

SYDNEY'S NIGHT TIME ECONOMY

Organisation: AusComply Pty Ltd

Date Received: 2 July 2019



NSW Government Submission

2nd July 2019

1300 226 675 | info@auscomply.com.au

AUSCOMPLY PTY LTD. ABN 57 166 510 032

AusComply welcomes the governments review of Sydney's night-time economy and encourages them to use this as an opportunity to invigorate and stimulate the Kings Cross and Sydney precincts through significant amendments to the Lock out Laws.

Mr Paul Newson, Deputy Secretary NSW Department of Industry recently expressed insightful views via LinkedIn.

“

In NSW the regulator has the responsibility of striking a balance between entertainment and the industries' positive contribution to society, and the potential negative impact on people and families – between the encouragement of thriving businesses and the overreach by the worst operators.

Mr Newson clearly understands the need to balance regulation with free enterprise and ideally the ability for regulation to encourage and support a vibrant and profitable industry yet foster safe and enjoyable communities.

AusComply strongly believes a large step forward that regulators can make would be the restoration of industry to self-regulate/manage their RSA responsibilities and the fostering of safe entertainment options. One of the easiest and most readily available ways for regulators to easily differentiate compliant, safe well-run venues from those who actively choose to flaunt the regulations, is through the widespread introduction and adoption of Reg Tech (Regulation Technology). The easiest and most readily available Reg Tech option for the Liquor and Security industries is digital incident registers.

Mr Newson continues to say,

“

When the policy settings are appropriate and the regulator gets it right, business will prosper, and consumers will enjoy vibrant entertainment and be safer.

AusComply believe the ability for regulators to easily identify safe well-run venues is the largest hurdle to progress in this area. Given the size of the industry and sheer volume of stakeholders this can be a daunting challenge.

Regulation technology (Digital Incident Registers) provide both venues and regulators an innate ability to record, review and interrogate contemporaneously recorded legislated and pro-active incidents. In the past manually recorded incidents didn't provide venue owners/operators a realistic

opportunity to extract a business value from their incident reporting. The introduction of Reg Tech to this industry by AusComply has revolutionised this process, turning what many see as a legislative burden, into an effective and very powerful business tool.

Once again Mr Newson recognizes the challenge at hand.

“

Frankly, it's a challenge to get the balance right. What is the tipping point for government intervention? Regulation can be costly and dampen vibrancy and innovation, or interfere with individual and business rights, and constrain individual choices.

RECOMMENDATION 1.

AusComply implores the NSW Government to consider providing venues a full exemption to the current lockouts, if they can readily demonstrate a ***“consistent culture of safety and compliance”*** through good governance, self-management and accurate and timely reporting.

- A number of CBD venues have already adopted advanced Reg Tech through the introduction of AusComply's Digital Incident Register.
- Regulators can be confident these venues have, at their own expense, overtly chosen to improve their systems and processes and therefore their ability to better manage and understand patron behaviour.
- These venues have the ability to easily interrogate and extract their incident data, identify and analyse trends and respond quickly to adverse changes.
- This behaviour should not only be encouraged but rewarded through the removal of their lock-out conditions and resumption of trade at their previous licenced conditions and hours.
- If the government is not prepared to fully remove lock-out conditions it may consider offering these venues a full exemption to the lock-outs under Part 7, Division 2, Clause 101 (1) of the Liquor Regulations.

Removal of lock-out conditions or the establishment of an exemption framework for venues who can demonstrate advanced incident recording, analysis and review would not only foster but encourage venues to establish advanced compliance practices.

RECOMMENDATION 2.

To further encourage and foster a culture of compliance and safety, and to help change the perception of Sydney and Kings Cross as dangerous destinations, AusComply also recommend a voluntary venue/patron safety program.

- The City Safe program uses the concept of a previously very successful community-based program called Neighbourhood Watch.
(Ref Schedule (A) City Safe Presentation)

The NSW Government may view adoption of the City Safe program as an additional indicator of a venue's desire and willingness to promote and engender a safety culture and thus further support the removal/exemption of Lock-out conditions.

