



**LEGISLATION COMMITTEE
OF THE
LEGISLATIVE COUNCIL**

**REPORT ON THE CONSIDERATION IN DETAIL OF
CLAUSES 22 TO 28 OF THE
LIQUOR CONTROL REFORM AMENDMENT BILL 2007**

DECEMBER 2007

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EXTRACT FROM THE MINUTES OF THE PROCEEDINGS OF THE LEGISLATIVE COUNCIL

Wednesday, 5 December 2007

12 LIQUOR CONTROL REFORM AMENDMENT BILL 2007 — Debate continued on the question, That the Bill be now read a second time.

Ms Hartland announced that she proposed to move amendments in Committee and requested that they be circulated.

Accordingly, the amendments were circulated.

Debate continued.

Question — put and agreed to.

Bill read a second time and committed to a Committee of the whole.

House in Committee.

The Acting President resumed the Chair; and the Deputy President reported that the Committee had made progress in the Bill and asked leave to sit again.

Bill to be again considered in Committee of the whole on the next day of meeting.

* * * * *

Mr P.R. Davis moved, That the remaining clauses 22 to 28 inclusive, of the Liquor Control Reform Amendment Bill 2007, be referred to the Legislation Committee.

Debate ensued.

Question — put and agreed to.

LEGISLATION COMMITTEE

Committee Members

Mr Bruce Atkinson – Chair

Member for Eastern Metropolitan Region

Ms Candy Broad – Deputy Chair

Member for Northern Victoria Region

Mr Damian Drum

Member for Northern Victoria Region

Ms Colleen Hartland (substitute for Ms Sue Pennicuik)

Member for Western Metropolitan Region

Ms Wendy Lovell (substitute for Ms Andrea Coote)

Member for Northern Victoria Region

Ms Jenny Mikakos

Member for Northern Metropolitan Region

Ms Jaala Pulford

Member for Western Victoria Region

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REPORT

The Legislation Committee of the Legislative Council, appointed pursuant to the Resolution of the Council on 17 April 2007, reports as follows:

1. The Legislation Committee is established by Standing Order 16.01 of the Legislative Council. The function of the Committee, prescribed by Standing Order 16.02, is to consider in detail a Bill or series of related Bills referred to the Committee by the Council and to report to the Council on the Committee's consideration of the Bill, which may include any recommendations for amendments to the Bill(s).
2. On Wednesday, 5 December 2007, on the motion of Mr P.R. Davis, the House resolved to refer clauses 22 to 28 of the Liquor Control Reform Amendment Bill 2007, to the Legislation Committee. The Bill is the first to be referred to the Legislation Committee in the 56th Parliament.
3. The Committee met on Thursday, 6 December 2007 to consider the Bill with Mr A.G. Robinson, Minister for Consumer Affairs in attendance, who indicated the Government's preparedness to withdraw clause 22 from the Bill.
4. The Committee resolved to omit clause 22 from the referred clauses. The omission of this clause is found in both the Schedule of Recommendations and Minutes of Proceedings which follow.
5. The Committee's consideration of the referred clauses is found in the Minutes of the Proceedings included in this Report. The Hansard transcript of proceedings, including the Minister's evidence, is also included in this Report. Following this consideration, the Committee recommends that this Report be adopted.

Committee Room,
6 December 2007

SCHEDULE OF AMENDMENT RECOMMENDED

Recommendation 1

The Committee recommends that Clause 22 be omitted.

MINUTES OF THE PROCEEDINGS

The Minutes of the public proceedings of the Legislation Committee in relation to consideration in detail of the Liquor Control Reform Amendment Bill 2007 were as follows:

THURSDAY, 6 DECEMBER 2007

The Committee met in the Legislative Council Committee Room to consider the Liquor Control Reform Amendment Bill 2007.

