or sell takeaway liquor will be able to obtain a special type of hotel licence. Standing trading hours will apply: 5.00 a.m. to midnight, Monday to Saturday; and 10.00 a.m. to 10.00 p.m. on Sunday. Extended trading hours will be subject to the completion of a community impact statement. No trading will occur on Good Friday and Christmas Day, and that is to be applauded.

The second category is the club licence, which will apply to registered clubs. Existing clubs will retain unrestricted trading hours and all other privileges. Newly licensed registered clubs will be subject to community impact statements and to standard trading hour provisions. Extended trading hours will be subject to a community impact statement. The third category is the packaged liquor licence, which will apply to liquor stores selling takeaway liquor. New licences will be subject to community impact statements. Standard trading hours will apply, and

extensions will require a community impact statement. Once again, no sales will be allowed on Good Friday and Christmas Day. The fourth category is the on-premises licence, which will replace existing on-licences for restaurants, motels, theatres, universities, nightclubs, caterers, Governor's licences, vessels and airports.

Following a community impact statement, applicants will be individually assessed by the Casino, Liquor and Gaming Control Authority, and licensing conditions will cover aspects of sales, consumption, responsible service of alcohol and the like. This licence is not for businesses whose primary purpose is the sale of liquor. Standard trading hours will apply and extensions will be permitted. The sale of liquor will be ancillary to another purpose, such as the sale of food in restaurants, but liquor sales without meals can be approved by the authority. An on-premises licence will be available to operate live music and entertainment where alcohol is provided. Clearly, that factor has received considerable support from sections of the community. This form of licence will replace current nightclub and theatre licences, and restrictions applying to those licences will be removed. High impact licence applications will be subject to community impact statements.

The fifth category is the packaged producer-wholesaler licence, which will apply to wine producers, brewers, distillers and wholesalers. It will allow wholesale sales to other licensees. Wine producers will be allowed to conduct chargeable tastings, cellar door sales, and direct sales to the public at wine shows and farmers markets; operate multiple premises in an area and provide consumption on premises as part of a restaurant, motel, event or the like. Wine producers will be able to sell blended wine with a minimum percentage of their wine probably likely to be 75 per cent to 80 per cent. The existing 45-litre limit on cellar door sales will be abolished.

The final category is the limited licence, which will apply to sporting clubs and community functions, as well as significant State and regional events. Existing special arrangements for surf clubs will be maintained, including selling alcohol at functions. Surf clubs will be able to apply for an on-premises licence to sell liquor at private functions on club premises and be able to hire out their premises subject to planning and local government requirements. The on-premises licence will also cater for the traditional coldies social drinks, post games and the like. Clubs that hire out their premises will continue to conduct coldies through the limited licence, subject to the responsible service of alcohol provisions and neighbourhood amenity provisions.

The following matters should be noted. The Casino, Liquor and Gaming Control Authority will be responsible for applications for liquor licences, extended trading hours, penalties and licence suspensions and cancellations. Appeals on non-casino matters will be dealt with by the Administrative Decisions Tribunal. The Director of Liquor and Gaming will determine noise and disturbance complaints, and impose licence conditions. He can also declare lockouts and curfews. Decisions can be reviewed by the authority. Each application will need to be determined for the responsible service of alcohol conditions. Toilet requirements, patron numbers, et cetera, will be determined by local government through the development application process. The current restaurant drink-dining authority will be abolished. That is the old 70-30 rule. The removal of that arcane condition can only be welcomed by all. Liquor accords will access the authority to back up their operations. There will be provisions for continuing self-exclusion programs, however well or otherwise they work, and restricted areas. Such areas will not be limited to indigenous communities.

There will be new offences to reduce antisocial behaviour, supported by on-the-spot fines of \$550, with maximum court penalties of \$5,500. Maximum fines for supplying minors will double for repeat offenders to \$11,000 and/or 12 months in jail. Fines for minors caught in licensed premises or purchasing alcohol will double to \$2,200. There will be expanded powers to ban irresponsible liquor products and promotions. Applications for special event extended trading hours presently requiring legislation will be dealt with by an application, with a community impact statement, to the authority. For small venues, the issues of smoking, the responsible service of alcohol and the like will provide problems, especially where street tables are permitted. The bills are voluminous. They have been presented on what can only be described as short notice. Not available to us are the regulations that will follow from these Acts. As the Opposition spokesman on these matters, George Souris, said in the other place, the devil will be in the detail. As I said, the Opposition does not oppose the bills.

The Hon. DON HARWIN [3.56 p.m.]: I do not propose to go through the bills in detail. In leading for the Opposition, my colleague the Hon. Trevor Khan has done that with great skill. I will simply make some brief remarks about representations that have been made to me. First, I pay tribute to my friend and colleague the Hon. George Souris, member for Upper Hunter, who has done an excellent job analysing this complex legislation, which has gone through the lower House and is before us now. The matter of liquor licensing is complicated and the changes proposed in these bills have generated a considerable range of responses from the community and affected stakeholders. I shall put on the record concerns raised by Commodore Gruzman of the Royal Australian Naval Sailing Association.

The proposed reforms enshrine concessions currently extended to surf life saving clubs in recognition of the important role they play in the community and their reliance upon fundraising activities for revenue. I am sure that no member of this House would quibble with that. The Royal Australian Naval Sailing Association suggests that the same rights and conditions enjoyed by surf life saving clubs under the principle Act should be extended to sailing and yachting clubs. Commodore Gruzman noted that, like surf life saving clubs, sailing and yachting clubs: are largely dependent on social functions to generate revenue to fund safety and rescue facilities, along with

facilities to members. Many smaller sailing clubs are not registered clubs, do not sell takeaway liquor and do not have any gaming machines to fund necessary rescue boats, portable defibrillators and other ancillary rescue equipment.

The Royal Australian Naval Sailing Association is a not-for-profit organisation operated on an entirely voluntary basis. It organises sailing events on the harbour throughout the year, several of which involve members of Sailability, an organisation for sailors with disabilities. The club provides start boats and rescue facilities. Like many such sailing and yachting organisations, the association's premises are leased from the local council, and the terms of the lease prohibit the club from seeking a certificate of registration under the Registered Clubs Act 1976.

The only licence that the club is permitted to hold is an on-premises functions licence, which is limited to 26 functions per annum. Under the reforms proposed in the bill the club would need to lodge an application with the proposed Casino Liquor and Gaming Control Authority in order to increase the number of functions permissible under the terms of the proposed equivalent limited licence. Given that surf life saving clubs and sailing and yachting clubs are organisations that facilitate sporting and recreational activities and provide rescue facilities on a not-for-profit basis through fundraising, they certainly seem to have a case and an argument for similar treatment under the Act. I believe that is worth looking at.

Commodore Gruzman has suggested that sailing and yachting clubs be granted either the same rights and conditions as surf life saving clubs, or a limited licence permitting at least two functions per week, or an on-premises licence to sell liquor and hold private functions at the club premises to cater for the club's own functions. I request the Minister to consider the concerns that have been raised by the sailing association and the recommendations it has made when drafting the regulations over the coming months.

Pursuant to resolution business interrupted and set down as an order of the day for a later hour.

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