To demonstrate the power of data captured by our clients please find below *(Ref Schedule (B) AusComply Statistical Data)* a welter of anonymised data. The data used in this report was extracted from our cloud-based database and has been used to demonstrate the type of data being contemporaneously collected and used to help our customers make better informed decisions.

John Green (AHA NSW Director of Liquor and Policing) recently stated,

“

We see the review as an opportunity to unite the industry across the entire sector — from hospitality, retail, music, theatre, arts and culture, with the relevant government departments to find an holistic solution that creates a new and positive narrative for Sydney's nightlife, and positions us well for the future.

ALIGNMENT WITH REVIEW'S OBJECTIVES

We understand the Joint Select Committee on Sydney's Night-time Economy will inquire and report into Sydney's night time economy, including any measures required to:

1. Maintain and enhance community safety

Encouraging venues to adopt and overtly demonstrate a culture of compliance and safety through changes in the application and enforcement of regulations is the cornerstone of enhancing community safety. Voluntary adoption of these principles has a greater chance of long-term success than over-regulation.

Governments have for some time sought better ways to change existing behaviours and ensure long term social benefits. This concept is supported by the Australian Government through the following informative paper www.apsc.gov.au/changing-behaviour-public-policy-perspective where three main factors drove enquiry.

1. Government cannot solve complex problems alone
2. Improving cost-effectiveness
3. Other benefits from enhancing personal responsibility

In a similar fashion the voluntary full adoption of AusComply's Reg Tech (Digital Incident Register), has allowed our customers to better monitor staff and security performance and the recording of legislated incidents in real time. This advanced capability helps management respond quickly to one off incidents or changes to established trend data. The addition of photographic evidence further enhances response capabilities and options.

2. Maintain and enhance individual and community health outcomes;

Correctly motivated through the promotion of;

1. Competitive pressure and
2. Voluntary adoption of best practice

The Government has the unique opportunity to change the current regulatory environment with long term benefits.

Interestingly an outcome from a 2005 paper entitled,
Voluntary vs. Mandatory Corporate Governance Regulation: Theory and Evidence comments:

www.law.harvard.edu/faculty/hjackson/pdfs/Voluntary%20vs%20Mandatory%20Corporate%20Governance.pdf

“

We document a general increase in the adoption of governance practices following the implementation of a governance regime in which the adoption of governance practices is entirely voluntarily but the disclosure of a firm's practices is mandatory.

Venues now have the ability to identify/understand venue specific trends and compare similar periods. Using a digital incident register enables venue/staff to record, monitor and track key policies and programs, identifying and extracting core trends, that highlights patron and staff behaviour allowing

management to make changes to systems/processes as required to remedy individual or group behaviour/s.

Introduction of the City Safe program and promotion of the use of Reg Tech (Digital Incident Registers), further engages venues and the community to collaborate in establishing safe suburbs and night-time economies.

3. Ensure existing regulatory arrangements in relation to individuals, businesses and other stakeholders, including Sydney's lockout laws, remain appropriately balanced;

As mentioned above, the development of a voluntary compliance framework and the promotion of a community safety program has the ability to balance regulatory and community needs, enhance venue adoption and help regulators readily identify safe well-run operators.

As the tools available to venue operators improves, so does their ability to better service the local community and meet increasing community expectations. At AusComply we see evidence of this through the comments of our customers.

Example:

“

Since introducing AusComply to our business, we've experienced a significant increased the number of events/ incidents recorded including vast improvements in the quantity and quality of data recorded. In fact, use of the system has resulted in more efficient and accurate incident recording and has also proven to reduce our operating costs.

4. Enhance Sydney's night-time economy.

There is no doubt the removal of the Kings Cross and Sydney Lock-out laws would have a significant positive effect on the night-time economy. If for no other reason than an increase to trading hours and patron foot traffic to the precincts. We understand the NSW Government seeks to strike a balance between boosting the night-time economy without compromising community safety and maintaining the trending reduction in non-domestic related alcohol fuelled violence.

AusComply strongly encourages the Government to adopt a carrot rather than stick approach to amending the current legislation. Properly motivated and guided this industry has the ability and willingness to self-govern and manage their operations.

