



HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 27 July 1999

SALE OF LIQUOR AMENDMENT (NO. 2)

Proposed Amendments

Dr WAYNE MAPP, in Committee, to move the following amendments:

New clause 70A inserted: To insert, after clause 70 (after line 23 on page 32), the following clause:

70A. Suspension or cancellation of licences by Licensing Authority in respect of certain offences—The principal Act is amended by inserting, after section 132, the following section:

“132A. (1) This section applies in respect of an offence committed—

“(a) By a licensee or manager against section 155 (1), section 165, section 166 (1), or section 167; or

“(b) By a person (not being a licensee or manager) against section 155 (2) or section 166 (2).

“(2) A member of the Police must, immediately after the licensee or manager or person has been convicted of the offence, send a report to the Licensing Authority.

“(3) The report must include—

“(a) A certificate of the conviction from the Registrar of the court concerned; and

“(b) A summary of the evidence on which the conviction was based; and

“(c) A statement by the Police as to whether or not the licensed premises concerned have been conducted in breach of any other provisions of this Act or of any conditions of the licence or otherwise in an improper manner and, if so, a statement

“(d) A statement by the Police as to whether or not the conduct of the licensee is such as to show that the licensee is not a suitable person to hold the licence and, if so, a statement of the circumstances; and

“(e) A recommendation by the Police as to whether the licence of the licensee should be suspended or cancelled; and

“(f) The reasons for the recommendation.

“(4) Immediately after receiving the report, the Licensing Authority must consider it.

“(5) If, after considering the report, the Licensing Authority considers that it should hold a public hearing into whether the licence held by the licensee should be suspended or cancelled, the Secretary must—

“(a) Advise the licensee accordingly; and

“(b) Send a copy of the report of the Police to the licensee; and

“(c) Fix the earliest practicable date for a public hearing of the matter; and

“(d) Give at least 10 working days’ notice of the date, time, and place of the hearing to the Police and the licensee.

“(6) At the hearing, the Police and the licensee (whether personally or by counsel),—

“(a) Are entitled to appear and be heard; and

“(b) May call, examine, and cross-examine witnesses.

“(7) A certificate of the conviction included in the report of the Police under **subsection (3) (a)** is conclusive evidence that the licensee or manager or person committed the offence referred to in the certificate.

“(8) At the conclusion of the hearing, the Licensing Authority may make an order under **subsection (9)** if it is satisfied that—

“(a) The licensed premises concerned have been conducted in breach of the provisions of this Act or of any conditions of the licence or otherwise in an improper manner; or

“(b) The licensee is not a suitable person to hold a licence; and

“(c) In either case, it is desirable to make an order under that subsection.

“(9) An order made under this subsection is an order to—

“(a) Suspend the licence for such period, not exceeding 6 months, as the Licensing Authority thinks fit; or

“(b) Cancel the licence.

“(10) Instead of making an order under **subsection (9)**, the Licensing Authority may adjourn the hearing for such period as it thinks fit to give the licensee an opportunity to remedy any matters that the Licensing Authority may

Clause 74: To insert, after *subclause (1)* (after line 8 on page 33), the following subclauses:

(1A) Section 155 (1) of the principal Act is amended by omitting the words “a fine not exceeding \$5,000”, and substituting the words “the penalty set out in **subsection (1A)**”.

(1B) Section 155 of the principal Act is amended by inserting, after subsection (1), the following subsection:

“(1A) The penalty is,—

“(a) In the case of a manager, a fine not exceeding \$5,000:

“(b) In the case of licensee,—

“(i) A fine not exceeding \$5,000; or

“(ii) The suspension of the licensee’s licence for a period not exceeding 7 working days; or

“(iii) Both.”

New clause 84A inserted: To insert, after *clause 84* (after line 9 on page 36), the following clause:

84A. Unauthorised sale or supply—(1) Section 165 of the principal Act is amended by omitting the words “a fine not exceeding \$10,000”, and substituting the words “the penalty set out in **subsection (2)**”.

(2) Section 165 of the principal Act is amended by adding the following subsection:

“(2) The penalty is,—

“(a) In the case of a manager, a fine not exceeding \$10,000:

“(b) In the case of a licensee,—

“(i) A fine not exceeding \$10,000; or

“(ii) The suspension of the licensee’s licence for a period not exceeding 7 working days; or

“(iii) Both.”

New clauses 85A and 85B inserted: To insert, after *clause 85* (after line 18 on page 36), the following clauses:

85A. Sale or supply of liquor to intoxicated person—

(1) Section 166 (1) of the principal Act is amended by omitting the words “a fine not exceeding \$5,000”, and substituting the words “the penalty set out in **subsection (4)**”.

(2) Section 166 (2) of the principal Act is amended by omitting the words “a fine not exceeding \$1,000”, and substituting the words “the penalty set out in **subsection (4)**”.

(3) Section 166 of the principal Act is amended by adding the following subsection:

“(4) The penalty is,—

“(a) In the case of a manager, a fine not exceeding \$5,000:

“(b) In the case of a licensee,—

“(i) A fine not exceeding \$5,000; or

“(ii) The suspension of the licensee’s licence for a period not exceeding 7 working days; or

“(iii) Both:

“(c) In the case of a person (not being a licensee or manager), a fine not exceeding \$1,000.”

85B. Allowing person to become intoxicated—

(1) Section 167 of the principal Act is amended by omitting the words “a fine not exceeding \$5,000”, and substituting the words “the penalty set out in **subsection (2)**”.

(2) Section 167 of the principal Act is amended by adding the following subsection:

“(2) The penalty is,—

“(a) In the case of a manager, a fine not exceeding \$5,000:

“(b) In the case of a licensee,—

“(i) A fine not exceeding \$5,000; or

“(ii) The suspension of the licensee’s licence for a period not exceeding 7 working days; or

“(iii) Both.”

EXPLANATORY NOTE

The amendments in this Supplementary Order Paper require the Police to send a report to the Liquor Licensing Authority about every conviction for selling or supplying liquor to a person under the minimum drinking age. If the Authority, after considering a report, considers that it should hold a public hearing into whether the licence held by the licensee should be suspended or cancelled, the Authority must hold a public hearing. If, at the conclusion of the hearing, the Authority is satisfied that the licensed premises concerned have been conducted in breach of the provisions of the principal Act or of any conditions of the licence or otherwise in an improper manner or the licensee concerned is not suitable to hold a licence, it may suspend or cancel the licence of the licensee.

The amendments also give a court convicting a licensee of certain offences (including selling or supplying liquor to a person under the minimum drinking age) the power, by way of penalty, to suspend the licence of the licensee for a period not exceeding 7 working days.