Members Present: Mr B. N. Atkinson, MLC (Chair)
Ms C. C. Broad, MLC (Deputy Chair)
Mr D.K. Drum, MLC
Ms C.M. Hartland, MLC
Ms W.A. Lovell, MLC
Ms J. Mikakos, MLC
Ms J. L. Pulford, MLC

Witnesses: Mr A.G. Robinson, MP, Minister for Consumer Affairs

Also in attendance: Mr P.R. Davis, MLC
Mr A. Young, Assistant Clerk – Committees
Mr R. McDonald, Manager, Chamber Support
Ms L. Kaerger, Senior Client Services Officer

1. Meeting Opened

The Chair declared the meeting open at 1.25 p.m.

2. Consideration in detail

Clause 22.

Question — That clause 22 stand part of the Bill — put and negatived.

Clause 22 omitted.

Clause 23.

Ms Lovell moved **Amendment No. 14**,

Clause 23, lines 23 and 24, omit "or is otherwise not in the public interest".

Question — That the amendment be agreed to — put and negatived.

Question — That clause 23 stand part of the Bill — put and agreed to.

Clauses 24 to 28 — agreed to.

Consideration of the Bill concluded.

Adjournment

The Committee adjourned its deliberations at 1.41 p.m.

PARLIAMENT OF VICTORIA

**LEGISLATIVE COUNCIL
LEGISLATION COMMITTEE**

Liquor Control Reform Amendment Bill

6 December 2007

Internet: www.parliament.vic.gov.au/downloadhansard/council.htm

Chair

Mr B. Atkinson

Deputy Chair

Ms C. Broad

Members

Mr B. Atkinson

Ms C. Broad

Mrs A. Coote

Mr D. Drum

Ms J. Mikakos

Ms S. Pennicuik

Ms J. Pulford

Substituted members

Ms C. Hartland (for Ms S. Pennicuik)

Ms W. Lovell (for Mrs A. Coote)

Also present

Mr A. Robinson, Minister for Consumer Affairs

Mr P. Davis

LIQUOR CONTROL REFORM AMENDMENT BILL

Referred from Legislative Council.

The CHAIR — The minister is coming directly, I understand, so I formally declare open the meeting. There being no apologies, I advise the Legislation Committee that we have been charged by the Legislative Council with the responsibility of working through clauses 22 to 28 of the Liquor Control Reform Amendment Bill 2007.

As we discussed at a meeting convened earlier today, for the purposes of the processes our main focus will be on clause 22. I would like to keep the matters as confined as possible to resolving the issues, given the resourcing issues we face on the last day of Parliament. I take the opportunity of extending thanks to the clerks for their work in getting this meeting together very quickly, to the Hansard staff in particular for taking on an added workload in their day, and to the minister for making himself available at short notice to resolve these matters. I welcome the Minister for Consumer Affairs to the hearing.

Clause 22

The CHAIR — I understand the minister has been briefed on the issues that were of concern to the Legislative Council and were the reason that the matter was referred to the committee. I invite the minister to make any comments he might wish to make.

Mr ROBINSON — Thanks, Chair, and thanks for the opportunity of being here. We are under a bit of time pressure. I have pagers going off, and all of that, and I need to get back at some stage to get ready for question time. I tried to follow the debate as it was conducted yesterday. It is a little bit confusing but I think I understand the major obstruction here, and that relates to party buses, and I understand that is in clause 22.

The CHAIR — Correct.

Mr ROBINSON — We have tried in the last week to negotiate a position of understanding on that, and that has clearly not been successful. I have some difficulty — and I have expressed this to Ms Lovell — about the amendments which were offered, and I can see that we are not going to make any progress on that. But because the government does feel the need to move strongly on the issue of anti-social behaviour around venues, we are prepared, in order to get something in place, that the clause and the provisions regarding party buses be dropped from the bill, so we can offer that up in order to get some movement in the constrained environment in which we find ourselves.

