



HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 24 August 1999

SALE OF LIQUOR AMENDMENT BILL (NO. 2)

Proposed Amendments

[The amendments set out below give effect to the decisions of the Committee of the Whole House made on 27 July 1999. Technical amendments to the Bill are set out in Supplementary Order Paper No. 205.]

Hon TONY RYALL, in Committee, to move the following amendments:

Clause 2: To omit *subclause (1)* (lines 10 to 15 on page 3).

Clause 3: New section 2A: To add, after *subsection (2) (b)* (after line 5 on page 4), the following paragraph:

“(ba) A driver licence issued under the Land Transport Act 1998; or”.

To insert in *subsection (2) (c)*, after the words “issued by a” (in line 6 on page 4), the word “specified”.

To omit from *subsection (3)* the words “the term ‘prescribed’ means prescribed by the Minister by notice in the *Gazette*.” (in lines 9 and 10 on page 4), and substitute the following paragraphs:

“(a) The term ‘prescribed’ means prescribed by the Minister by notice in the *Gazette*:

“(b) The term ‘specified’ means specified by the Minister by notice in the *Gazette*.”

Clause 4: To omit this clause (which appears on page 4).

Clause 5: To omit *subclause (2)* (line 13 on page 5).

Clause 7: To omit *subclause (3)* (line 1 on page 6).

Clause 13: New section 14 (2): To insert, after the words “Good Friday” (in line 9 on page 8), the words “, Easter Sunday,”.

Clause 24: To omit *subclauses (3) and (4)* (lines 22 to 24 on page 17).

Clause 30: To omit this clause (which appears on page 19).

Clause 31: To omit from *subclause (1)* the expression “to (3)” (in line 20 on page 19), and substitute the expression “and (1A)”.

To insert in the *new section 37 (1)* in *subclause (1)*, after the words “Good Friday” (in line 23 on page 19), the words “, Easter Sunday,”.

To insert, after *subclause (1)* (after line 23 on page 19), the following subclause:

(1A) Section 37 (3) of the principal Act is amended by adding to paragraph (e) the expression “; and”, and adding the following paragraph:

“(f) Beer that conforms to the standard prescribed by regulation 218 of those regulations, or any other standard that may be set, by regulations made under the Food Act 1981 or by food standards issued under that Act, in substitution for that standard.”

To omit *subclause (4)* (lines 31 and 32 on page 19).

Clause 39: To omit this clause (which appears on page 22).

Clause 43: To omit this clause (which appears on page 23).

Clause 45: To omit the words “or to the holder of a club licence,” (in line 14 on page 23).

Clause 46: To omit *subclause (2)* (line 19 on page 23).

Clause 52: To omit this clause (which appears on page 24).

Clause 53: New section 91 (a) and (b): To omit from *paragraph (a)* the words “and off-licences” (in line 25 on page 24), and substitute the words “, off-licences, and club licences”.

To omit from *paragraph (b)* the words “and off-licences” (in line 29 on page 24), and substitute the words “, off-licences, and club licences”.

Clause 56: New section 100 (a) and (b): To omit from *paragraph (a)* the words “and off-licences” (in line 40 on page 25), and substitute the words “, off-licences, and club licences”.

To omit from *paragraph (b)* the words “and off-licences” (in lines 1 and 2 on page 26), and substitute the words “, off-licences, and club licences”.

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 of the circumstances; and

“(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 require to be remedied within the period.”

Clause 71: To omit this clause (which appears on page 32).

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 (2A)**”.

(1B) Section 155 (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 (2A)**”.

(1C) Section 155 of the principal Act is amended by inserting, after subsection (2), the following subsection:

“(2A) The penalty is,—

“(a) 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 days; or

“(iii) Both:

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

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

Clause 76: New section 157: To omit the words “sale or” (in line 23 on page 33).

To omit the words “the person is accompanied by the person’s parent or guardian” (in lines 25 and 26 on page 33), and substitute the following paragraphs:

“(a) The person is accompanied by the person’s parent or guardian; and

“(b) The liquor is supplied to the person by the person’s parent or guardian.”

