

SALE OF LIQUOR AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill alters the minimum age at which minors may drink or be supplied with liquor in licensed premises from 21 to 20, increases the fines to which the minor is liable for a breach of the relevant section from \$20 to \$50, and makes several other amendments related to the supply of liquor to minors or its consumption by them.

Clause 1 is the Short Title.

Clause 2: Under section 259 of the principal Act it is an offence for a licensee to supply liquor, or allow it to be supplied, on or from any licensed premises, to a person under 21. It is also an offence for anyone other than the licensee or manager to supply liquor, on or from any licensed premises, to a person under 21. It is a defence in either case to prove that the person supplying the liquor believed on reasonable grounds that the recipient was 21 or more.

It is also an offence under the section for a person under 21 to purchase or consume or be found in possession of liquor on licensed premises, or to be found in a bar. The offences of purchasing or consuming or being found in possession of liquor on licensed premises do not apply where the liquor is supplied as part of a meal and the recipient is 18 or over, or is accompanied by his adult spouse or by his parent; but there is no exception to the offence of being found in a bar.

Subclause (1) of this clause rewrites section 259 so as to alter all references to the age of 21 to references to the age of 20; to give a further defence to licensees, managers, and barmen in certain cases; to increase the fines to which persons under 20 are liable; and to allow a married person to be in a bar with his or her spouse if the spouse is a lodger of or over the age of 20. Apart from the change of age, the amendments are dealt with in the following notes relating to the separate subsections of the new section 259.

Subsections (1) and (2) re-enact the present subsections (1) and (2), as to the liability of licensees, managers, and other persons.

Subsection (3) re-enacts the present subsection (3), except for the insertion of the word "actually" before the word "supplying". This is declaratory of the law as laid down by the Court of Appeal in *Gifford v. Police* [1965] N.Z.L.R.484, where the Court, in affirming the vicarious liability of a licensee or manager for the act of a barman selling to a minor, held that the only defence open to the licensee or manager was to satisfy the Court that the barman believed on reasonable grounds that the person to whom he supplied the liquor was of full age.

Subsection (4) is new. It deals with the case where liquor is bought by one person (for example, on behalf of a group), and then the liquor or some of it is given by him to a person under age. The effect of the subsection is that where liquor is supplied on licensed premises to a person who is, or is believed by the supplier on reasonable grounds to be, 20 or more, and that person then supplies it, or part of it, to another who is under that age, neither the licensee or manager nor a barman who actually supplied the liquor in the first instance is guilty of an offence unless the Court is satisfied that the barman knew or had reasonable cause to believe that the liquor or part of it was intended for a person under 20.

Subsection (5) re-enacts in one subsection the present subsections (4) and (4A), dealing with the minor who purchases or consumes or is found in possession of liquor on licensed premises. The fine is increased from \$20 to \$50; and in paragraph (a) "spouse" is substituted for "wife" to cover the case of a female licensee or manager.

Subsection (6) re-enacts the present subsection (5). It exempts a minor from the foregoing provisions if the liquor is supplied as part of a meal and the minor is 18 or more, or is accompanied by his spouse aged 20 or more or by his parent.

Subsection (7) re-enacts the present subsection (6). It exempts from subsections (1) to (5) the spouse or any member of the family of the licensee or manager, and also the spouse of a 20-year-old lodger.

Subsection (8) re-enacts the present subsection (7), dealing with minors found in bars, but makes two amendments. The fine to which the minor is liable is increased from \$20 to \$50; and a new paragraph (c) has been added, exempting a person under 20 from the subsection if he is accompanied by his spouse and the spouse is a lodger aged 20 or more.

Subsection (9) re-enacts the present subsection (8), authorising the Police and certain other persons to require particulars of the age, name, and address of a person appearing to be under 20 who is found in a bar. A reference to the "spouse" of a licensee or manager has been substituted for a reference to the "wife", to cover the case of a female licensee or manager.

Subsection (10) re-enacts the present subsection (9), and authorises the Police to caution a person refusing to give his name and address when required to do so, and to arrest him if he persists in the refusal. The words "his name" have been substituted for "a name", in order to bring the subsection into line with subsection (11) (below).

Subsection (11) re-enacts the present subsection (10), which makes it an offence for a person to fail to give particulars of his age, name, and address when required under the section to do so, or to give false particulars or supply false evidence.