The CHAIR — Thank you, Minister. That is a major breakthrough in terms of getting the legislation through today. Does any committee member have a comment on the minister's remarks?

Ms HARTLAND — From the Greens' point of view, we did not have any problem at all about party buses or about sporting clubs, because they have licences et cetera, and obviously they are a real problem.

Our concern was really about the small buses for pensioners, and I am wondering whether there is not a way of separating those two things.

Mr ROBINSON — Ms Hartland, we have had some discussions about that issue, and we are conscious of the concerns that have been expressed by a number of members. Our view was that clarification as to who would be covered by the clause could have best been dealt with by enforcement guidelines, and that is because every case, in my view, has to be dealt with on its circumstances.

Clearly there is no intention to catch out small clubs and sporting clubs where the primary purpose of the bus transportation is to give effect to the activity of that club — that means people going to and from a sporting event, as happens in the country, and I accept that. Equally we were concerned that you could not turn a blind eye to a club that it might decide that it wanted to run a party bus and do it commercially, so we felt that the bus way of dealing with that was through enforcement guidelines.

As a consequence of the government's indication that it is prepared to drop that clause, it is something we will have to revisit. I do not know at this stage precisely how we will deal with it. We will consult. We said in the discussions we have had with a number of representatives this week that we were prepared to consult. We are prepared equally to consult with peak bodies. We do not wish to make life any harder for them, but equally we do not wish to create anomalies in the law where, for example, the best way to raise a dollar could be for a club to act as the party bus operator with no controls on it. It is just something we are going to have to consult widely on and bowl up some proposition in the new year.

The CHAIR — Perhaps in the interests of brevity, can I indicate that the only other clause that there was any other issue with was, Ms Lovell, on clause 23?

Ms LOVELL — Can I just speak on that?

The CHAIR — Perhaps you might respond on this one but also indicate what your proposal is now for clause 23 — whether or not that is to proceed as an issue from the Liberal Party point of view.

Ms LOVELL — With regard to clause 22, like the Greens we have no issue with the party bus industry being licensed and regulated. We believe it should be regulated, and we look forward to you, Minister, bringing back legislation that specifically provides regulation for the party bus industry. We were most concerned about the impact it would have on sporting groups, community groups, social clubs and service clubs in country Victoria in particular. For a long time we have encouraged people to be responsible and to take a bus rather than to drink and drive. We were concerned that this would have the reverse effect on those measures and would encourage more people to travel by car and possibly increase the incidence of drink driving.

I need to inform you, Minister, that what you have just told us about the intent of the enforcement of this particular clause was quite different from what was reported in the house yesterday. We were told that whilst football clubs would not require an additional licence because they were already licensed, a Probus club, a Rotary club, a school council, a hospital board or a group of friends going to the theatre or something would be required to get a licence. Perhaps there was a breakdown in communication, but that was the advice that the minister at the table was giving and was the advice that he was getting from the advisers. We thank you for your offer to remove this clause, but we do feel that the party bus industry still needs to be regulated. We look forward to that legislation coming back to the house.

The CHAIR — Can I just point out that I do not think the minister referred to the advisers; I think the minister spoke of his own volition during yesterday's proceedings. I do not think he referred those matters to the advisers. Perhaps that was to the detriment of the committee's proceedings.

Ms LOVELL — He did pull out a piece of paper at one stage.

The CHAIR — That may be..

Ms BROAD — In the interests of brevity, I will indicate that government members also welcome the opportunity that is now afforded by the minister's statement to consult with organisations and constituents in our electorates. We are very pleased about that.

The CHAIR — I will put the question that clause 22 stand part of the bill. Based on the minister's advice, I invite the committee to vote against the clause.

Clause negatived.