SCHEDULES

(A) *City Safe presentation*

(B) *AusComply Statistical Data*

Schedule (B) - AusComply Statistical Data

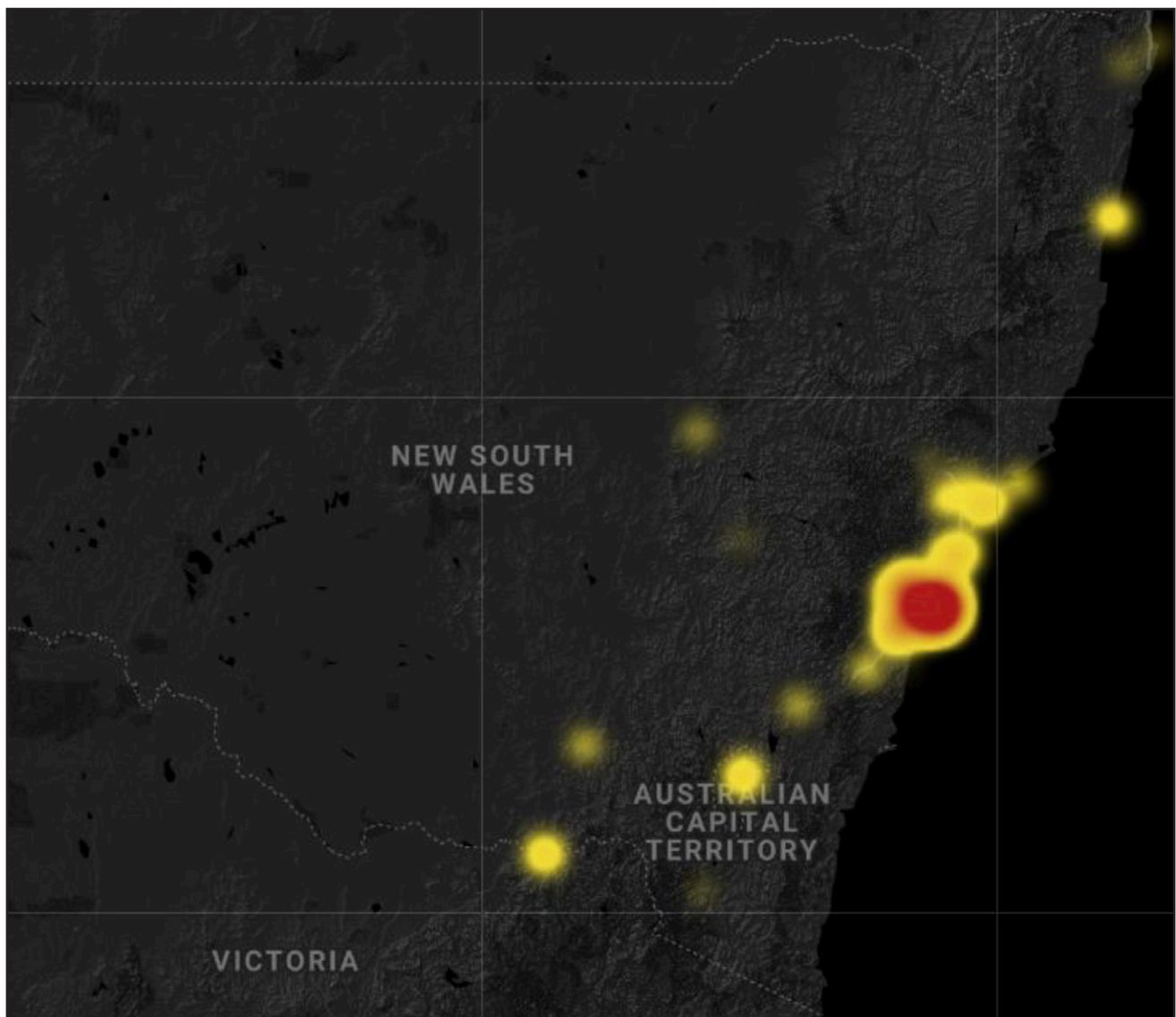


Figure 1 – 10,000 ft View

Proactive and reactive incident coverage across New South Wales, Queensland and Australian Capital Territory.
AusComply is able to view data at a national or state

Schedule (B) - Continued

Number of Incidents (Statewide)