Subclause (2) of clause 2 consequentially repeals the existing amendments to section 259; and *subclause (3)* consequentially amends a cross-reference in section 14A of the Government Railways Act 1949.

Clause 3: Under section 261 of the principal Act it is an offence to send a person under 21 to licensed premises for liquor. This clause alters the age to 20.

Clause 4: Section 187 (4) (b) of the principal Act provides that a licensee or manager shall not without reasonable cause refuse to supply liquor to any person in a public bar. This clause makes express provision that it is lawful for him or his employee or agent to refuse to supply liquor to a person whom he believes may be under 20, unless he has no reasonable grounds for that belief.

Clause 5: Section 191 of the principal Act prohibits the employment of a person under 21 in any capacity in a bar, unless he is only preparing or serving meals and is not selling or serving liquor. This clause makes two amendments. It alters the age to 20; and it also exempts the employment of a person taking part as a performer in a musical entertainment (if he is not selling or serving liquor). Musical entertainments on licensed premises were made lawful by an amendment to section 202 of the principal Act, made by section 20 of the Sale of Liquor Amendment Act 1964.

Clause 6: Section 192 of the principal Act prohibits the employment or service in any capacity in a bar of a female under 25, except the wife, sister, or daughter of the licensee or manager or a female licensee or manager. This clause brings the section into line with section 191 (as amended by *clause 5*) by exempting the employment of a female taking part in the preparation or service of meals, or as a performer in a musical entertainment, if she is not selling or serving liquor.

Clause 7: Section 3E (2) of the Police Offences Act 1927 makes it an offence punishable by a fine not exceeding \$100 for a person under 21 to drink liquor in any public place (other than licensed premises) within the meaning of section 40 of that Act, or to have in his possession or control there any liquor intended for consumption in the public place; but this does not apply where the person is accompanied by his or her spouse or by a parent or guardian or other person acting in the place of a parent. This clause alters the age to 20.

Right Hon. Mr Marshall

SALE OF LIQUOR AMENDMENT

ANALYSIS

Title	4. Refusal to supply liquor to minors
1. Short Title	5. Employment of minors in bars
2. Supply of liquor to minors	6. Employment of females in bars
3. Sending minors for liquor	7. Drinking by minors in public places

A BILL INTITULED

An Act to amend the Sale of Liquor Act 1962

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. Short Title—This Act may be cited as the Sale of Liquor Amendment Act 1969, and shall be read together with and deemed part of the Sale of Liquor Act 1962* (hereinafter referred to as the principal Act).

10 **2. Supply of liquor to minors**—(1) The principal Act is hereby amended by repealing section 259, and substituting the following section:

15 “259. (1) Every person commits an offence and is liable to a fine not exceeding \$20 who, being the holder of a licence of any description under this Act, or the holder of a brewer’s licence under the Finance Act 1915, or a manager, supplies

* 1962, No. 139

Amendments: 1963, No. 114; 1964, No. 55; 1965, No. 70; 1967, No. 6; 1967, No. 34; 1968, No. 106

any liquor, or allows it to be supplied, on or from any licensed premises, whether by sale or otherwise, to any person who is under the age of 20 years.

“(2) Where on any licensed premises any person other than the licensee or manager supplies liquor to any person who is under the age of 20 years he commits an offence and is liable to a fine not exceeding \$20, irrespective of any liability that may attach to the licensee or manager in respect of the same offence. 5

“(3) It shall be a defence to a charge under subsection (1) or subsection (2) of this section to prove that the person actually supplying the liquor believed on reasonable grounds that the person to whom he supplied it was of or over the age of 20 years. 10

“(4) Where, on or from any licensed premises,— 15

“(a) The holder of any such licence as aforesaid or a manager or any other person supplies liquor to a person who is, or is believed by him on reasonable grounds to be, of or over the age of 20 years; and

“(b) The last-mentioned person then supplies the liquor, or part of it, to another person who is under that age— 20

neither the licensee or manager (whether the liquor was actually supplied in the first instance by him or by any other person) nor the person who actually supplied it in the first instance shall be guilty of an offence against subsection (1) or subsection (2) of this section unless the Court is satisfied that the person who actually supplied the liquor in the first instance then knew, or had reasonable cause to believe, that the liquor or part of it was intended for a person under the age of 20 years. 25 30

“(5) Every person commits an offence and is liable to a fine not exceeding \$50 who, being under the age of 20 years,—

“(a) Purchases any liquor from the holder of any such licence as aforesaid, or from a manager, or from the spouse or employee or agent of the holder of any such licence as aforesaid or of the manager; or 35

“(b) Consumes or is found in possession of any liquor on any licensed premises.