Clause 23

Ms LOVELL — Clause 23 is to do with the prohibition of advertising or promotion that is likely to encourage the irresponsible consumption of alcohol or behaviour that is otherwise not in the public interest. The Liberal Party is proposing to remove the words 'or is otherwise not in the public interest' because we feel that the role of the director of liquor licensing is to do with the consumption of liquor in this state and it is not her role to be a censor in any other way whether that relate to a dress code, the wearing of hats or whatever. The words 'or is not otherwise in the public interest' provide a power which is a little too broad to give to the director of liquor licensing.

The example which was given in the second-reading speech was about a flyer which invited girls to turn up to an event in a bikini and they would be given free alcohol all night. The issue is the giving of free alcohol all night; it is not the wearing of bikinis — is quite legal to wear a bikini in this state. Women fought long and hard for the right to wear bikinis when they want to. The issue about that flyer is that if you turned up in a bikini you would be given free alcohol all night. That was the inappropriate thing about that flyer, and that is the only issue that the director of liquor licensing should be dealing with.

Mr ROBINSON — I noted some commentary about this in the debate yesterday. The government is not prepared to revisit that part of the bill. There would be any number of promotional opportunities and innovations that people in the liquor industry — whether they are a licensed venue operator, marketing people or manufacturers — could resort to in order to encourage activity which the government believes would have a consequence of antisocial behaviour. Rather than trying to distinguish ahead of time what might or might not happen, we think it is appropriate that the director of liquor licensing be given the powers we have proposed. You can envisage any range of circumstances where an innovator might say, ‘I will give you free drinks beyond so many you buy on a drink card’. There may be circumstances where the innovator might say, ‘If you spend this much money, I will give you a prize or you will go into a draw’ or any sort of thing. There is no limit to the ingenuity of people. We think that it is an industry in which issues like this arise often enough for the director to be given the power. It is a power that the director has sought. We are not trying to second guess the director. We believe it is reasonable and is in the public interest. In conclusion, this clause is not one which we are prepared to concede any ground on.

Ms LOVELL — All of those examples you have given us are still about the consumption of alcohol and the inappropriate thing is the offering a free alcohol.

Mr ROBINSON — I suspect that the director’s response to that, if I could be forgiven for offering an opinion on the director’s behalf, would be to say that without the language that is proposed by the government her ability is compromised and the first thing she gets is a letter from the person receiving her order from their lawyer saying that she has acted outside of her power. That is a frustration that the director has had in a number of instances in the past. She would say, if I can be forgiven, as I have said, for speaking for her, that that just hobbles her unnecessarily.

So we side with the director on that one.

The CHAIR — Ms Lovell, do you plan to proceed with the amendment, given the minister’s comments?

Ms LOVELL — I suppose we need to formally move it.

Mr DAVIS — I think Ms Lovell wants to move it and test the view of the committee.

Ms LOVELL — Yes. Do I need to formally move it?

The CHAIR — We will come to that. Are there any further comments?

Ms HARTLAND — The Greens support the government on this position for the reasons that the minister has just outlined.

The CHAIR — Ms Lovell, if you could formally move the amendment.

Ms LOVELL — I move:

14. Clause 23, lines 23 and 24, omit “or is otherwise not in the public interest”.

Amendment negated; clause agreed to; clauses 24 to 28 agreed to.

The CHAIR — That concludes the Legislation Committee’s consideration of the matter, and it will report to the house this afternoon. Again, I extend thanks to you, Minister. Do you have some more remarks?

Mr ROBINSON — I just wanted to be absolutely certain, given this is an interesting mechanism that we are engaged in here, that the committee will — I am sure that is the committee’s intention — accurately reflect that as the minister on behalf of the government I am only giving ground on those clauses that pertain to the — —

The CHAIR — Minister, I give you the assurance that the committee will report to the Council, and forming part of that report will be the Hansard transcript, which I think will very clearly reflect your comments. To that extent I again express our appreciation of Hansard on a very busy day for going to some trouble to ensure that we will have that report available to facilitate this legislation. Minister, thank you again for making your time available at short notice and thank you, committee members, for the same.

Committee adjourned.