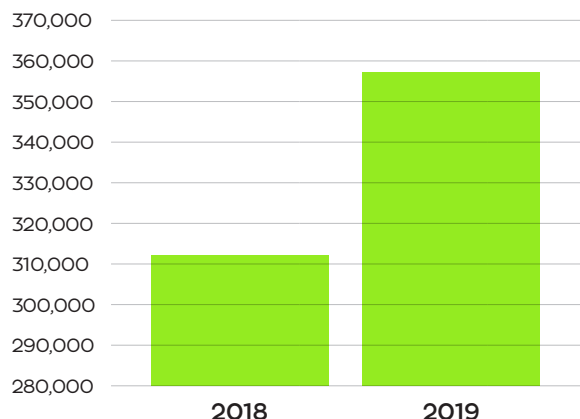


Figure 2 - Comparison of incidents recorded in AusComply database (NSW) 2018-2019

We are observing a significant up-take of digital incident register subscriptions and subsequent use by clients and as expected a significant growth of recorded data. Data shows an increase of 15% over 18 months.

Pro-activity (Statewide)

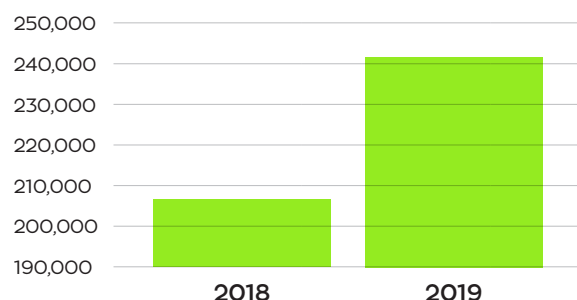


Figure 3 - Comparison of proactive incidents recorded in AusComply database (NSW) 2018-2019

Venues and security firms are increasingly adding proactive measures into their plan of management and then recording the actions as they are performed. This last 18 months has seen an increase of 14.8%

Refusals (Statewide)

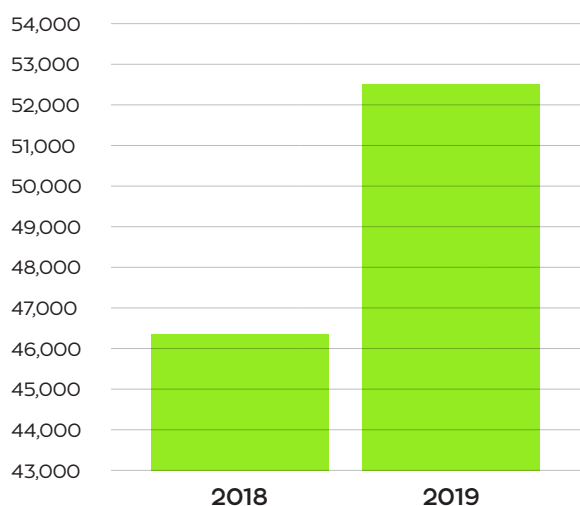


Figure 4 - Comparison of refusals recorded in AusComply database (NSW) 2018-2019

When using AusComply, most security and venue staff record all refusals as a standard practice without the fear of churning through an inordinate number of books. This is becoming a systemic directive from management with the trend showing an increase of 13.4% over last year.

Removals (Statewide)

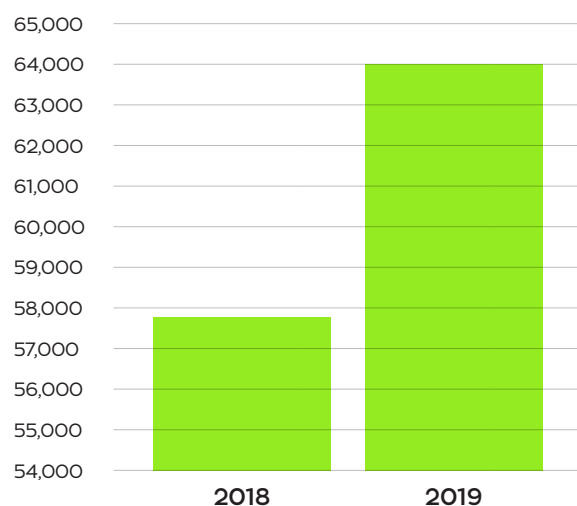


Figure 5 - Comparison of removal incidents recorded in AusComply database (NSW) 2018-2019

Venues are becoming increasingly vigilant in exercising their RSA responsibilities. 2019 showing an increase of 10.5% over the same period last year.

