



Restaurant
& Catering

4 July 2014

Safe Night Out Bill 2014
Submission 013

SAVOUR
AUSTRALIA



Research Director
Legal Affairs and Community SAFETY Committee
Parliament House
George Street
Brisbane QLD 4000

Dear Sir/Madam

RE: Safe Night Out Legislation Amendment Bill 2014

Restaurant & Catering Australia (R&CA) welcomes the opportunity to provide comment on the *Safe Night Out Legislation Amendment Bill 2014*. Restaurants, cafes and small bars are an important contributor to state's late night economy, and R&CA recognises the role and responsibility these businesses have in ensuring Queenslanders have a safe night out.

R&CA is the peak organisation representing the interests of 35,000 restaurants, cafés and catering businesses across Australia. The café, restaurant, and takeaway food sector generates \$37.2 billion¹ in annual receipts and employs approximately 456,000 people. In Queensland alone there are 53,600 tourism and hospitality related businesses², with restaurants, cafes and catering businesses contributing \$8.5 billion to the state³.

A vibrant nightlife is important for the economic and social development of the state. Night-time activities activate precincts, encourage extended visitation and increase expenditure in the local community. Research indicates the night time economy contributes approximately \$5 billion to the Brisbane Local Government Area (LGA) alone. Restaurants and cafes are the largest contributors to the night-time economy, generating 40 per cent of sales revenue in the Brisbane LGA, equating to approximately \$2 billion in receipts⁴. Ensuring the objectives of the Amendment Bill are conducive with the operation of restaurants and cafés in entertainment precincts is critical to the late night economy in Queensland.

R&CA supports the objectives of the *Safe Night Out Legislation Amendment Bill* in reducing alcohol and drug related violence in Queensland's night time precincts. R&CA's interest in the Amendment Bill extends from the impact changes to the Liquor Act will have on restaurant

¹ Australian Bureau of Statistics (2014) *8501.0 Retail trade – Australia Table 11: Retail Turnover, State by Industry Subgroup, Original*

² Tourism and Events Queensland (2013) *Tourism Facts and Figures: Year Ended December 2013*

³ Australian Bureau of Statistics (2014) *8501.0 Retail trade – Australia Table 11: Retail Turnover, State by Industry Subgroup, Original*

⁴ TBR (2013) *The Australian Night Time Economy – A first Analysis 2009 to 2011*, p60

operators, in particular, changes to trading hours for licensee holders that serve alcohol ancillary to a meal as well as mandatory obligations to join Safe Night Precinct local boards.

The association wishes to ensure slated changes accurately reflect the low-risk nature of a majority of restaurants and cafes operating in Queensland, as well as feedback provided by the association to the Safe Night Out Strategy lodged in April 2014. R&CA has highlighted the areas of concern below:

Changes to subsidiary on-premise (meals) licence

R&CA is aware some restaurant establishments may choose to trade on after meal service has been completed as either a bar or nightclub. R&CA understands that the provision of alcohol without the availability of substantial meals can lead to a greater risk of intoxication, and may therefore require a higher level of regulation than restaurants that do not trade past 1am. As a result amendments have been introduced which will see the cessation of the subsidiary on-premises licence (entertainment) with the introduction of a nightclub licence.

R&CA is relatively comfortable with the implementation of Clause 42 which amends section 67A to outline the requirement that a licensee must meet in order to conduct a restaurant business on the licensed premise including:

- (a) for each trading day, most of the patrons of the business on that day consume a meal on the premises; and
- (b) throughout each trading day, most of the area of the licensed premises is set up with tables and chairs, or another combination of seating and surfaces, that are being used or ready for use by patrons for consuming meals; and
- (c) there is a kitchen in the licensed premises which is open throughout each trading day other than a period of up to 1 hour before the end of a trading period; and
- (d) throughout each trading day there are sufficient staff at the licensed premises engaged in, or available to engage in, the preparation and service of meals.

However, R&CA has considerable concern that item (b) has the potential to restrict restaurant operators who use their premises to host cocktail functions or parties, where the consumption of food takes place standing up without the need for tables and chairs. Item (b) would place restaurants at considerable risk of breaching these conditions when hosting cocktail functions, despite the primary focus of their business remaining the provision of food. In addition, R&CA would prefer item (c) be amended to a period of up to two hours before closing, in order to allow kitchen and wait staff the appropriate time to clean and close the kitchen.

Recommendation:

- *Amend Clause 42 to include item (b)(i) where a licensed premises provides space for functions or events without the need for tables and chairs, food is available for consumption.*

- *Amend Clause 42 item (c) to read 'a kitchen in the licensed premises which is open throughout each trading day other than a period of up to 2 hours before the end of a trading period'*

Application to extend trading hours

R&CA understands proposed legislative changes will mean a subsidiary on-premise licence (meals) with approval to trade beyond 1.a.m. will not be authorised to trade after this time from 1 July 2015. R&CA also understands that under Clause 45, Section 86 will be amended so that an application to extend regular trading hours for a subsidiary on-premise licence (meals) will only include the hours between 12am - 1am. While R&CA is not opposed to the amendment for this license type, the association believes additional conditions extended to high-risk venues that trade between 12am-1am (ID scanners for example) should not be extended to low-risk venues, nor should such an approval attract an additional risk-based loading fee.

