



P. 02 8335 3250

E. info@retaildrinks.org.auSuite W3G Sydney Corporate Park
75-85 O'Riordan Street
Alexandria NSW 2015

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Committee Secretary
Education, Employment and Small Business Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Secretary,

Retail Drinks Australia (**Retail Drinks**) is pleased to provide the Committee with a submission in response to the *Holidays and Other Legislation Amendment Bill 2019 (the Bill)* on behalf of Queensland's retail liquor industry.

ABOUT RETAIL DRINKS

Retail Drinks is an industry body representing all off-premise packaged liquor retailers in Australia with the clear vision and purpose of enhancing its members' freedom to retail responsibly through positive and proactive advocacy. Retail Drinks' members have a long history of collaborative and cooperative relationships with government, consulting on and progressing initiatives to increase leadership in the responsible sale of alcohol.

EXECUTIVE SUMMARY & RECOMMENDATIONS

As expressed in its previous submission to the consultation Regulatory Impact Statement (**RIS**), Retail Drinks reiterates that it does not support the Bill's proposal to implement an additional part-day public holiday on Christmas Eve. We firmly believe that the increased costs imposed as a result of proceeding with the Bill will have a severe negative impact on our members.

We set out in this submission what we consider to be a significant flaw in the consultation and decision-making process, and then repeat our prior issues with the proposal itself.

Firstly and foremost, having regard to the most recent review into Queensland trading hours, conducted by former Labor State Minister Mr John Mickel in 2016, we see the implementation of a part-day Christmas Eve public holiday after the Mickel Review "compromise" as a form of double dipping and contrary to the Government's granting of a five year moratorium on further changes to trading hours laws.

Further, should the Bill be passed by the Queensland Parliament in its current form, Retail Drinks is strongly of the view that it would result in liquor retailers doing one, or all, of the following as the only alternatives to bearing all the cost themselves:

1. Close for trade during the affected hours thereby inconveniencing consumers; and/or
2. Reduce staffing therefore negating opportunities for those who want to work, to earn additional income.

The acknowledged and accepted limitation of available and relevant statistical data on the intentions of employers and their likely response to the proposal, is a critical rationale for delaying any decision. Retail Drinks supports

data and evidence-backed policy making and, in this regard, would urge the Committee to recommend against the passage of this Bill.

None of these previously mentioned unintended consequences are desirable outcomes. A Christmas Eve Part-Day Public Holiday would only result in further costs to small business at an already costly time of year and does not guarantee extra money flowing through to the pockets of workers in any case.

Should the Committee recommend that the Christmas Eve Part-Day Public Holiday remain unchanged, Retail Drinks would urge an amendment to the Bill delaying its commencement until at least 2020 to allow for the lead time in retail rostering and an opportunity to gather sufficient evidence on the impact of this proposal.

Significant additional cost, red tape and potentially adverse outcomes for retail workers, will be caused in attempting to make such a dramatic change so close to the trading period in question.

KEY ISSUES

Retail Drinks would highlight to the Committee a number of significant issues with proceeding with a part-day Christmas Eve Public Holiday as per the current version of the Bill. Many of these issues were raised in Retail Drinks' previous submission (and those of other industry associations) to the RIS. The Queensland Government has not sufficiently addressed any of these substantive issues in the drafting of the Bill. It would appear that the Government has chosen to proceed with this legislation purely on the basis of the quantity of submissions received which were in favour of the proposal.

i) Significant flaws in the submission-making process

Firstly, Retail Drinks notes that the Queensland Government's decision to proceed with the legislation unchanged from its initial proposal as contained in the RIS was based on the fact that the submission-making process had received a 1,271 submissions or 71 per cent in favour of the proposal, compared to 508 submissions or 29 per cent of the total against.¹

Retail Drinks is highly concerned with this justification in light of the fact that hundreds of these submissions consisted of single line commentary (in some cases as few as four words), indicating no nexus to business or commerce. Many of these submissions were likely the result of trolling behaviour instigated by supporters.

Therefore, both the reliability and legitimacy of many of these submissions is highly questionable and, in Retail Drinks' view, is insufficient to warrant penalising Queensland small businesses and breaking the promises made to the retail community when the changes were last considered in the Mickel Review.

ii) Misleading retail industry and double dipping

We draw the Committee's attention to the most recent review into Queensland trading hours, conducted by former Labor State Minister Mr John Mickel - *A Review of Queensland's Trading (Allowable Hours) Act 1990*.

In his report, released less than three years ago in December 2016, Mr Mickel specifically addressed the proposal of a Christmas Eve part-day public holiday. Having listened to the arguments from both unions and employer

¹ Queensland Government (2019) *Christmas Eve part-day public holiday plans to proceed*, Media Release, September 19
<http://statements.qld.gov.au/Statement/2019/9/19/christmas-eve-partday-public-holiday-plans-to-proceed>

groups, he rejected the call for a public holiday from 6pm onwards on December 24.² Instead, he argued that a 6pm close time was a “*reasonable compromise*” that allowed workers to go home at a reasonable hour while not inflicting added financial pressure on business.³

We see the implementation of a part public holiday after the Mickel Review “*compromise*” as a form of double dipping and contrary to the Government’s granting of a five-year moratorium on further changes to trading hours laws.

iii) ***Insufficient statistical information to support the changes***

There is little to no reliable evidence used to support the proposed changes in the Bill, and this is best demonstrated by the fact that the RIS:

- stated that ‘*there is no statistical information on the intentions of employers to employ workers or open their businesses on a Christmas Eve public holiday*’⁴; and
- is based on 8-year-old data from Adelaide for justification.