Schedule (B) - Continued

RSA Walk Through's (Statewide)

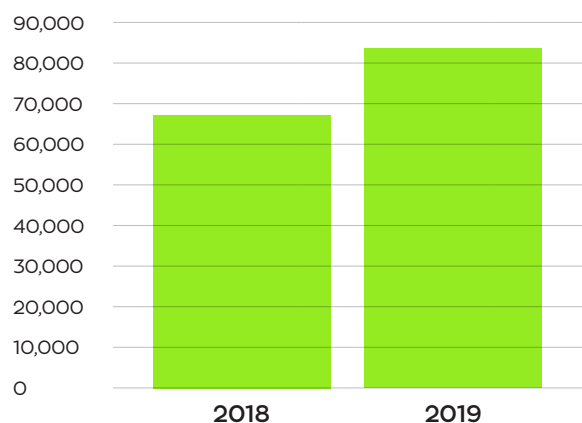


Figure 6 - Comparison of RSA Walk Throughs recorded in AusComply database (NSW) 2018-2019

Venues are again showing increased diligence in recording their pro-active RSA activities and thus overtly demonstrating their culture of compliance with an increase of 18.8% on the same period last year.

Police Walk Through's (Statewide)

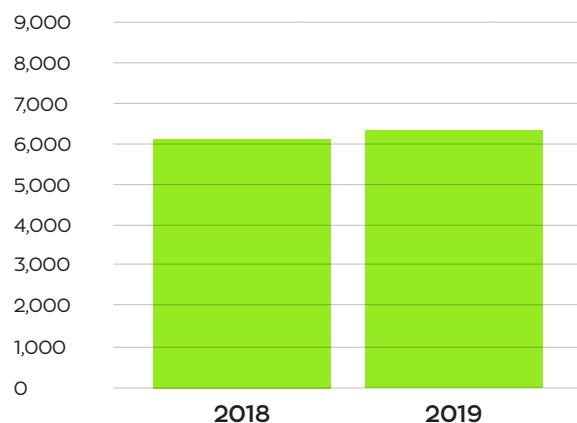


Figure 7 - Comparison of NSW Police Walk Throughs recorded in AusComply database (NSW) 2018-2019

NSW Police business inspections are being consistently conducted across NSW venues with only minimal variance.

Removals (CBD)

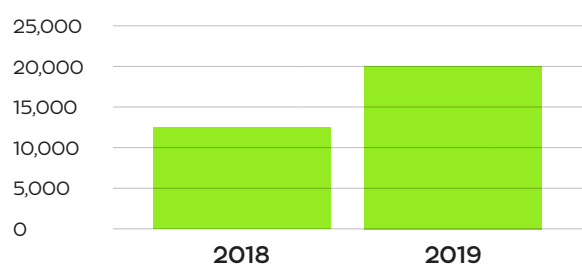


Figure 8 - Comparison of removals in Sydney CBD recorded in AusComply database (NSW) 2018-2019

Removals increased by 53.8% over the 18 month period a dramatic increase on the state average and reflective of venues in the CBD demonstrating their willingness to record adherence to the regulations.

RSA Walk Through's (CBD)

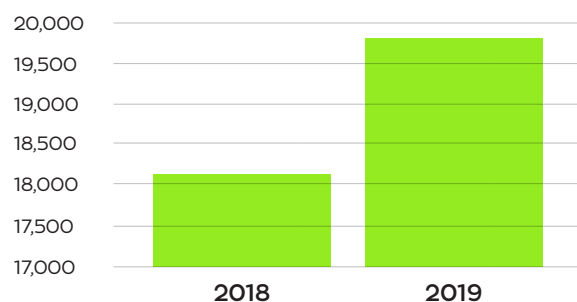


Figure 9 - Comparison of RSA Walkthroughs in Sydney CBD recorded in AusComply database (NSW) 2018-2019

RSA Walkthroughs increased by 9.3% over the same period, a reduction on the state average. This is likely due to a number of factors, including reductions in foot traffic (patrons) and an increased vigilance on refusals at the door providing for a more consistent approach inside.