“(6) Nothing in subsections (1) to (5) of this section shall apply to the supply of liquor to or its purchase or consumption or possession by any person if the liquor is supplied to that person for consumption by him as part of a meal of which he is partaking on the premises in accordance with this Act, and that person — 40 45

“(a) Is of or over the age of 18 years; or

“(b) Is accompanied by his spouse (being a person of or over the age of 20 years) or by his parent.

5 “(7) Nothing in subsections (1) to (5) of this section shall apply to the supply of liquor to, or its purchase or consumption or possession by—

“(a) The spouse or any member of the family of the licensee or manager; or

10 “(b) The spouse of a lodger, if the lodger is of or over the age of 20 years.

“(8) Every person commits an offence and is liable to a fine not exceeding \$50 who, being under the age of 20 years, is found in any bar of any licensed premises, unless—

15 “(a) He is an employee or agent of the licensee, or a person acting under any contract with the licensee or manager, who with the authority of the licensee or manager is in the bar for the purpose of cleaning, repairing, maintaining, altering, or restocking the bar or any equipment therein, or removing or replacing any such equipment, or stocktaking, or checking cash in the bar or removing it therefrom; or

20 “(b) His presence in the bar is in accordance with the proviso to subsection (1) of section 191 of this Act; or

25 “(c) He is accompanied by his spouse, being a lodger of or over the age of 20 years.

“(9) Where any person appearing to be under the age of 20 years—

30 “(a) Requests the supply of any liquor to him; or

“(b) Is found consuming or in possession of any liquor on any licensed premises; or

35 “(c) Is found in any bar of any licensed premises—any member of the Police, or the licensee or manager to whom the request is made, or the licensee or manager of the licensed premises where that person is so found, or the spouse or any employee or agent of any such licensee or manager as aforesaid, may demand particulars of that person’s age, name, and address. If there is reasonable ground to suppose that any
40 particulars so given by him are false, the person demanding the particulars may require him to supply satisfactory evidence of the correctness thereof.

“(10) If any person refuses to give his name and address on being required to do so under this section, any member of the Police may caution him and, if he persists in such refusal, may arrest him without warrant.

“(11) Every person commits an offence who, being required under this section to give particulars of his age, name, and address, fails to give those particulars, or gives any false particulars, or supplies any false evidence with respect thereto.” 5

(2) The following enactments are hereby consequentially repealed, namely: 10

(a) Section 22 of the Sale of Liquor Amendment Act 1964:

(b) Section 19 of the Sale of Liquor Amendment Act 1965.

(3) Section 14A of the Government Railways Act 1949 (which was inserted by section 2 (1) of the Government Railways Amendment Act 1968) is hereby amended by omitting from subsection (3) the words “(except subsection (7))”, and substituting the words “(except subsection (8))”. 15

3. Sending minors for liquor—Section 261 of the principal Act is hereby amended by omitting the words “twenty-one years”, and substituting the words “20 years”. 20

4. Refusal to supply liquor to minors—Section 187 of the principal Act is hereby amended by adding to paragraph (b) of subsection (4) the following proviso:

“Provided that it shall be lawful for the licensee or manager, or the spouse or any employee or agent of the licensee or manager, to refuse to supply liquor to any person if he believes that the person may be under the age of 20 years, unless he has no reasonable grounds for that belief.” 25

5. Employment of minors in bars—Section 191 of the principal Act is hereby amended— 30

(a) By omitting from subsection (1) the words “twenty-one years”, and substituting the words “20 years”:

(b) By inserting in the proviso to subsection (1), after the words “equipped for the service of meals”, the words “, or taking part as a performer in any musical entertainment,”. 35

6. Employment of females in bars—Section 192 of the principal Act is hereby amended by inserting at the beginning of subsection (1), before the words “No female”, the words “Except in cases to which the proviso to subsection (1) of
5 section 191 of this Act applies,”.

7. Drinking by minors in public places—Section 3E of the Police Offences Act 1927 (which was inserted by section 3 (1) of the Police Offences Amendment Act (No. 2) 1960) is hereby amended by omitting from subsection (2) the words
10 “twenty-one years”, and substituting the words “20 years”.