Clause 81: To omit *subclauses (2) and (3)* (lines 8 to 16 on page 34), and substitute the following subclause:

(2) Section 162 of the principal Act is amended by repealing subsections (2) to (4).

Clause 84: To insert, after *subclause (1)* (after line 2 on page 36), the following subclause:

(1A) Section 164 (2) of the principal Act is amended by omitting the expression “20”, and substituting the expression “18”.

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, as subsection (2), the following subsection:

“(2) The penalty is,—

“(a) 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 days; or

“(iii) Both:

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

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 licensee,—

“(i) A fine not exceeding \$5,000; or

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

“(iii) Both:

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

“(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, as subsection (2), the following subsection:

“(2) The penalty is,—

“(a) 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 days; or

“(iii) Both:

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

Clause 86: To omit *subclause (1)* (lines 20 and 21 on page 36).

Clause 98: To omit this clause (which appears on page 39).

Clause 101: To omit this clause (which appears on page 39).

Clause 102: To omit *subclause (1) (a)* (lines 31 and 32 on page 39), and substitute the following paragraph:

(a) The condition prohibiting the sale or supply of liquor on any Sunday applied only to Easter Sunday; and

To add to *subclause (1) (b)*, after the word “Sunday” (in line 35 on page 39), the words “(other than Easter Sunday)”.

To omit *subclause (2) (a)* (lines 1 and 2 on page 40), and substitute the following paragraph:

(a) The condition prohibiting the sale or delivery of liquor on any Sunday applied only to Easter Sunday; and

To add to *subclause (2) (b)*, after the word “Sunday” (in line 4 on page 40), the words “(other than Easter Sunday)”.

To omit *subclause (2) (c)* (lines 5 to 7 on page 40), and substitute the following paragraph:

(c) In relation to an off-licence granted in respect of premises described in section 36 (1) (d), there were a condition permitting the sale of beer that conforms to the standard prescribed by regulation 218 of the Food Regulations 1984, or any other standard that may be set, by regulations made under the Food Act 1981 or by food standards set under that Act, in substitution for that standard.”

Clause 103: To omit this clause (which appears on page 40).

Schedule 1: To omit the items relating to the Defence Act 1990, the Human Rights Act 1993, the Department of Justice Restructuring Act 1995, and the Food Amendment Act 1996.

To omit, in relation to the Sale of Liquor (Off-Licence) Amendment Act 1992, the words “Sections 2 (1) and (3)”.

Schedule 2: To omit the amendment relating to the Summary Offences Act 1981, and substitute the following amendment:

By omitting from section 38 (3)—

- (a) The expression “20, and substituting the expression “18; and
- (b) The words “spouse (being an adult) or by his parent or guardian or any other person (being an adult) acting in the place of his parent”, and substituting the words “or her parent or legal guardian”.

To omit the item relating to the Smoke-free Environments Act 1990.

EXPLANATORY NOTE

The amendments in this Supplementary Order Paper give effect to the decisions of the Committee of the Whole House made on 27 July 1999.

Clause 2: The amendment arises from the House adopting Issue 9: Option B (to retain club licences) and Issue 11: Option A (to retain the current list of persons exempt from the principal Act). *Subclause (1)* repeals a number of definitions in section 2 of the principal Act. The options adopted by the House make the repeal of all but 1 of the definitions redundant. The definition not made redundant is omitted because it was intended to omit it in the Supplementary Order Paper (No. 205) containing technical amendments.

Clause 3: New section 2A: The amendment to insert the *new subsection (2) (ba)* arises from the House adopting Issue 2: Option C (to add a driver licence to the list of specified evidence of age documents). The other amendments relate to the effective operation of the scheme for the issue of evidence of age documents. The House’s adoption of Issue 2: Option C was based on the intention that the responsible Minister could authorise who issues evidence of age documents to ensure that only tamper-proof documents are issued. These amendments require persons to be specified by the Minister by notice in the *Gazette* before they can issue evidence of age documents.