Schedule (B) - Continued

Police Walk Through's

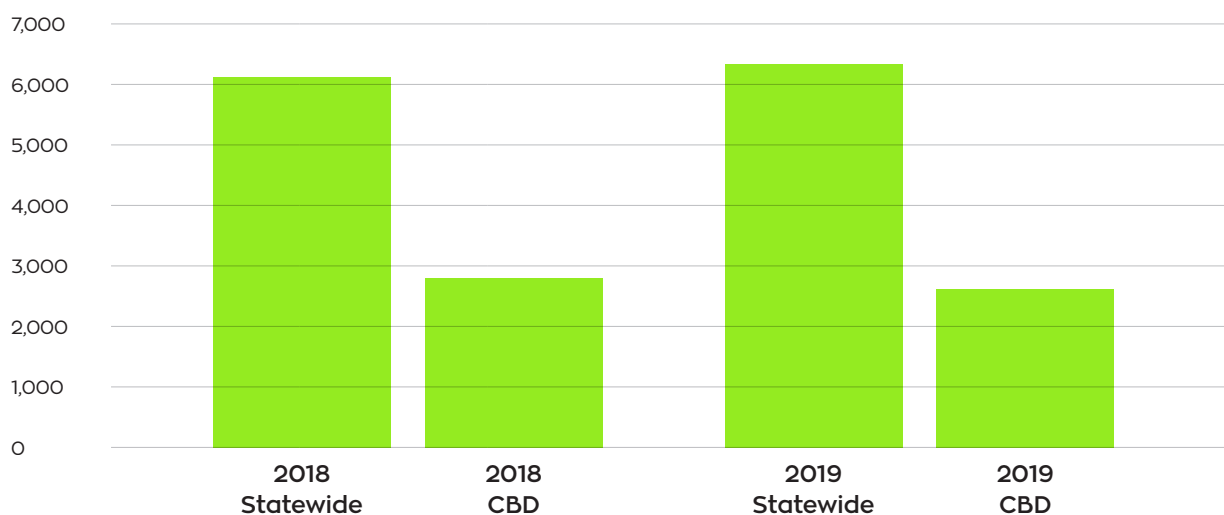


Figure 10 - Comparison of number of Police Walkthroughs recorded in AusComply database (NSW) 2018-2019

Interestingly when comparing Police walkthroughs or business inspections, comparisons statewide show an increase in police attention however a decrease in the CBD. It could be assumed that a reduction in police attention to licensed venues is reflective of two things: **1.** the reduction in non-domestic alcohol fueled violence and **2.** the improved behavior and performance of CBD venues.

CITY SAFE

Lockout Options CBD & Kings Cross Precinct



POWERED BY  **MUSCOMPLY**
MOBILE COMPLIANCE SOLUTIONS

Three Part Plan

Step 1

Develop a Framework

- The framework should fulfil the current objectives of the Liquor Act
- Engender collaboration between Venues & Regulators
- Minimise additional burdens on venues. (Simplify the process)
- Demonstrate a culture of compliance & safety

Three Part Plan

Step 2

Develop a "Sydney Safe Project"

- Agreement on three basic steps
 1. Provide Safe Refuge
 2. Contact Lift (Taxi, Uber, Loved one)
 3. Call Emergency Services
- Marketing/Signage
- Local Government Engagement

Three Part Plan

Step 3

Applications - Venues Apply for Lock-out Removal / Exemption

- Apply format?
- Communicate criteria to venues
- Staged roll out
- Promote Sydney Safe Concept
- Monitor & Review

Benefits of a Digital Incident Register

- Quickly and easily find, review and analyse your data
- Apply trend analysis to determine the effectiveness of different strategies
- Demonstrate a "Culture of Compliance"
- Record incidents in "Real time".
Contemporaneously capture data
- Add photo's, CCTV etc
- Primary evidence gathering tool.
- Supports crime scene preservation
- Easily recall and forward incidents to regulators.
(Transparent operations)

Reduces risk profile:

- Capture legislative and non legislative issues
- CCTV checks
- Perimeter patrols
- Head counts
- Changes in decision
- Toilet checks
- Etc...