Legislative changes in New South Wales saw the introduction of a \$2,500 fee for licensees operating between 12am - 1.30am. This is a substantial impost to small businesses that use the extended trading hours permit to provide operational flexibility particularly during the warmer months, Christmas trading period, or for special functions and corporate hospitality where extended trading may be required. R&CA would not wish to see a similar fee structure introduced in Queensland, which significantly reduces the flexibility and viability of small restaurant operators who may occasionally choose to trade past midnight.

Recommendation:

- *Where low-risk establishments such as a subsidiary on-premises licence (meals) apply for an extended hour trading permit to trade until 1am, no additional conditions or risk-based fees should apply.*

Ensuring amenity of locality and safety of patrons

R&CA understands the government's intention of increasing provisions to ensure the safety of patrons in and around licensed premises. However, some of the provisions will have significant insurance implications for licensees. In particular, Section 142ZZB(4) indicates:

- (4) If a licensee or permittee knows or has reason to believe that a relevant offence is being, or is about to be committed in or around the relevant premises, the licensee or permittee must take reasonable steps to stop or prevent the commission of the offence.

While this requirement may be appropriate for large high-risk venues where crowd management is required and the provision of security guards is available, this requirement places considerable onus on low-risk licensees to 'police' patron behaviour above and beyond what is safe for them or their staff to do so. With exception of asking quarrelsome patrons to leave, ensuring they vacate the location safely, or notifying police of the potential commission of an offence, R&CA strongly objects to licence holders having to 'stop' or intervene in situations to prevent the commission of an offence. A majority of low-risk license holders will not be appropriately trained or equipped to handle such a situation. This requirement would

also have significant insurance implications for business operators to ensure that they, their staff, and their business are appropriately protected should an incident occur.

Recommendation:

- *Review all provisions aimed at ensuring the amenity of the location and safety of patrons in and around licensed premises, in particular, Section 142ZZB(4)*

Safe Night Precinct local boards

R&CA is strongly opposed to the introduction of legislation that obligates low-risk licensees within a Safe Night Precinct (SNP) to undertake certain activities, in particular, join a SNP local board (Section 173NB). R&CA also notes Section 173NM which allows a local board to apply an application or membership fee.

R&CA believes low-risk venues such as restaurants should be exempt from this requirement, as was raised in R&CA's original submission to the Safe Night Out Strategy in April 2014.

While R&CA sees merit in voluntary participation in forums that advise licensed venues on alcohol-related incidences, SNP boards or liquor accords (as SNP local boards resemble) are predominantly designed to provide high-risk pubs and clubs with guidance from the Office of Liquor and Gaming Regulation (OLGR) and police on methods to reduce alcohol-related harm and anti-social behaviour. Obliging other establishments to be part of these local boards is often used as a means to spread the financial burden of late night security measures such as crowd controllers and CCTV to other licenced venues. This is despite the fact low-risk operators such as restaurants rarely trade past midnight when a majority of these services are required.

While the Amendment Bill outlines circumstances in which a licensee may be exempt from joining a local board (including exemptions under regulation), R&CA believes the legislation (or regulations pertaining to local board membership) should explicitly exempt restaurant operators from being involved in, or having to pay for, activities of local boards.

Recommendation:

- *Amend Section 173NF (2) and relevant regulations to exempt on-premise (meals) license holders from joining SNP local boards, including the payment of membership and application fees associated with joining these boards.*

Conclusion

R&CA applauds the Queensland Government for taking the initiative to develop the Safe Night Out Strategy, and implement necessary changes through the Safe Night Out Legislation Amendment Bill 2014 to ensure Queensland's entertainment precincts remain safe and inviting places to visit.

The association believes legislative changes must be measured in their application to different licensed venues, in particular low-risk venues such as restaurants that support a vibrant late night economy without any public detriment. Anecdotal evidence from operators in Sydney suggests legislative changes to liquor licensing laws in NSW has resulted in a significant

downturn in patronage and sales, leaving key entertainment precincts desolate after midnight. This will have significant implications for the destination's appeal and branding as a safe and inviting global tourism destination. In Queensland, this would undermine the state's goal of becoming the number one tourist destination in Australia in line with its DestinationQ strategy, and Tourism 2020 target.

R&CA would draw the government's attention to proposed changes to extended trading permits for subsidiary on-premises licences (meals), as well as the requirement for licensees to be members of a SNP local board. R&CA believes where low-risk establishments apply for an extended hour trading permit, no additional risk-based fees should apply. In addition, low-risk establishments such as restaurants should be exempt from joining SNP local boards, including the payment of any membership fee associated with joining these boards. Any attempt to implement mandatory participation in SNP local boards will significantly increase the cost and regulatory burden to smaller restaurant and hospitality operators in these precincts.

Finally, R&CA appreciates the ongoing opportunity to provide comment to policy surrounding the Safe Night Out strategy. Consultation with industry stakeholders needs to be ongoing to ensure feedback can be provided in a timely manner on the potential implications of legislative changes to licensed venues.

If you require any additional information on this submission, please do not hesitate to contact me on (02) 9966 0055 or jhart@restaurantcater.asn.au.

Yours faithfully,



John Hart
Chief Executive Officer