

Act 1994 No. 42

LIQUOR (AMENDMENT) BILL 1994*

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Registered Clubs (Amendment) Bill 1994 is cognate with this Bill.

The object of this Bill is to amend the Liquor Act 1982 as follows:

- (a) to provide for the issue of liquor licences for motels to authorise the sale of liquor for consumption by guests in their rooms;
- (b) to alter the caterer's licence provisions of the Act so that a caterer will be able to hold a caterer's licence even though the caterer does not provide catering services at the caterer's own premises;
- (c) to provide for the grant of liquor licences to corporations and for the appointment of managers of licensed premises when the licensee is a body corporate;
- (d) to enable a restaurant to obtain a liquor licence when it has sanitary facilities in immediate proximity to the restaurant (at present sanitary facilities must be within the premises of the restaurant);
- (e) to update and clarify the range of activities and events that will qualify for the grant of a function licence;
- (f) to require certain retail liquor sales by wholesalers and brewers who also hold a retailer's licence to be made through their retail licence and to make the method of calculating licence fees for wholesalers and brewers the same whether or not they hold a retail licence;
- (g) to amend existing provisions and add new provisions for preventing the use of names and descriptions for licensed premises that are objectionable, inappropriate or misleading or prohibited by the regulations;
to exempt from the price of beer (for licence fee calculation purposes) the cost of freight from breweries to country depots;

* Amended in committee—see table at end of volume.

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- (i) to enable liquor licences that are granted in Sydney to be issued by the Sydney registry directly to licensees outside Sydney;
- (j) to require vignerons, wholesalers and brewers to pay licence fees in respect of sales in excess of the existing limits applicable to their licences;
- (k) to exempt the holders of off-licences to auction liquor from the requirement to lodge with the Board a statement of liquor purchases;
- (l) to make it clear that the Board has power to require a complaint that licensed premises are unduly disturbing the quiet and good order of the neighbourhood be made or verified by statutory declaration;
- (m) to give a licensee a defence to the offence of allowing liquor to be served to a minor when the liquor is served by the parent or guardian of the minor;
- (n) to extend offences concerning the consumption of liquor by a minor so that they will operate on unlicensed ("BYO") restaurants, with a defence of parental consent;
- (o) to extend offences concerning the sale or supply of liquor to minors to include the serving of liquor to minors;
- (p) to permit liquor to be served for consumption anywhere on hotel premises on Good Friday (rather than being restricted to sales with a meal in a dining room as at present) and to permit hotel trading hours to be extended from midnight Sunday to 5 a.m. Monday for hotels in Sydney City and Kings Cross areas if the extension is necessary to meet the needs of tourists and tourism;
- (q) to permit, subject to certain conditions, the variation of Australian wine licences so that beer can be sold for consumption on the premises and to permit the removal of such a licence to a new location in the same neighbourhood in certain circumstances;
- (r) to extend an existing provision which deals with the issue of penalty notices for offences committed by minors on licensed premises so that the regulations will be able to apply it to other offences under the Act or the regulations, and provide for the penalty payable and the persons who may issue a penalty notice;
- (s) to insert a provision in the Act that is currently found in the regulations concerning the giving of evidence before the Licensing Court by affidavit;
- (t) to make it clear that the assessment of liquor purchases by a licensee (for licence fee purposes) is to include all purchases by any licensee under the licence during the assessment period;
- (u) to require the Director of Liquor and Gaming to complete his or her investigation of an applicant for a licence within 6 months after the application is lodged and to provide for the application to proceed even if the investigation has not been completed within that time;
- (v) to provide that credits risked in the course of a double-up function on an approved amusement device are not to be counted for the purpose of calculating machine turnover (and the duty payable on that turnover);
- (w) to provide that conditions and other matters required to be endorsed on a licence may be endorsed on a schedule to the licence, and provide for evidence of endorsements;

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- (x) to provide for the refund of licence fee paid for the licensing period during which a licence is surrendered (rather than licence fee paid for the next succeeding licensing period, as at present) and to provide that such a refund is at the discretion of the Board;
- (y) to remove imprisonment as a penalty for certain offences concerned with the furnishing of information;
- (z) to make amendments by way of statute law revision and to enact consequential savings and transitional provisions.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Liquor Act 1982.

Clause 4 makes an amendment to the Justices Act 1902 that extends the courtesy letter and enforcement order provisions of that Act to penalty notices issued under the Liquor Act 1982. The amendment is consequential on the amendments referred to in (r) above.

Clause 5 amends the Liquor (Repeals and Savings) Act 1982 by repealing a provision that prevents the removal of an Australian wine licence. That provision will now be inserted in the Principal Act (with certain exceptions) by the amendment referred to in (q) above.

Clause 6 amends the Liquor Regulation 1983 to:

- (a) prescribe a fee of \$1,000 for a composite application provided for by the Bill for hotels in Sydney City and Kings Cross areas which will cover both of the allowable trading hours extensions on Sunday and the proposed new extension of trading hours for those hotels from midnight on Sunday to 5 a.m. Monday; and
- (b) prescribe a fee of \$500 for an application for removal of an Australian wine licence; and
- (c) omit the provision that is to be inserted in the Act by the amendment referred to in (s) above; and
- (d) delete a provision consequentially on the transfer of part of the definition of "person authorised to sell liquor" from the regulations to the Act.

Clause 7 repeals the Liquor (Australian Wine Licences) Regulation 1984, with the substance of that regulation being continued in the context of the amendment referred to in (q) above and in proposed clause 18 of existing Schedule 1 (Savings and transitional provisions).

Clause 8 provides that explanatory notes appearing in the Bill do not form part of the proposed Act.

Schedule 1 makes the amendments to the Liquor Act 1982 described above. Each amendment is described in detail in the explanatory note relating to the amendment concerned.