Clause 4: This clause is omitted as a result of the House adopting Issue 10: Option A (to retain permanent club charters) and Issue 11: Option A (to retain the current list of persons exempt from the principal Act).

Clause 5: This amendment arises from the House adopting Issue 9: Option B (to retain club licences).

Clause 7: This amendment arises from the House adopting Issue 9: Option B (to retain club licences).

Clause 13: New section 14 (2): This amendment arises from the House adopting Issue 3: Option C (to permit all on-licence premises to sell liquor on Sundays except Easter Sunday).

Clause 24: This amendment arises from the House adopting Issue 9: Option B (to retain club licences).

Clause 30: This clause is omitted as a result of the House adopting Issue 8: Option C (to retain the current law that restricts off-licences to certain types of premises).

Clause 31: These amendments arise from the House adopting Issue 4: Option C (to permit all off-licence premises to sell liquor on Sundays except Easter Sunday) and Issue 5: Option B (to permit supermarkets and grocery stores to sell wine and beer, but not spirits).

Clause 39: This clause is omitted as a result of the House adopting Issue 9: Option B (to retain club licences).

Clause 43: This clause is omitted as a result of the House adopting Issue 9: Option B (to retain club licences).

Clause 45: This amendment arises from the House adopting Issue 9: Option B (to retain club licences).

Clause 46: This amendment arises from the House adopting Issue 9: Option B (to retain club licences).

Clause 52: This clause is omitted as a result of the House adopting Issue 9: Option B (to retain club licences).

Clause 53: These amendments arise from the House adopting Issue 9: Option B (to retain club licences).

Clause 56: These amendments arise from the House adopting Issue 9: Option B (to retain club licences).

New clause 70A: This amendment arises from the House adopting Dr Wayne Mapp's amendments to Issue 2: Option C (to add a driver licence to the list of specified evidence of age documents).

Clause 71: This clause is omitted as a result of the House adopting Issue 9: Option B (to retain club licences).

New clause 74: This amendment arises from the House adopting Dr Wayne Mapp's amendments to Issue 2: Option C (to add a driver licence to the list of specified evidence of age documents).

Clause 76: New section 157: The amendments arise from the House adopting Lianne Dalziel's amendments to Issue 1: Option B (the minimum drinking age as set out in the Bill).

Clause 81: The amendment arises from the House adopting Lianne Dalziel's amendment to Issue 1: Option B (the minimum drinking age as set out in the Bill).

Clause 84: This amendment arises from the House adopting Issue 1: Option B (the minimum drinking age as set out in the Bill).

New clause 84A: This amendment arises from the House adopting Dr Wayne Mapp's amendments to Issue 2: Option C (to add a driver licence to the list of specified evidence of age documents).

New clauses 85A and 85B: These amendments arise from the House adopting Dr Wayne Mapp's amendments to Issue 2: Option C (to add a driver licence to the list of specified evidence of age documents).

Clause 86 (1): This amendment arises from the House adopting Issue 9: Option B (to retain club licences).

Clause 98: This clause is omitted as a result of the House adopting Issue 10: Option A (to retain permanent club charters).

Clause 101: This clause is omitted as a result of the House adopting Issue 11: Option A (to retain the current list of persons exempt from the principal Act).

Clause 102: These amendments arise from the House adopting Issues 3 and 4: Option C (to permit all on-licence and off-licence premises to sell liquor on Sundays except Easter Sunday) and Issue 5: Option B (to permit supermarkets and grocery stores to sell wine and beer, but not spirits).

Clause 103: This clause is omitted as a result of the House adopting Issue 9: Option B (to retain club licences).

Schedule 1: These amendments arise from the House adopting Issue 9: Option B (to retain club licences) and Issue 11: Option A (to retain the current list of persons exempt from the principal Act).

Schedule 2: These amendments arise from the House adopting Issue 1: Option B (the minimum drinking age as set out in the Bill) and Issue 9: Option B (to retain club licences).