



04 July 2014

**The Research Director**

Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Submission by email: [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

Dear **Research Director**

**RE: Feedback on Safe Night Out Legislation Amendment Bill 2014**

Clubs Queensland is the peak industry association of registered and licensed community clubs in Queensland. Community clubs are not-for-profit, member-driven and community-orientated association of people who come together to pursue and promote their common interests in sporting and other forms of recreation. The Association represents the interests of approximately 1,400 community clubs that hold a form of liquor licence.

The community clubs industry supports the Safe Night Out Legislation Amendment Bill. We believe the measures contained in the Bill offer a responsible framework for addressing alcohol-related violence in a firm, corroborative and coordinated manner. As such, we have confidence that the Bill can effectively meet its primary objective of reducing alcohol and drug-related violence in Queensland's nightlife.

We note that the Bill amends several pieces of legislation and we strongly support the new measures, including:

- A new offence for unlawful striking causing death and increased penalty for assaults on public officers under the *Criminal Code*
- A community service order to be served for prescribed acts of violence committed when the offender was adversely affected by an intoxicating substance, non-reliance on intoxication as an excuse in sentence mitigation, and venue bans under the *Penalties and Sentences Act 1992*
- The ability of police to conduct on-the-spot drug and alcohol testing under the *Police Powers and Responsibilities Act 2000*
- A mandatory condition of bail for offenders charged with prescribed offences of violence that they participate in a drug and alcohol assessment and referral programme, as well as enhanced banning powers for police under the *Bail Act 1980*
- Increased penalties for offences involving anabolic-androgenic steroids similar to those applying to other dangerous drugs such as methamphetamine and ecstasy, as well as a trial of a Sober Safe Centre in the Brisbane CBD under the *Drugs Misuse Act 1986*.



We believe that by targeting anti-social behaviour in such a comprehensive manner, the Bill goes beyond mere legislative compliance to fostering a culture that balances a licensee's obligations with patrons' personal responsibility.

We cannot stress more the need for patrons to take personal responsibility for their actions and to understand that there are serious consequences for their behaviour. For too long, legislative focus has been only on venue compliance. As experience shows, a venue could implement all measures but it only takes one disorderly patron to put the venue, other patrons and himself or herself at risk. A 'slap on the wrist' on individuals who break the law is no longer effective.

As for the amendments to the *Liquor Act 1992*, which directly impact licensed premises, we strongly support the following measures:

- A new power to prohibit licensees from engaging in promotional practices that encourage rapid or excessive consumption of alcohol
- An investigator to conduct covert filming, audio recording, photographing or similar activities in public areas or licensed premises without having to identify themselves
- Requirement for all applicable licensees state-wide to have CCTV system that meets certain standards in the operation and storage of equipment and data
- A greater emphasis on a licensee being required to ensure the amenity of the locality, including safety of patrons, in and around their licensed premises
- Empowering the Commissioner for Liquor and Gaming to condition all venues or types of venues in a particular area with consistent conditions to prevent alcohol and drug-related violence
- Empowering the Commissioner for Liquor and Gaming to direct a licensee to amend its risk-assessed management plan to ensure a licensee's compliance
- Requiring the Commissioner for Liquor and Gaming to provide written reasons on how public safety concerns will be addressed when an extended trading hours approval is granted after the Commissioner for Police has made objections to the application
- Declaration of Safe Night Precincts across Queensland, which are managed by a local board that is an incorporated body to coordinate initiatives that address alcohol-related violence in and around the premises located in the precinct
- The end of the moratorium on late night trading from 31 August 2014

We want to draw particular attention to Clause 61 that clarifies that trading on Anzac Day from 5am for RSL or Services Clubs or other licensees holding a function on behalf of an RSL or Services Club is not subject to the lockout provisions. This clarification removes the potential for disruption to dawn service, which may have no doubt occurred if patrons were prevented from entering premises at or after 3 am.

These are sensible measures and as we have reiterated in the past, we will support measures that make our communities safer. This is more than just a pragmatic stance, given community clubs promote and regard themselves as family friendly spaces, which are dependent on patron safety for successful operation of the licensed premises.

Notwithstanding the above, community clubs have two major issues with the current Bill as follows:

## **1. Definition of Unduly Intoxication (Clause 30)**

The Bill amends the definition of 'unduly intoxicated' so that action can be taken against licensees who serve an intoxicated person who is affected by "liquor, drugs or another intoxicating substance".



This proposal is problematic at several levels in a licensed environment because it places a punitive obligation on employees to refuse liquor service to those patrons who may be affected by a substance, other than alcohol, such as illegal drugs.

Employees are not trained in this area and it is doubtful if they can ever be equipped with specialised knowledge and skills to adequately perform this critical role.

There was a similar argument in the past for gaming employees to also assist in offering gaming counselling to patrons and the Government rejected this approach for the reason mentioned above.

Importantly, by linking alcohol (which is a legal product) to illegal drugs, there is a blurring of the duty of care obligations, which in turn significantly undermines the current harm minimisation framework.

## **2. ID Scanners (Clause 74)**

We support the provisions on ID scanners for venues that trade after midnight. However, we believe an unintended consequence of this mandatory deployment of scanning technology would be to encourage 'dislocation' of those patrons who are on the banned list(s). As a result, these patrons may decide not to attend the regulated venue but patronise a licensed premises that is located outside of, or adjacent to, the safe night precinct. Needless to say, those venues located outside of the precinct will not want to welcome the trade of banned patrons.

As a result of this consequence, many venues located outside of the precinct but which trade after midnight may want to install and operate ID scanners with a view to excluding those patrons who are on the banned lists. Therefore, we suggest that a provision be made for such late-trading venues located outside of intended precinct to be permitted to apply to, and join, the networked ID scanning regime, including the ability to access the official court and police banned list on similar terms to those licensed businesses located inside the precinct.

Of course, the above must be provided in the law as a best practice, rather than a mandatory requirement for these venues.

In summary, we strongly support the Bill's emphasis on a responsive, accountable and strengthened licensing system that takes into account community safety concerns and focuses on promoting responsible service of alcohol practices that balances with personal responsibility of patrons.

Please do not hesitate to contact me directly should you need more information or any clarification.

Yours sincerely



**Doug Flockhart**  
Chief Executive Officer