

Act No. 105 of 1990

LOCAL GOVERNMENT (STREET DRINKING) AMENDMENT BILL 1990

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend Part 23 of the Local Government Act 1919 to enable portions of roads and footpaths in the area of a local council to be established as alcohol-free zones.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a proclaimed day or days.

Clause 3 inserts a new Division 2B into Part 23 of the Local Government Act 1919. The effect of the new Division is explained below.

Clause 4 enacts a consequential amendment to the Justices Act 1902, to enable a penalty notice to be issued in respect of an offence arising under the new provisions.

PROPOSED DIVISION 2B OF PART 23 OF LOCAL GOVERNMENT ACT 1919

Meaning of “alcohol”

The word “alcohol” is defined in proposed section 5 12H to mean ethanol (that is, absolute alcohol) or any liquid containing it. It includes all forms of alcoholic liquor and any other preparations containing alcohol.

Consumption of alcohol in alcohol-free zone

Proposed section 5 12I requires a police officer who finds a person who is drinking or about to drink alcohol in an alcohol-free zone, or who has just done so, to issue a warning to the person to the effect that drinking in the zone is prohibited and that alcohol is liable to be confiscated from offenders. A person who ignores this warning is guilty of an offence punishable by a \$20 fine. Under proposed section 5 12J, the person’s alcohol can be confiscated by police. Confiscated alcohol is forfeited to the Crown.

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Creation of alcohol-free zones

Proposed section 512K deals with how an alcohol-free zone is created. If application is made to the council of an area by a person living or working in the area, or by the police or any community group in the area, the council may resolve to establish a zone consisting of a road or roads (or parts of roads) as an alcohol-free zone. (Note that, for this purpose, a “road” includes a footpath.)

Before the zone is established as an alcohol-free zone, the council is required to advertise its intentions and to consider representations or objections made by interested parties. It must also consult the local police, the Anti-Discrimination Board and hoteliers and other holders of liquor licences in the affected part of its area.

A zone may be established as an alcohol-free zone for a period of 12 months. After that it lapses, but it may be re-established any number of times, as long as the requisite procedure is complied with each time,

Suspension or cancellation

Proposed section 512L allows the operation of an alcohol-free zone to be suspended or cancelled by the council.

Guidelines

Under proposed section 512M, the Minister is required to set down guidelines for the creation and operation of alcohol-free zones and for their suspension or cancellation. These are to be made available to councils and interested parties.

Enforcement

Proposed section 512N allows a penalty notice to be issued to a person drinking alcohol in the zone.

Proposed section 512O provides that the provisions of the new Division are in addition to existing requirements of the law (e.g. the Summary Offences Act 1988, which prohibits drinking of liquor by minors in public places).

Proposed section 512P provides that no one is to be imprisoned as a consequence of contravening the provisions of the proposed new Division.