Any permanent legislation proposing part day public holidays should be delayed to enable gathering of evidence that is:

- (a) current;
- (b) jurisdictionally relevant; and
- (c) accurate.

The availability and consideration of this data is crucial to ensure that there is confidence that the cost to business and community is appropriately weighted against the likelihood of realising the intended policy objectives.

At this stage, the evidence base is entirely insufficient, and it would appear that the only data used to justify this proposal is the fact that a majority of submissions in response to the CIS received were in favour of the proposal. As previously stated, the quality and integrity of many of these submissions were of a highly questionable nature.

iv) ***Insufficient timeframe for transition***

The RIS also stated that the part day Christmas Eve public holiday ‘*could be in place for 24 December 2019. It is considered that this timeframe will provide sufficient opportunity for businesses to prepare and potentially make decisions on whether to open or close*’.⁵

This is insufficient notice and shows a lack of understanding of the usual cycles of rostering of retail businesses.

If the part-day public holiday could potentially be passed as late as 28 November 2019, which for a 24 December 2019 commencement, does not allow sufficient time for rostering and voluntary opt in/out of employees.

² Mickel, J. (2016) *A Review of Queensland’s Trading (Allowable Hours) Act 1990*, p.28.

³ Ibid.

⁴ Office of Industrial Relations (2019) *Consultation Regulatory Impact Statement - Investigation into Proposed Christmas Eve Part-Day Public Holiday 2019*, August, p.17.

⁵ Ibid, p.22.

Rosters are typically done at least 4 to 6 weeks in advance of this busy trading period and to ensure compliance with the Retail Award.

If the Bill proceeds with the inclusion Christmas Eve Part-Day Public Holiday, Retail Drinks would advise the Committee to recommend that its commencement not occur any earlier than 2020, in which case further time could be taken to properly assess the proposal as per this submission (and gather additional data on its economic effects).

v) Additional wages costs

As previously stated in the RIS, *the 'preliminary estimate of additional wage costs to Queensland industry per annum, including the public sector, is in the range of a lower end estimate of \$41.3 million to an upper end estimate of \$136.9 million.'*⁶

The Christmas trade period is one of both the busiest and most important times of the year for liquor retailers and already carries with it some of the highest wages costs for the year.

However, many retailers, especially smaller operators, rely on a strong Christmas sales period to insulate themselves during quieter times of the year and/or during economic downturns.

Increased penalties on wages during the Christmas period, can have a material effect on the ongoing financial position of small retailers. Moreover, this period of the year is already populated with numerous public holidays, therefore any further costs would act as a disincentive to business opening their doors for trade during hours they would otherwise operate.

vi) Job losses and reduction of hours

Retail Drinks would stress to the Committee that the most significant impact of an additional part day Public Holiday on Christmas Eve would be on retail workers, due to the possible job losses and reduced hours of employment.

The increased public holiday wages costs would force employers to seriously re-think their rostering strategies during this period. The most at risk would be the casual staff who depend upon their shifts each week to survive. It is completely conceivable that staff would face a very real prospect of reduced hours during the Christmas trading period as a result of an additional part-day Christmas Eve Public Holiday.

vii) Loss of services on Public Holidays

When liquor retail businesses are faced with increased penalty rates for additional public holidays, their only options are to either:

- Close the business (on those days / times);
- Reduce the trading hours of the business; or
- Trade normally and bear the additional costs

⁶ Ibid, p.5.

Public Holiday “surcharges” (which are occasionally present in a hospitality environment) are simply not possible to create in a liquor retail environment which is entirely driven by discounting – least of all to cut in at an arbitrary period through the trading day. It is unheard of in any state or territory for alcohol prices to be increased in packaged outlets during public holidays – so the reality is the cost is entirely and totally born by the retailer. Accordingly, if businesses cannot afford to open, they will simply cease trading at that time of the day.

The outcome is the community loses access to the services which were previously available to them.

viii) *Inconsistent with the vast majority of Australia*

The declaration of Christmas Eve as a part-day public holiday will make Queensland inconsistent with the public holiday arrangements in New South Wales, Victoria, Tasmania, Australian Capital Territory and Western Australia. The only states to observe this are South Australia and the Northern Territory – which in fact commence at 7pm not 6pm as it is currently proposed within the Bill. Therefore, Queensland would be the only Australian jurisdiction to operate under such arrangements.

CONCLUSION

There is no compelling evidence that Christmas Eve should be declared a part-day public holiday. Further to this, Retail Drinks argues that the Queensland Government’s justification for this policy in relying on hundreds of single-line submissions as opposed to actual evidence and data is a highly flawed methodology.

When liquor retail businesses are faced with increased penalty rates for additional public holidays (and subsequent increased wage costs), their operational options are to:

- Close the business (on those days/times);
- Reduce the trading hours of the business; and/or
- Trade normally and bear the additional costs

Business owners, workers, consumers and the public are all adversely affected, and this is clearly shown in the reality in other jurisdictions – importantly and critically including in relation to access to goods and services at a peak demand period in the year.

There is simply an insufficient fact base in which to properly justify the rationale for the part public holiday on Christmas Eve. As such, Retail Drinks and its members would strongly urge the Committee to recommend against the passage of the Bill in its current form.

Should there be any points requiring further discussion or clarification in this submission, please contact Retail Drinks CEO Julie Ryan on 0450 302 378 or at julie.ryan@retaildrinks.org.au.

Sincerely



Julie Ryan, CEO, Retail Drinks Australia