L&G's Words Support this Proposal

Maintaining an incident register at all times should give you a better understanding of events that may affect the safety of your venue and patrons.

It will also help you to develop appropriate strategies to reduce the risk of alcohol-related violence and anti-social behaviour at your venue.

We encourage all licensees to maintain an incident register. They are a useful compliance tool, and can be part of your venue's responsible practice.

Why do I need an incident register?

A register allows you to retain details of incidents that involve:

- Violence on your premises
- Anti-social behaviour in your venue or its immediate vicinity
- People being removed from your premises under section 77 of the Liquor Act 2007
- Someone needing medical treatment.

Objectives of the Liquor Act

Liquor Act 2007 No 90

Current version for 1 June 2019 to date (accessed 2 July 2019 at 00:41) Part 1

Section 3

3 Objects of Act

(1) The objects of this Act are as follows:

- (a)** to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
- (b)** to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
- (c)** to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.

(2) In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:

- (a)** the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),
- (b)** the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
- (c)** the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

City Safe Project

- Can be tailored to different cities
- Promotes a formal structure around safe venues
- Promotes that compliant venues are/can be safe zones
- The intent of our program is one of safety first
- This is a good news strategy many different groups are likely to endorse and associate themselves with.
- Is best driven by local entities ie. Local Councils, business groups and communities
- Provides a simple framework for venues to follow
- Easily Identifiable and duplicate able around the state.
- Modelled after a previously successful safety strategy, neighbourhood watch.
- Generally only venues are open late enough to provide safe refuge



Does the law allow for an exemption? Sydney CBD

Liquor Regulation 2018

Current version for 1 June 2019 to date (accessed 2 July 2019 at 00:44) Part 7 Division 2

Exemptions from special licence conditions

Sec 101 Exemptions on application by licensee of subject premises (cf 2008 reg cl 53Q)

- (1) The Secretary may, on application by the licensee of subject premises and payment of a reasonable fee, exempt the licensee, by order in writing served on the licensee, from any provision of Division 1.
- (2) The Secretary may grant an exemption under this clause only if the Secretary is satisfied that:

 - (a) the exemption is unlikely to result in an increase in the level of alcohol-related violence or anti-social behaviour or other alcohol-related harm in the prescribed precinct in which the subject premises are situated, and
 - (b) measures other than the specified condition to which the exemption relates are in place on the subject premises and that such measures will be effective in reducing the risk of alcohol-related violence or anti-social behaviour on or about the subject premises.
- (3) An exemption under this clause may, if the relevant order so provides, apply in relation to a specified part of the subject premises concerned.
- (4) An application for an exemption under this clause must be in the form and manner approved by the Secretary.
- (5) An order under this clause may be varied or revoked by the Secretary by a subsequent order in writing served on the licensee concerned.

City Safe Program Is there Legislative Support?

Sec 77 Non-voluntary exclusion of persons from licensed premises (Liquor Act 2007)

(8) A person who has been refused admission to, or turned out of, licensed premises in accordance with this section because the person was intoxicated, violent, quarrelsome or disorderly, must not, without reasonable excuse:

- (a) remain in the vicinity of the premises, or
- (b) re-enter the vicinity of the premises within 6 hours of being refused admission or being turned out.

Maximum penalty: 50 penalty units.

(9) Without limiting subsection (8), a person has a reasonable excuse for remaining in, or re-entering, the vicinity of the licensed premises if:

- (a) the person reasonably fears for his or her safety if he or she does not remain in, or re-enter, the vicinity of the premises, or
- (b) the person needs to remain in, or re-enter, the vicinity of the premises in order to obtain transport, or
- (c) the person resides in the vicinity of the premises.

(10) In the prosecution for an offence under subsection (8), the burden of proving that a person had a reasonable excuse for remaining in, or re-entering, the vicinity of the licensed premises concerned is on the person charged.

CITY SAFETM

POWERED BY  **MUSCOMPLY**TM
MOBILE COMPLIANCE SOLUTIONS